Shriver Center on Poverty Law

For economic and racial justice

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October 2020

Crime-Free and Nuisance Property Ordinances Should Be Abolished

A Statement from the Shriver Center

The murders of George Floyd, Breonna Taylor, and countless others have forced a long overdue national conversation about systemic racism in the United States. **We cannot talk about dismantling systems of racial oppression and in turn, police reform, without considering one of the most blunt civil instruments law enforcement and local governments have at their disposal: crime-free and nuisance property ordinances.**

Racist policing flourishes within the construct of crime-free and nuisance property ordinances, by giving police unchecked discretion to reinforce racial boundaries and target Black and Latino/a/x communities for eviction and displacement. Because the threshold for enforcement is often so low, a few calls to the police for minor offenses—even if those calls do not result in an arrest, charge, or conviction—can result in a person or household being labeled a "nuisance" and evicted from their home.

These ordinances also reinforce existing individual racial prejudices and allow white neighbors to directly control the behavior of their Black and Latino/a/x neighbors, by threatening their housing if they do not behave in a way considered acceptable by white neighbors. White neighbors use their power to repeatedly call upon the police to target their Black and Latino/a/x neighbors whenever they engage in behavior deemed as disruptions or socially unacceptable.

For the tenant, enforcement often results in eviction, which disrupts the lives of Black and Latino/a/x families, making it increasingly more difficult for them to secure new housing. **All families deserve to live in happy and stable homes free from criminalization, family separation, and surveillance.**

When *The Cost of Being Crime Free* report was released in August of 2013, the intention was to start a conversation with local governments about the dangers and legal liability surrounding these laws. Our hope ultimately was for local governments to consider alternatives to these ordinances. However, the report did not center the role police play in enforcement, and did not explicitly call for abolition of these ordinances.

As we have investigated these ordinances over the years and listened to the experiences of Black and Latino/a/x families directly targeted and harmed by these laws, it is clear that the abolition of crime-free and nuisance property ordinances remains the only solution. Tragically, the death of Breonna Taylor—who was murdered by an officer assigned to the "place-based investigations" team of the Louisville police department—illustrates the serious consequences that can result when police are tasked with surveilling residents at so-called "problem" properties.

We call on all local governments to deeply interrogate their use of these ordinances, the role of police in enforcement, and the history behind their origination and recognize that abolition is the right and just choice if we are to become an inclusive and welcoming society for all.

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THE COST OF BEING "CRIME FREE"

Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances

SHRIVER CENTER
Sargent Shriver National Center on Poverty Law

The Cost of Being "Crime Free":
Legal and Practical Consequences of
Crime Free Rental Housing and Nuisance Property Ordinances

Emily Werth
August 2013

About the Shriver Center

The Sargent Shriver National Center on Poverty Law provides national leadership in advancing laws and policies that secure justice to improve the lives and opportunities of people living in poverty. We specialize in practical solutions. Through our advocacy, communication, and training programs, we advocate for and serve clients directly, while also building the capacity of the nation's legal aid providers to advance justice and opportunity for their clients. For more information, visit our website at povertylaw.org.

Acknowledgments

Particular thanks to Kate Walz for her attention to the problem of crime free rental housing and nuisance property ordinances, and her tireless guidance throughout the creation of this report and the author's other work in expanding public awareness on this issue. Thanks also to Alex Gilewicz, Sarah Hess, and Kisha Pierre for their contributions to this report. Finally, thanks to the Skadden Foundation for supporting the author's work at the Shriver Center.

