

AN ORDINANCE AMENDING CHAPTER 14
OF THE MUNICIPAL CODE OF THE VILLAGE OF ARLINGTON HEIGHTS
REGARDING NUISANCE HOTELS

WHEREAS, the Village of Arlington Heights is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs; and

WHEREAS, pursuant to Section 11-60-2 of the Illinois Municipal Code, 65 ILCS 5/11-60-2, the Village is authorized to define, prevent, and abate nuisances; and

WHEREAS, pursuant to Chapter 14 of the Municipal Code of Arlington Heights, Illinois, 1995, as amended ("*Village Code*"), the Village sets forth rules and regulations for the licensing and operation of hotels and motels within the Village; and

WHEREAS, the Village President and Board of Trustees have determined that hotels and motels within the Village which are the site of repeated violations of certain local, state, and federal laws are nuisances which threaten the health, safety, and general welfare of Village residents; and

WHEREAS, the President and Board of Trustees desire to amend Chapter 14 of the Village Code to implement procedures and regulations to prevent and abate chronic nuisance hotels in the Village; and

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interests of the Village and its residents to amend Chapter 14 of the Village Code pursuant to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ARLINGTON HEIGHTS:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. DEFINITIONS. Section 14-201, titled "Definition," of Article II, titled "Hotels and Motels," of Chapter 14, titled "Other Businesses," of the Village Code is hereby re-titled and amended further to read as follows:

"Section 14-201 ~~Definition~~ Definitions.

The following terms, whenever used in this Article, have the meanings set forth below:

- a. Hearing Officer. For purposes of this Article II only, "Hearing Officer" means either: (i) a Village administrative hearing officer appointed pursuant to Article 13 of Chapter 7 of this Code; or (ii) the Village Manager or their designee.**
- b. "Hotel" or "motel," when used in this Article, include every Motel. Every building, or structure, parcel of land, property or any portion thereof kept, used, maintained, advertised and held out to the public to be a place where lodging, or lodging and food, or apartments, rooms, dormitories, or suites, or other**

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accommodations are offered for a consideration to guests, in which ~~ten~~ **five** or more rooms, **dormitories**, apartments, ~~or~~ suites, or other accommodations are **offered** or used for the lodging, or lodging and food, for such guests.

c. **Hotel Authority. Any individual person, employee, manager, contractor, mortgagee, tenant, guest, visitor, person-in-charge, agent, firm, partnership, corporation, or other legal entity having: (i) any legal or equitable interest in a hotel or motel; (ii) actual or constructive possession of a hotel or motel; or (iii) the ability to regulate, restrain, dominate, counteract, or govern any sort of conduct that occurs within a hotel or motel.**

d. **Nuisance Hotel. Defined in Section 14-208(a) of this Code.**

e. **Nuisance Incident. Except as provided in Section 14-208(b) of this Code, any of the following events or actions:**

1. **Disorderly conduct, as defined in 720 ILCS 5/26-1;**
2. **Unlawful use of weapons, as defined in 720 ILCS 5/24-1 et seq.;**
3. **Mob action, as defined in 720 ILCS 5/25-1;**
4. **Gambling, as defined in 720 ILCS 5/28-1;**
5. **Possession, manufacture, or delivery of controlled substances, as defined in 720 ILCS 570/401 et seq.;**
6. **Illegal consumption or possession of alcohol, as defined in 235 ILCS 5/1 et seq.;**
7. **Public indecency, as defined in 720 ILCS 5/11-30;**
8. **Assault or battery or any related offense, as defined in 720 ILCS 5/12-1 et seq.;**
9. **Sexual abuse or a related offense, as defined in 720 ILCS 5/12-15 et seq.;**
10. **Prostitution, as defined in 720 ILCS 5/11-14 et seq.;**
11. **Criminal damage to property, as defined in 720 ILCS 5/21-1 et seq.;**
12. **Unlawful possession, cultivation, manufacture or delivery of cannabis, as defined in 720 ILCS 550/3 et seq.;**
13. **Theft, as defined in 720 ILCS 5/16-1 et seq.;**
14. **Criminal housing management, as defined in 720 ILCS 5/12-5.1;**
15. **Street gang related or gang related activity, as defined in 740 ILCS 147/10 et seq.;**

