

CHAPTER 44

SPECIFIED CRIME PROPERTY

44.01 Definitions

44.02 Specified Crime Property

44.03 Penalties

44.04 Procedure For Enforcement

44.05 Notice

44.06 Service of Notice

44.07 Administrative Appeal

44.08 Conduct of Hearing

44.09 Effect of Notice

44.01 DEFINITIONS. The following words, terms, and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Bootlegging” means the illegal sale or service of alcoholic liquor, wine, or beer in violation of this chapter or Chapter 123 of the *Code of Iowa*.
2. “Controlled substance” means a drug, substance or immediate precursor as defined by Chapters 204A and 204B of the *Code of Iowa*.
3. “Gambling” means games of skill or chance as defined by Chapter 99B of the *Code of Iowa* and prohibited by Chapter 725 of the *Code of Iowa*.
4. “Owner” means any person, agent, firm, corporation, association, or a partnership, including a mortgagee in possession, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and the right to present use and enjoyment of the premises.
5. “Person” means any natural person, association, partnership, corporation, or other legal entity capable of owning or using property.
6. “Police Chief” means the person who has the responsibility to supervise and direct the Police Department, and, for the purposes of this chapter, may include the Police Chief’s designee.
7. “Prostitution,” “pimping “ or “pandering” means those acts or activities as defined by this chapter or Chapter 725 of the *Code of Iowa*.
8. “Specified crime property” means any structure, including the real property upon which it is situated, in which activity involving the unauthorized delivery, possession, or manufacture of a controlled substance, illegal gambling, bootlegging, prostitution, pimping, or pandering is occurring.
9. “Structure” means any building, building complex, or structure, including but not limited to edifice, units, or any portion thereof, and the real property upon which such building, building complex, or structure is situated.

44.02 SPECIFIED CRIME PROPERTY. No person shall use or allow to be used any structure as specified crime property. When the structure and the property upon which it is situated are owned by different persons, each person shall not use or allow to be used such structure and property as specified crime property.

44.03 PENALTIES. Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a municipal infraction punishable by the civil penalty as provided by Chapter 3 of this Code of Ordinances.

44.04 PROCEDURE FOR ENFORCEMENT.

1. When the Police Chief has a reasonable belief that a structure is being used or maintained in violation of this chapter, the Police Chief shall notify the owner of record in writing that the structure has been declared to be a Specified Crime Property.

2. A reasonable belief that a structure is being used as a Specified Crime Property may be found from (but is not limited to) evidence of drug paraphernalia in or around the structure; an increase in vehicular or pedestrian traffic in or around the structure; observations of the exchange of money; verified citizen complaints of bootlegging; unauthorized delivery or manufacture of a controlled substance; illegal gambling, bootlegging, prostitution, pimping, or pandering; and any other activity which leads a police officer to reasonably believe violations exist.

44.05 NOTICE. The notice required in Section 44.04(1) of this chapter shall notify the owner of record in writing that a structure owned by said owner has been declared to be a Specified Crime Property, and such notice shall contain the following information:

1. The street address and a description sufficient for identification of the premises on which the structure is located; and

2. A statement that the Police Chief has found the structure to be in violation of this chapter, with an explanation as to why the structure has been declared a Specified Crime Property.

44.06 SERVICE OF NOTICE.

1. A copy of the notice given pursuant to this chapter shall be served on the owner or an agent at least 20 days prior to the commencement of any judicial action by the City. Service shall be made either personally or by mailing a copy of the notice by registered or certified mail, postage paid, return receipt requested, to each person at each person's address as it appears in the records of the County Auditor. In the event that notice is impossible to be served as set out above, a copy of the notice may be posted at the property, if 10 days have elapsed from the service or mailing of the notice to the owner and no response or reply has been received by the City from the owner during that period of time.

2. The failure of any owner to receive actual notice of the determination of the Police Chief shall not preclude future proceedings under this chapter.

44.07 ADMINISTRATIVE APPEAL.

1. Upon receipt of a notice of Specified Crime Property, as set out in Section 44.06, the owner of record may challenge such notice by filing a request for an administrative hearing. Such request for hearing shall be in writing and filed with the Clerk within 10 days of service of the notice of Specified Crime Property. A copy of this chapter is available, upon request, from City Hall for a copy fee.

2. Failure to request a hearing within such time period or to attend a scheduled hearing shall be deemed a waiver of the right to such a hearing.

44.08 CONDUCT OF HEARING.

1. The hearing held pursuant to this chapter shall be conducted before the Council within a reasonable period of time, but not to exceed 15 business days, excluding Saturdays, Sundays, and City holidays, from the date of a written demand therefor. Such hearing may be continued for good cause. A notice of hearing, including the time, date, and location of the hearing, shall be made by mailing a copy of the notice by First-Class mail, postage prepaid, to the owner of record.
2. The sole issue before the Council shall be whether there exists a reasonable belief that the structure was being used as Specified Crime Property when the declaration of Specified Crime Property was made pursuant to Section 44.01(8). The Council shall decide only that either (i) there is a reasonable belief that the structure was used as Specified Crime Property and that the provisions of this chapter shall apply, or (ii) there is not sufficient reasonable belief that the structure was being used as Specified Crime Property and that the procedures of this chapter shall be permanently stayed. A finding of no reasonable belief, however, shall not preclude a future independent complaint, investigation, and notice of Specified Crime Property.
3. The decision of the Council shall be issued within four days of the hearing and the owner of record shall be notified consistent with the notice provisions of this chapter.
4. The decision of the Council shall be final.

44.09 EFFECT OF NOTICE.

1. Subsequent to the declaration and notice that there exists a Specified Crime Property, an owner shall have the opportunity to abate the illegal activity within 10 days. If a landlord/tenant relationship, the owner/landlord may be deemed to have abated the activity upon demonstration that said owner/landlord has taken legal action as allowed by Chapter 562A of the *Code of Iowa*, to terminate the rental agreement and continue in good faith to follow abatement procedures and provide the Police Chief with copies of all notices served in accordance with Chapter 562A of the *Code of Iowa*.
2. If, after 20 days, the Police Chief determines that a Specified Crime Property has not been abated, a notice of fine and an order of abatement shall be filed in compliance with Chapter 364.22 of the *Code of Iowa* and Chapter 3 of this Code of Ordinances.

[The next page is 277]