Table of Contents

Introduction

When Lakisha's boyfriend showed up at her apartment one night and became violent, her daughter called 9-1-1. After the police arrived, they told Lakisha that they were tired of responding to her calls about domestic disturbances and that if there were more police calls her landlord would have to evict her based on a local law in effect in her community of Norristown, Pennsylvania. Shortly thereafter Lakisha broke up with her boyfriend. However he came to her apartment and attacked her, and an unknown person called the police. The City then informed Lakisha and her landlord that additional calls to the police would require removing her and her young daughter from their home. Because of this threat, when Lakisha's now ex-boyfriend returned yet again to her apartment she was scared to call the police for assistance to get him to leave. Lakisha's ex-boyfriend ended up stabbing her and sending her to the hospital. Although Lakisha was too fearful to seek police help in that moment, a neighbor ended up calling the police. The City instructed Lakisha's landlord to remove her from the property. When her landlord was unable to evict her, the City threatened to force her out itself.[1]

Lakisha's story is just one example of the serious harms that are all too often caused by enforcement of the crime free rental housing ordinances and nuisance property ordinances that are proliferating among local governments across the country. Both types of ordinance seek to penalize landlords and tenants for suspected criminal activity and/or calls for police service associated with rental properties.[2] Currently more than 100 municipalities in the state of Illinois alone have adopted some kind of ordinance, and that number continues to increase (see Appendix A for a non-exhaustive list of Illinois municipalities that have a crime free rental housing and/or nuisance property ordinance).[3]

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[1] Complaint at 9-17, Briggs v. Borough of Norristown et al., No. 2013 C 2191 (E.D. Pa. Apr. 24, 2013), *available at* http://www.aclu.org/files/assets/norristown_complaint.pdf.

[2] While often nuisance property ordinances single out rental housing, sometimes these ordinances apply to all properties – including owner-occupied and non-residential premises. However, even when a nuisance ordinance applies more broadly, enforcement is often focused on residential rental properties. *See* Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women,* 78 AM. SOC. REV. 117, 123 & n.4, 136 (2013), *available at* http://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr__0.pdf (over a two year period, approximately 490 residential rental properties received citations while only 12 owner-occupied properties and 36 businesses received citations).

[3] This report uses "crime free rental housing ordinance" and "nuisance property ordinance" to describe two basic types of local ordinance. Many municipalities may instead use some variation on these names. However, the elements that characterize these two types of ordinances are fundamentally similar no matter what the ordinance is called.

The spread of these ordinances throughout Illinois and the nation is cause for great concern, as they lead to costly consequences not just for tenant families but also for the entire community. These ordinances can undermine public safety by silencing crime victims and others who need to seek emergency aid or report crime. They can increase housing instability and ultimately homelessness for victims of domestic and sexual violence, persons with disabilities, and other vulnerable tenants. They can reduce the availability of desperately needed affordable rental housing. And they can result in violations of tenants' and landlords' rights – including rights to be free from discrimination, to contact the government for assistance, and to receive due process – and thereby expose municipalities to legal liability. Local governments should therefore proceed with extreme caution in adopting and/or implementing these ordinances.

This report will discuss common elements that characterize the crime free rental housing and nuisance property ordinances in Illinois. It will explain some of the key problems that are created for tenants, landlords, and the whole community when these ordinances are adopted and enforced – and the municipal liability that can follow from these problems.[4] Finally, it will explore steps that governments should take to address these pitfalls and balance the pursuit of public safety with critical issues of fair housing, crime victim protection, preservation of affordable housing, and prevention of homelessness. Nevertheless, the only way a municipality can really avoid the many problematic legal and practical consequences that result from these ordinances is to simply avoid them in the first place, and instead to focus on other available tools to improve public safety and rental housing quality.

Common Features of Crime Free Rental Housing and Nuisance Property Ordinances

The ordinances that municipalities adopt can differ in terms of the approach they take to address perceived criminal activity in rental housing as well as in some of their specific provisions. However, there are several common elements that tend to characterize these legislative schemes:[5]

- Ordinances frequently require landlords to get a business license in order to lawfully rent their residential properties.[6] Some ordinances may alternatively require issuance of an occupancy permit or certificate of registration as a prerequisite to renting out housing.

[4] The report to some extent focuses on analyzing these ordinances with regard to Illinois law and data, but many key observations will also hold true in other states.

[5] In fact, ordinances in Illinois appear to largely replicate each other as municipalities borrow from language already in place in neighboring communities. As a result, the problems presented by these ordinances are repeated in new jurisdictions.