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16. Violation of the International Property Maintenance Code, as adopted pursuant to Chapter 26 of this Code;
17. Violation of the International Fire Code, as adopted pursuant to Chapter 27 of this Code;
18. Violation of any provision of Chapter 16 of this Code regarding dogs and animals;
19. Violation of any provision of Article II of Chapter 8 of this Code regarding underage drinking;
20. Violation of any provision of Article III of Chapter 8 of this Code regarding gambling;
21. Violation of any provision of Article VIII of Chapter 8 of this Code regarding vandalism;
22. Violation of any provision of Article I of Chapter 19 of this Code regarding garbage and refuse;
23. Any activity that constitutes a felony or a Class A misdemeanor pursuant to any applicable local, state, or federal law; and
24. Any Aggravated Nuisance Incident.

f. Aggravated Nuisance Incident. Except as provided in Section 14-208(b) of this Code, any of the following events or actions:

1. Aggravated assault, as defined in 720 ILCS 5/12-2;
2. Aggravated battery, as defined in 720 ILCS 5/12-3.05;
3. Aggravated or reckless discharge of a firearm, as defined in 720 ILCS 5/24-1.2 and 1.5;
4. Armed violence, as defined in 720 ILCS 5/33A-2;
5. Possession of explosives or incendiary devices, as defined in 720 ILCS 5/20-2 et seq.
6. Homicide, as defined in 720 ILCS 5/9-1;
7. Criminal street gang recruitment, as defined in 720 ILCS 5/12-6.4;
8. Criminal sexual abuse, as defined in 720 ILCS 5/11-1.50; and
9. Unlawful participation in street gang related activity, as defined in 720 ILCS 5/25-5.

g. Nuisance Hotel Violation. Any violation of Sections 14-208 or 14-209 of this Code.”

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SECTION 3. HOTEL AND MOTEL REGULATIONS. Section 14-204, titled “Definition,” of Article II, titled “Hotels and Motels,” of Chapter 14, titled “Other Businesses,” of the Village Code is hereby re-titled and amended further to read as follows:

“Section 14-204 Regulations.

- a. No house, building or accessory structure hereafter constructed or erected in the Village shall be used as a hotel or motel, and no house, building or accessory structure hereafter erected and not now used for such purpose, or any building, house, structure or portion thereof which is now used or intended to be used or occupied for hotel or motel purposes shall be converted into, used as, or leased for a hotel or motel, unless such building and every part thereof shall conform to the requirements of this Article and to such other applicable requirements of the building, zoning, housing, fire prevention, health and sanitation regulations of this Code.
- b. All hotels and motels must be improved with secure doors, alarms, and a video surveillance system, all to the satisfaction of the Village Chief of Police. Each video surveillance system must: (i) include, without limitation, cameras, cabling, monitors, and digital view recorders maintained in proper working order; (ii) provide continuous digital surveillance, 24 hours per day, seven days per week, of all registers, check-out stands, exterior entrances and exits, interior hallways, lobbies, and parking areas of the hotel or motel; and (iii) produce digital images sufficiently clear and bright to enable identification of individuals and activities recorded, for no less than 21 days. Areas with video surveillance cameras must include artificial lighting as may be necessary to ensure that cameras capture images sufficient to identify recorded individuals and activities.
- c. All hotels and motels must provide for appropriate clerical or security personnel to ensure the safety of all hotel and motel guests, and to ensure compliance with the requirements of this Article II.
- d. Each hotel and motel must implement all policies and procedures, and construct or install all improvements, required under this Section no later than the earlier to occur of: (i) the date on which a hotel’s or motel’s license required under Section 14-202 is renewed or expires; or (ii) January 1, 2023.”

SECTION 4. DENIAL, SUSPENSION, OR REVOCATION OF HOTEL OR MOTEL LICENSE. Article II, titled “Hotels and Motels,” of Chapter 14, titled “Other Businesses,” of the Village Code is hereby amended to add a new Section 14-207, which new Section reads as follows:

“Sec. 14-207 Denial, Suspension, or Revocation of License.

