

Sec. 54-2. Structures where controlled substances and/or drug paraphernalia found.

(a) *Findings.* The city hereby determines that whenever the use, sale, furnishing, giving or possession of controlled substances or drug paraphernalia occurs on any property, the result is increased criminal activity in the neighborhood surrounding the property, increased pedestrian and/or vehicular traffic in the surrounding neighborhood and disruption of the peace and quiet of residents living in the neighborhood surrounding the property, thereby creating a public nuisance.

(b) *Declaration of public nuisance; public hearings; notice.*

(1) Whenever the use, sale, furnishing, giving or possession of controlled substances or drug paraphernalia occurs on any property, the city commission may, by resolution, declare such property a public nuisance. Prior to such declaration, notice shall be given to the owner, a public hearing shall be held and a recommendation shall be submitted from the appropriate department.

(2) Notice to the property owner of the public hearing shall consist of either personal service or certified or registered U.S. mail, return receipt requested, to the owner in whose name the property appears upon the last local tax assessment roll. Notice to the owner shall occur at least 14 calendar days prior to the date of the public hearing.

(c) *Abatement; costs.*

(1) If the city commission determines that a property is a public nuisance, then, in addition to any other remedies available to the city in law or equity, the city commission, by resolution, may:

a. Authorize the department of engineering and public works to prohibit the occupancy of the property by either padlocking a portion of the property or boarding up the property, whichever is appropriate, for a period of up to one year from the date the city commission adopted the resolution; and/or

b. Determine that the owner shall be liable for the full cost and expense of any and all city employees utilized to padlock or board up the property, including any and all employees utilized to remove padlocks and/or boarding devices, as well as the full cost and expense of any and all police officers involved in each drug related activity, including arrests and drug raids on the property. Such costs shall be assessed against the property.

(2) If the city commission determines that property which is the subject of the public hearing is, according to current court documents, the subject of eviction proceedings, the city commission may take the matter under advisement and withhold declaration of the property as a public nuisance until such time as evidence is submitted to the clerk that the eviction proceedings have been completed, terminated or otherwise resolved.

(d) *Persuasive presumption of a public nuisance.* It shall be a persuasive presumption that a property is a public nuisance if the following criteria are met:

(1) Controlled substances and/or narcotic paraphernalia are used, sold, furnished, given or possessed on the property, or the property has been raided by the police and controlled substances and/or drug paraphernalia are found by the police.

(2) A letter has been sent to the property owner informing the owner that controlled substances and/or drug paraphernalia have been found by the police at the property. The letter must inform the owner of potential consequences if a similar activity occurs at the property. The letter shall either be sent by certified or registered, return receipt requested, U.S. mail, or personally served on the property owner in whose name the property appears upon the last local tax assessment roll.

(3) Controlled substances and/or narcotic paraphernalia are sold, furnished, given or possessed on the property again within 365 days from the date that such controlled substances and/or narcotic paraphernalia were first sold, furnished, given or possessed on the property, or the same property is raided again within 365 days from the date of the first raid, and controlled substances and/or narcotic paraphernalia are found in the raid.

(Code 1972, § 9.39(a--d))