- Ordinances often make passage of an inspection for compliance with property maintenance standards a condition for receiving a landlord license.[7]
- Ordinances typically require landlords to participate in a crime free housing training offered by the municipal government, either as a condition of receiving the landlord license or as a free-standing obligation. These trainings focus on purported strategies for keeping rental properties free from crime. Typical topics of discussion include crime prevention through property design and maintenance, criminal background screening of potential tenants, and eviction of tenants for criminal activity.
- Some ordinances require landlords to perform criminal background checks on prospective tenants. Typically these ordinances do not identify the criteria that landlords should use in screening the criminal backgrounds of applicants.
- Most ordinances require the landlord to use a "crime free lease" with all tenants. This is an agreement that makes criminal (and sometimes other) activity by tenants, their household members, their guests, and other specified third parties a violation of the lease that can be the basis for an eviction. Often an ordinance will specify certain provisions to be included in a crime free lease. These provisions might address (among other things): the sort of criminal or other conduct that violates the lease[8]; where criminal or other conduct must occur in order to violate the lease; the responsibility of the tenant for conduct of third parties, regardless of the tenant's knowledge of or ability to control that conduct; and/or the standard for proving that conduct violating the lease has occurred.
- Ordinances typically either require a landlord to evict the entire tenant household when criminal activity has allegedly occurred at a rental property, or create strong incentives for the landlord to evict in order to avoid penalties. Sometimes the requirement of eviction extends to criminal activity allegedly engaged in by tenants, occupants, and/or guests at other locations besides the particular rental property. Furthermore, ordinances often identify non-criminal conduct that will

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[6] Sometimes the licensing requirement and/or other aspects of an ordinance will apply only to the multi-family properties in the municipality.

[7] Sometimes inspections will also incorporate crime prevention through environmental design ("CPTED") principles, which seek to reduce crime through design and management of the physical environment.

[8] Ordinances may identify specific violations of state and federal law that constitute a lease violation, or may make any criminal offense a lease violation. Ordinances may also identify specific violations of the municipal code that constitute a lease violation, or may make any municipal code violation a lease violation. Other types of conduct that are often made a violation of the crime free lease include: maintaining a nuisance; making excessive calls for police service; and endangering health, safety or welfare.

also require evicting the tenant household, such as local ordinance violations, the creation of a nuisance, and/or any conduct that endangers health, safety or welfare.[9] Typically ordinances do not require any conviction before the requirement for the landlord to evict the household kicks in, and some ordinances even specify that an arrest or citation alone will trigger this requirement.

- Ordinances often either require a landlord to evict a household that generates a threshold number of calls for police service or create strong incentives for landlords to evict these households by imposing penalties on the landlord once a threshold number of police calls to the property is reached.[10] Some ordinances specify a certain number of calls that must occur in a given period to give rise to an obligation to evict and/or penalties, while others focus enforcement on properties that generate an "excessive" or "unreasonable" number of calls.
- Ordinances almost always impose penalties on landlords for violations. Common penalties include civil fines and injunctions against renting out the property. Further, ordinances that include a landlord licensing scheme typically also impose suspension and/or revocation of the license to rent out property as a penalty for violating the ordinance or other municipal code provisions, including property maintenance standards.
- Some ordinances impose monetary penalties directly on tenants for violations. Common violations for which tenants may be penalized include occupying an unlicensed property and engaging in or permitting criminal or other conduct targeted by the ordinance.

Crime Free Rental Housing Ordinances vs. Nuisance Property Ordinances

Although both types of ordinance contain many of these common elements, there are differences in how they are enforced. As a general rule, crime free rental housing ordinances impose a series of mandatory actions and accompanying penalties for non-compliance on landlords. Nuisance property ordinances identify conduct or conditions that lead to the property being deemed a nuisance and then establish an abatement procedure that will result in penalties if not followed by the landlord. Often municipalities will incorporate both the crime free rental housing and nuisance

[9] Sometimes ordinances will specify the federal, state and/or local law violations that require eviction of a household or a threshold number of violations that must occur in a specific period, and other times ordinances will require eviction based on any single violation of federal, state and/or local law.