- a. Grounds for denial, suspension or revocation. The Village Manager, or his or her designee, may deny an application for a new hotel or motel license, deny an application for the renewal of a hotel or motel license, or suspend or revoke a hotel or motel license upon the occurrence of any of the following causes, as determined by the Village Manager, or his or her designee:

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1. The hotel or motel is not permitted by, or does not comply with, any provision of the Zoning Code of the Village (Chapter 28 of this Code).
2. The applicant has failed to comply with: any applicable provision of this Code, including, without limitation, any provision of this Article II or of Chapter 23 of this Code; or any applicable State law or regulation.
3. The applicant has failed to obtain a necessary license, permit, or approval from any governmental authority with jurisdiction over the hotel or motel, including the Village, from which any approval is required.
4. Operation of a business without the license required pursuant to this Article II.
5. Issuance of a false statement in connection with an application filed pursuant to this Chapter.
6. The applicant has had any Village-issued license revoked for cause.
7. The applicant is delinquent in the payment to the Village of any tax or payment required pursuant to this Code.

b. Suspension and revocation procedures. No hotel or motel license may be revoked or suspended except after a public hearing held by the Village Manager, or his or her designee, in accordance with the following provisions:

1. Written notice of the date, time, and place of, and the general reasons for, the hearing must be transmitted to the licensee at the licensed premises by personal service, if possible, and/or by certified United States mail, affording the licensee an opportunity to appear and defend.
2. No public hearing authorized by this Section 14-207(b) may be conducted less than three days prior to receipt by the licensee of the notice required pursuant to Section 14-207(b)(1) of this Chapter.
3. The hearing officer must hold the hearing at the date, time and place set forth in the notice, and must give the licensee an opportunity to be heard.
4. Within 14 days after the public hearing, the hearing officer must issue a written order setting forth any penalties to be assessed against or imposed upon the licensee, and the reasons therefor. A copy of the written order must be served upon the licensee by personal service or by certified United States mail.”

SECTION 5. NUISANCE HOTELS. Article II, titled “Hotels and Motels,” of Chapter 14, titled “Other Businesses,” of the Village Code is hereby amended to add new Sections 14-208 through 14-213, which new Sections read as follows:

Additions are bold and double-underlined; deletions are struck through.

“Section 14-208 Nuisance Hotels Defined.

- a. **The Village hereby defines to be a Nuisance Hotel any hotel or motel at which either: (1) there has been an indictment, or conviction, judgment, or finding of liability by a court or hearing officer, for three or more Nuisance Incidents, or two or more Aggravated Nuisance Incidents, within any 180-day period; or (2) five or more alleged Nuisance Incidents or Aggravated Nuisance Incidents have occurred within any 60-day period, as reasonably determined by the Village Police Chief.**
- b. **Nuisance Incidents and Aggravated Nuisance Incidents do not include:**
 - 1. **Contact made to police or other emergency services: (i) with the intent to prevent or respond to domestic violence or sexual violence; (ii) where intervention or emergency assistance was needed to respond to or prevent domestic violence or sexual violence; or (iii) contacts made by, on behalf of, or otherwise concerning an individual with a disability for a purpose related to that individual’s disability;**
 - 2. **An incident or incidents of actual or threatened domestic violence or sexual violence occurring within the Village; or**
 - 3. **Public nuisances occurring within the Village that are directly related to domestic violence, engaged in by a hotel or motel guest, a member of the hotel or motel guest’s household, or other party, and against a hotel or motel guest or other party.**

Section 14-209 Duty of Hotel Authorities.

- a. **Prevention of Nuisance Incidents.**
 - 1. **It is unlawful for a Hotel Authority to consent to, facilitate, cause, allow, or encourage a Nuisance Incident or Aggravated Nuisance Incident.**
 - 2. **Every person has the following affirmative duties with respect to any hotel or motel for which they are a Hotel Authority: (i) to refrain from encouraging or permitting a hotel or motel to become or remain a Nuisance Hotel; and (ii) to take affirmative actions to prevent, mitigate, control, or otherwise address any activity which constitutes a Nuisance Incident or Aggravated Nuisance Incident.**
- b. **Each day on which a violation of this Section 14-209 occurs or continues constitutes a separate offense.**

Section 14-210 Nuisance Hotel Enforcement Procedure.

- a. **Initial Determination and Notification of Nuisance Incidents.**
 - 1. **If the Village Police Chief makes an initial determination that a hotel or motel within the Village has been the site of: (i) two Nuisance**

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Incidents or one Aggravated Nuisance Incident within a 180-day period; or (ii) two alleged Nuisance Incidents or Aggravated Nuisance Incidents within a 30-day period, the Police Chief must notify the Village Manager that the hotel or motel is at risk of becoming a Nuisance Hotel.