[10] Some ordinances even go so far as to impose penalties based on the number of contacts by other municipal departments – such as the fire department or building inspectors – with the property.

property elements into one ordinance or adopt both types of ordinance simultaneously. Both ordinance types have similar adverse impacts for landlords and tenants.[11]

Key Problems with Crime Free Rental Housing and Nuisance Property Ordinances

Crime free rental housing and nuisance property ordinances can create significant problems in the communities that adopt them. They can lead to violations of tenants' and landlords' rights. Municipalities risk liability by pursuing these ordinances.[12]

Reducing the Supply of Rental Housing

Enforcement of these ordinances can adversely impact the local supply of rental housing. This can result from prohibitions against landlords renting their properties without a license and/or injunctions against the use of property imposed as penalties. This is particularly true for ordinances that include broad conditions on receiving and maintaining a license, such as complying with the municipal code for every unit or not owing the municipality any money. As well, ordinances often require landlords to remove all the tenants from their properties if a license is lost, regardless of whether units are actually in a safe condition and the tenants are lease compliant, which strains the local rental market. Finally, focusing on rental housing as a problem in the community and imposing burdens on landlords can discourage them from providing rental housing in the first place.

When these ordinances negatively impact the availability of rental housing in a municipality, this can disproportionately harm groups that are protected by fair housing laws – such as racial and ethnic minorities, female-headed households, and disabled households – because they are often more likely to live in rental housing.[13] By creating a harmful result that is more likely to affect one or

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[11] In Illinois only a subset of local governments – known as "home rule" jurisdictions – currently have the authority to adopt and enforce the full variety of provisions that can characterize crime free rental housing and/or nuisance property ordinances, including the licensing of landlords and requiring landlords to use and enforce a crime free lease. However, there have recently been efforts in the State Assembly to enable all communities to pursue the broader range of problematic provisions.

[12] This report just offers an exploration of some of the most common problems that are currently associated with crime free rental housing and nuisance property ordinances in Illinois and beyond. This report is not intended as an exhaustive discussion of all of the various ways that these ordinances may generate harms for tenant families and the community at large, and/or lead to violations of tenants' and landlords' rights.

[13] In Illinois only 25% of non-Hispanic white households rent, while 59.1% of African American households, 47.4% of Hispanic households, and 38.3% of Asian households rent. 2010 Census Summary File 1 (Table QT-H1). Female-headed households are more than twice as likely to rent as the general population in Illinois. 2010 Census Summary File 1 (Table QT-H3). Nationally, 41.8% of households with a nonelderly person with a disability rent as compared to just 31.6% of households that rent overall. OFFICE OF POL. DEV. AND RESEARCH,

more protected groups these ordinances can violate fair housing law, unless they are justified because necessary to achieve an important municipal objective.[14] In addition, fair housing law is violated if a municipality in adopting or enforcing these ordinances is intentionally targeting the members of protected groups who live in rental housing.[15]

Furthermore, local governments that receive certain housing and community development funds distributed by the U.S. Department of Housing and Urban Development – either directly as a so-called "entitlement jurisdiction" or as a sub-recipient of funds disbursed by a state or county government – have an obligation to affirmatively further fair housing ("AFFH") as a condition of obtaining those funds.[16] In other words, these municipalities must not simply refrain from discriminating but also must actively promote integration and the right to fair housing within the community. This duty to AFFH calls for municipalities to scrutinize all housing-related ordinances to determine whether any have the effect of creating housing barriers for protected groups and, if so, whether options that would reduce the harm for those groups are available.[17] Local governments have a range of alternative tools they can utilize to address concerns about criminal activity and/or

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U.S. DEP'T OF HOUS. AND URBAN DEV., 2009 WORST CASE HOUSING NEEDS OF PEOPLE WITH DISABILITIES: SUPPLEMENTAL FINDINGS OF THE *WORST CASE HOUSING NEEDS 2009: REPORT TO CONGRESS* 17 (2011), *available at* http://www.huduser.org/portal/publications/WorstCaseDisabilities03_2011.pdf.

[14] *See* 24 C.F.R. § 100.500 (the Fair Housing Act prohibits practices that have an unjustified disparate impact on a protected group). *See also* Greater New Orleans Fair Hous. Action Ctr. v. St. Bernard Parish, 641 F. Supp. 2d 563, 567-68, 577-78 (E.D. La. 2009) (municipal action that would reduce supply of multi-family housing and rental housing had an unlawful discriminatory effect on African Americans).

[15] A municipality can be liable for intentional discrimination if protected characteristics of the renter population overall or of the tenants of a particular property motivate its actions. This can include situations where the municipality uses covert references to race or other language grounded in stereotypes to justify an ordinance. *See, e.g., St. Bernard Parish*, 641 F. Supp. 2d at 569-77 (references to "ghetto, crime, drugs, [and] violence" and to housing developments associated with significant minority populations were "an appeal to racial… prejudice"). This also includes situations where the municipality is responding to discriminatory sentiments within the community. *See, e.g.*, United States v. Birmingham, 538 F. Supp. 819, 828 (E.D. Mich. 1982) ("In order to demonstrate a city's racially discriminatory intent, it is sufficient to show that the decision-making body acted for the sole purpose of effectuating the desires of private citizens, that racial considerations were a motivating factor behind those desires, and that members of the decision-making body were aware of the motivations of the private citizen."). Furthermore, a municipality can be liable as well if it treats members of a protected group differently in terms of how it enforces its ordinance without a having a valid reason. *See, e.g.*, Allen v. Muriello, 217 F.3d 517, 520-22 (7th Cir. 2000) ("[Plaintiff's] allegations that his application for federal housing assistance was handled differently than those of two similarly situated white applicants presents a *prima facie* case that he was discriminated against because he is black.").

[16] *See* 42 U.S.C. §§ 5304(b)(2), 5306(d)(7), § 12705(b)(15), and related regulations.

[17] *See* OFFICE OF FAIR HOUS. AND EQUAL OPPORTUNITY, U.S. DEP'T OF HOUS. AND URBAN DEV., FAIR HOUSING PLANNING GUIDE, VOLUME 1 2-5–2-25(1996), *available at* http://www.hud.gov/offices/fheo/images/fhpg.pdf.

substandard conditions at rental properties.[18] Adoption of these ordinances can be inconsistent with a municipality's obligation to AFFH, because of the disparate harmful impact that ordinance enforcement can have on protected groups and the minimal contribution such an ordinance may make to the security of the community beyond other available tools that would generate less problems for protected groups.[19]

If a local government does not meet its obligation to AFFH then it risks losing access to federal housing and community development funds.[20] The municipality may even be liable under the False Claims Act for falsely certifying to the federal government that it was affirmatively furthering fair housing when this was not the case.[21] In addition, state and county governments that disburse housing and community development funds to some municipalities must ensure that those municipalities comply with the obligation to AFFH.[22] States and counties can also lose funds or face liability if they do not monitor recipient municipalities that have these ordinances for potential disparate impacts on protected groups.

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[18] For example, municipalities can adopt procedures for routine inspections of rental properties in order to ensure that landlords are complying with housing quality standards. *See* INTERFAITH HOUS. CENTER OF THE NORTHERN SUBURBS & SARGENT SHRIVER NAT'L CTR. ON POVERTY LAW, BEST PRACTICES FOR RENTAL HOUSING INSPECTION ORDINANCES (2009), *available at* http://www.open-communities.org/files/2327/File/RentalOrdinanceFinal9%2023%202009.pdf. When properties do not meet such standards or may contribute to an unsafe situation, state law often creates civil and even criminal remedies. *See, e.g.*, 65 ILCS 5/11-13-15; 65 ILCS 5/11-31-1; 65 ILCS 5/11-31-2; 720 ILCS 5/12-5.1. State law may also create criminal and/or civil remedies when illegal activity occurring at a rental property has created a nuisance. *See, e.g.*, 720 ILCS 5/37-1 to 37-5. Finally, municipalities can also improve control over their rental housing stock by requiring all rental property owners and managers to register their contact information. This provides the local government with the information that is needed to effectively notify a landlord when there are code violations at his property and, if necessary, to bring that landlord into court in order to obtain a remedy of those violations and/or a nuisance under state law.