2. Within five business days after the Police Chief's initial determination, the Police Chief must provide written notification to the owner of record of the hotel or motel, and any other Hotel Authorities of record, that the hotel or motel is at risk of becoming a Nuisance Hotel. The initial notice must include: (i) the street address of the hotel or motel; (ii) a concise description of the events or activities that constitute Nuisance Incidents, Aggravated Nuisance Incidents, or alleged Nuisance Incidents or Aggravated Nuisance Incidents; (iii) an invitation to meet with the Village Manager within the following 30 days to negotiate a voluntary abatement agreement with the Village; and (iv) contact information for the Village Manager or Police Chief.
3. Copies of the initial notice must be provided by personal service or sent by first-class mail, postage pre-paid, return receipt requested. Failure by the Village to send, or failure of any person to receive the initial notice, does not negate the authority of the Village to take any action under this Section 14-210.

b. Final Determination and Notification of Nuisance Incidents.

1. If the Police Chief makes a final determination that a hotel or motel has been the site of: (i) a third Nuisance Incident or a second Aggravated Nuisance Incident within a 180-day period; or (ii) a fifth alleged Nuisance Incident or Aggravated Nuisance Incident within a 60-day period, the Police Chief must notify the Village Manager that the hotel or motel may qualify as a Nuisance Hotel.
2. Within five business days after the Police Chief's final determination, the Police Chief must provide written notification to the owner of record of the hotel or motel, and any other Hotel Authorities of record, stating that the hotel or motel may be subject to action under this Section 14-210. The final notice must include: (i) the street address of the hotel or motel; (ii) a concise description of the events or activities that constitute Nuisance Incidents, Aggravated Nuisance Incidents, or alleged Nuisance Incidents or Aggravated Nuisance Incidents; (iii) a demand that the Hotel Authority immediately address the conditions qualifying it as a Nuisance Hotel; (iv) information regarding the time and location of any upcoming hearing scheduled pursuant to this Section 14-210; and (v) contact information for the Village Manager or Police Chief.
3. Copies of the initial notice must be provided by personal service or sent by first-class mail, postage pre-paid, return receipt requested and posted at the hotel or motel property. Failure by the Village to send,

or failure of any person to receive the initial notice, does not negate the authority of the Village to take any action under this Section 14-210.

c. Enforcement Procedure.

1. The Village may bring an action before a Hearing Officer or a court of competent jurisdiction for a declaration that a hotel or motel is a Nuisance Hotel, and entry of an abatement order.
2. Upon conducting an evidentiary hearing, the Hearing Officer or court may declare that a hotel or motel is a Nuisance Hotel and issue an order directing the appropriate Hotel Authorities to implement abatement measures pursuant to Section 14-211 as the Hearing Officer or court deems necessary or appropriate. Any decision of a Hearing Officer pursuant to this Section is subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101, et seq.

Section 14-211 Nuisance Hotel Remedies.

Upon declaring a hotel or motel to be a Nuisance Hotel, a Hearing Officer or court may impose any of the following remedies:

a. Fines and Fees:

1. Fines imposed against the owner of the hotel or motel, in an amount not to exceed \$750 for each Nuisance Incident, Aggravated Nuisance Incident, or alleged Nuisance Incident or Aggravated Nuisance Incident related to the declaration that the hotel or motel is a Nuisance Hotel. The fines imposed under this Section 14-211(a)(1) are in addition to any fines imposed for any independent violation of law which relates to a finding of a Nuisance Hotel Violation.
2. Reimbursement of any extraordinary costs or expenses incurred by the Village in the provision of law enforcement, fire protection, or emergency medical services necessary as a result of the Nuisance Incidents, Aggravated Nuisance Incidents, or alleged Nuisance Incidents or Aggravated Nuisance Incidents.

b. Security measures. Mandatory initiation, installation, and maintenance of security measures at the Nuisance Hotel property, which may include, without limitation: (i) enhanced lighting; (ii) surveillance cameras; (iii) fences or barriers to entry; and (iv) the hiring of security personnel.

c. Temporary closure. The temporary closure and securing of the Nuisance Hotel to prevent all use and occupancy for a period of up to 180 consecutive days.

d. License revocation. Revocation of the license for the hotel or motel, issued pursuant to Section 14-202 of this Code.