[19] In addition to the fact that protected groups are more likely to be harmed by reductions in rental housing as a result of these ordinances, ordinances can disparately harm such groups in numerous additional ways discussed below. Each of these harms may conflict with the AFFH obligation of jurisdictions receiving federal funds.

[20] *See* OFFICE OF FAIR HOUS. AND EQUAL OPPORTUNITY, U.S. DEP'T OF HOUS. AND URBAN DEV., COMPLIANCE-BASED EVALUATIONS OF A RECIPIENT'S CERTIFICATIONS THAT IT HAS AFFIRMATIVELY FURTHERED FAIR HOUSING 8-11 (2013), *available at* http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=a%2bmF4nuk8oI%3d&tabid=4246&mid=9886. *See also* Letter from Charles M. Biggam III, General Counsel, Illinois Department of Commerce & Economic Opportunity to The Honorable Victor Ritter, Mayor, City of Herrin, Illinois (May 9, 2013) (on file with author) (stating that city may be in violation of grant agreements requiring it to AFFH based on complaint of discrimination against persons with disabilities).

[21] *See generally* United States ex rel. Anti-Discrimination Center of Metro New York, Inc., v. Westchester County, 668 F. Supp. 2d 548 (S.D.N.Y. 2009).

[22] *See* Compliance-Based Evaluations, *supra* note 20, at 8-9.

Harming Crime Victims and Others Who Need Police Assistance

Typically in enforcing these ordinances municipalities require the landlord to evict the entire household in a rental unit when there is an allegation of criminal activity on the premises. Even if eviction is not expressly required, the common response by a landlord who may face ordinance enforcement will be to remove all the current residents in order to avoid any chance of penalties for the alleged crime. However, often the residents of a unit may be the victims of alleged criminal activity, such as in cases of domestic violence, dating violence, sexual assault, and stalking ("domestic and sexual violence"). Therefore, enforcement of these ordinances routinely results in crime victims being evicted or threatened with eviction because of the actions of a perpetrator.[23]

Another typical provision in these ordinances requires landlords to evict tenants once there has been a certain number of police calls to a property, or creates a strong incentive for landlords to evict tenants in order to avoid penalties for a threshold number of police responses to the property. Municipalities rarely evaluate the reason for or outcome of the calls to the police. Enforcement of these ordinances can therefore routinely result in the person who sought out municipal assistance – whether as a victim of a crime or otherwise – being threatened with eviction.[24] Some landlords may even proactively discourage tenants from reaching out to the police in the first place.[25] Furthermore, ordinances can also penalize a landlord who seeks police help in addressing crime at his rental property.

By linking law enforcement's activity at a property with the possibility of eviction of the tenants and/or penalties against the landlord, ordinances can actually deter tenants, landlords, and concerned citizens from reaching out to the police for help and/or coming to the aid of crime victims. This only undermines crime reporting and public safety.

In particular, exposing victims of domestic and sexual violence to eviction through enforcement of these ordinances may force a tenant to decide to remain in a dangerous situation rather than to involve the police and risk losing her home.[26] In fact, these ordinances can become a

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[23] *See, e.g.*, Desmond & Valdez, *supra* note 2, at 133-35 & n.16, 137.

[24] *See id.* at 133-37 & n.16.

[25] *See id.* at 135-36.

[26] *See, e.g.*, Briggs Complaint, *supra* note 1, at 14-15. The first moment a victim of violence works up the courage to contact the police can be an essential one in ultimately breaking the cycle of abuse. If this initial request for police help in particular is marred by a subsequent threat of eviction, the victim may never again be willing to seek out the assistance she needs to escape the violence.

tool for a savvy abuser who may use the threat of eviction to silence his victim.[27] Domestic violence advocates have worked diligently over the years to break the silence of victims by encouraging them to reach out to the police and others for assistance. These ordinances undermine those efforts and set in motion potentially tragic consequences. Deterring victims from involving the police can escalate the frequency of violence and increase the risk that innocent bystanders – such as family members, neighbors, and law enforcement officers – will ultimately be harmed during the cycle of abuse.[28]

Enforcement of these ordinances can also increase the substantial risk of homelessness for families affected by domestic and sexual violence.[29] In addition to encouraging evictions of victims, these ordinances can make it more difficult for victims to obtain stable housing in the first place, as landlords may choose not to rent to individuals they know or believe to have been a victim out of concern this will lead to ordinance enforcement. Furthermore, these ordinances can make it difficult for service providers to offer assistance to individuals trying to escape domestic violence, as some ordinances apply to emergency and transitional shelters for victims. In practice, this means that a shelter facility that calls in the police to protect a resident against an abuser can end up being penalized.[30]

By exposing victims of domestic and sexual violence to eviction and other harms as a result of the abuse against them, municipalities can violate the rights of these victims to be free from discrimination. The federal Fair Housing Act[31] and Illinois Human Rights Act[32] both prohibit

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[27] *See, e.g.*, Second Amended Complaint at 16, Grape v. Town/Village of East Rochester, No. 07 CV 6075 CJS (F) (W.D.N.Y. July 6, 2007). Alternatively, ordinances that trigger eviction based on calls for police service enable an abuser to harass the victim by making groundless calls to the police. *See id.*

[28] *See* Brief *Amicus Curiae* of the Pennsylvania Coalition Against Domestic Violence et al., in Support of Plaintiff's Motion for Preliminary Injunction at 10-14, Briggs v. Borough of Norristown et al., No. 2013 C 2191 ER (E.D. Pa. May 31, 2013), *available at* http://www.pcadv.org/Resources/PCADVAmicusBr_2_13_CV_02191_ER.pdf.

[29] *See, e.g.*, 42 U.S.C. § 14043e (findings of Congress in the Violence Against Women and Department of Justice Reauthorization Act of 2005); NAT'L LAW CTR. ON HOMELESSNESS AND POVERTY AND NAT'L NETWORK TO END DOMESTIC VIOLENCE, LOST HOUSING, LOST SAFETY: SURVIVORS OF DOMESTIC VIOLENCE EXPERIENCE HOUSING DENIALS AND EVICTIONS ACROSS THE COUNTRY 2, 5-11 (2007), *available at* http://www.nlchp.org/content/pubs/NNEDV-NLCHP_Joint_Stories%20_February_20072.pdf.

[30] There is already a huge unmet need for emergency shelter and transitional housing among survivors of domestic violence. *See* NAT'L NETWORK TO END DOMESTIC VIOLENCE, 2012 DOMESTIC VIOLENCE COUNTS: A 24-HOUR CENSUS OF DOMESTIC VIOLENCE SHELTERS AND SERVICES (2013), *available at* http://www.nnedv.org/downloads/Census/DVCounts2012/DVCounts12_NatlReport_Color.pdf.

[31] 42 U.S.C. §§ 3601 *et seq.*

[32] 775 ILCS 5/1-101 *et. seq.* The Human Rights Act also includes a prohibition against discrimination on the basis of having an order of protection which may be violated when a municipality forces the eviction of a victim of domestic and sexual violence or another crime victim based on calls made to the police to enforce a protective

discrimination in housing, including on the basis of sex. These laws forbid not just actions that are intentionally discriminatory but also actions that disproportionately have an adverse impact on protected groups.[33] In addition, the Illinois Civil Rights Act of 2003 prohibits local governments from "utiliz[ing] criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their... gender."[34] Since the majority of domestic and sexual violence victims are women,[35] these ordinances that harm victims of violence can have an unlawful disparate impact on women.[36] Indeed, municipalities that enforce ordinances they know will adversely affect victims of violence may also be liable for intentional discrimination against women.[37]

In addition, persons with disabilities may experience a more frequent need for police intervention and emergency assistance.[38] Persons with disabilities are protected against discrimination by fair housing laws, and they are entitled to reasonable accommodation in the administration of any program or policy that affects their ability to access and maintain housing.[39] An ordinance that prompts eviction of a tenant based purely on the number of police calls to that person's apartment – regardless of the reasons for the calls – may have a disparate adverse impact

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order. 775 ILCS 5/1-103(Q). Victims who have an order of protection against their perpetrators may even find it more difficult to access housing in the first place because landlords may turn them away out of concern about the potential for police calls that will trigger ordinance enforcement.