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- e. Other remedies. In addition to any fines, fees, costs, or other remedies provided in this Section, the Village may seek a permanent or temporary injunction, restraining order, the appointment of a receiver, abatement measures, or other legal or equitable remedies reasonably necessary for the prevention or abatement of nuisances at the hotel or motel.
- f. Nothing in this Section is to be construed to: (i) constitute an act of possession, ownership or control by the Village over any private property; (ii) deny a common law right to anyone to abate a nuisance; (iii) affect to the status of any ongoing Village prosecution or other action; (iv) prevent the issuance of a citation to or arrest or prosecution of any person for any violation of the Village Code or other applicable law; or (iv) permit any activity prohibited by law.

Section 14-212 Emergency Closure.

If the Police Chief determines that, due to the occurrence of Nuisance Incidents, Aggravated Nuisance Incidents, or alleged Nuisance Incidents or Aggravated Nuisance Incidents, a hotel or motel presents an immediate threat to the public safety or welfare, the Chief may order the immediate and summary closure of the hotel or motel in accordance with the following procedures:

- a. The Chief may abate the nuisances and the threat, and summarily close the hotel or motel, by posting a notice on the hotel or motel and mailing via certified mail a copy thereof to the registered licensee of the hotel or motel. The notice must include, without limitation: (1) an order that all business activities immediately cease at the hotel or motel; (2) the reasons for the summary closure; (3) information concerning the right of the owner to request a hearing concerning the summary closure order, pursuant to Section 14-212(b) of this Code; and (4) contact information for the Village Manager or Police Chief.
- b. The owner of a hotel or motel summarily closed pursuant to Section 14-212(a) may request a hearing before the Hearing Officer by filing a written request therefor with the Police Chief, not later than five days after the issuance of the summary closure order. The Hearing Officer must conduct the hearing within five days after the filing by the owner of a hearing request. After receipt of evidence and testimony at the hearing, the Hearing Officer may affirm, modify, or terminate the summary closure order, in their discretion, as may be necessary in the determination of the Hearing Officer to address any immediate threat presented by the operation of the hotel or motel.
- c. Any summary closure order issued pursuant to Section 14-212(a) will remain in effect until the earlier to occur of: (1) the termination of the order by the Police Chief, upon a determination that the hotel or motel no longer presents an immediate threat to the public safety and welfare; (2) the termination of the order by the Hearing Officer, pursuant to Section 14-212(c) of this Code; (3) entry of an order pursuant to Section 14-210(c) of this Code; or (4) 60 days after the date of the order, unless the Village has commenced an action for a declaration that the hotel or motel is a Nuisance Hotel, pursuant to Section 14-210(c) of this Code.

Section 14-213 Voluntary Abatement Agreements.

Upon receipt of a notice pursuant to Section 14-210(a) of this Code, but prior to entry of an order pursuant to Section 14-210(c) of this Code, the owner of the subject hotel or motel may request that the Village and the owner enter into a voluntary abatement agreement, providing for the performance of specific actions by the owner or its designee to address any previously-occurring Nuisance Incidents or Aggravated Nuisance Incidents and to reasonably prevent the occurrence of future Nuisance Incidents or Aggravated Nuisance Incidents, and for the agreement by the Village to suspend any proceedings under Section 14-210(c) of this Code during the term of the agreement, all subject to such terms and conditions as may be mutually agreed by the Village and the owner. The Village Manager is hereby authorized, in their discretion, to execute any voluntary abatement agreement that the Manager determines will reasonably prevent and abate Nuisance Incidents or Aggravated Nuisance Incidents.

Section 14-214 Rules and Regulations.

The Village Manager is authorized to promulgate rules and regulations necessary for the implementation and enforcement of this Article.”

SECTION 6. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and are to be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 7. PUBLICATION. The Village Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois

SECTION 8. EFFECTIVE DATE. This Ordinance will be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

[SIGNATURE PAGE FOLLOWS]

AYES:

NAYS:

PASSED AND APPROVED THIS 21st day of June, 2022.

Village President

ATTEST:

Village Clerk