[33] *See* 24 C.F.R. § 100.500 (the Fair Housing Act prohibits practices that have a discriminatory effect even if not motivated by a discriminatory intent); People of the State of Ill. v. R.L., 158 Ill. 2d 432, 439 (1994) ("[T]he… disparate impact of a law or policy is alone sufficient to state a claim under civil rights laws such as… the Illinois Human Rights Act.").

[34] 740 ILCS 23/5(a)(2).

[35] *See, e.g.*, JENNIFER L. TRUMAN, U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS, CRIMINAL VICTIMIZATION, 2010 10-12 (2011), *available at* http://www.bjs.gov/content/pub/pdf/cv10.pdf (in 2010 women were 4 times more likely than men to experience intimate partner violence and 13 times more likely than men to experience a rape or sexual assault); SHANNAN CATALANO, U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS, INTIMATE PARTNER VIOLENCE, 1993-2010 (2012), *available at* http://www.bjs.gov/content/pub/pdf/ipv9310.pdf (between 1994 and 2010 approximately 4 in 5 victims of intimate partner violence were female).

[36] *See* U.S. DEP'T OF HOUS. AND URBAN DEV., OFFICE OF FAIR HOUS. AND EQUAL OPPORTUNITY, ASSESSING CLAIMS OF HOUSING DISCRIMINATION AGAINST VICTIMS OF DOMESTIC VIOLENCE UNDER THE FAIR HOUSING ACT (FHACT) AND THE VIOLENCE AGAINST WOMEN ACT (VAWA) 2 (2011), *available at* http://www.hud.gov/offices/fheo/library/11-domestic-violence-memo-with-attachment.pdf. *See also* Cari Fais, *Note: Denying Access to Justice: The Cost of Applying Chronic Nuisance Laws to Domestic Violence*, 108 Colum. L. Rev. 1181 (2008).

[37] *See, e.g.*, Briggs Complaint, *supra* note 1, at 31-32, 33-35.

[38] *See, e.g.*, INT'L ASSOC. OF CHIEFS OF POLICE, BUILDING SAFER COMMUNITIES: IMPROVING POLICE RESPONSE TO PERSONS WITH MENTAL ILLNESS 6 (2010), *available at* http://www.theiacp.org/LinkClick.aspx?fileticket=JyoR%2fQBPIxA%3d&tabid=87 (behaviors resulting from mental illness are a factor in 3-7% of all law enforcement calls for service).

[39] *See, e.g.*, 42 U.S.C. § 3604(f); 775 ILCS 5/3-102.1.

on persons with disabilities that cannot be justified. Further, if a municipality is informed that the disability of a tenant underlies its ordinance enforcement and does not make a case-specific determination about whether it is appropriate to continue those efforts, it may also be failing to offer a reasonable accommodation that would enable a person with a disability to keep his housing.[40] Pushing forward with ordinance enforcement after a request for a reasonable accommodation has been made may even be evidence that a municipality is acting with the intent to discriminate against persons with disabilities.[41]

By requiring a landlord to evict the occupants of a property where there has been an incident of domestic or sexual violence or when a tenant has called the police, a municipality may be compelling the owner to violate fair housing law and expose himself to liability. The municipality may also be forcing the owner to pursue eviction when the tenant has a defense under state and/or federal law.[42] In Illinois, victims of domestic and sexual violence have an affirmative defense in evictions resulting from the violence.[43] Likewise, the Violence Against Women Act (VAWA) protects tenants who live in federally-subsidized housing – including tenants who utilize Housing Choice Vouchers to rent private market housing – against being evicted for reasons that are related to domestic and sexual violence.[44] Persons with disabilities may be entitled to avoid an eviction as a reasonable accommodation.[45]

Finally, by penalizing tenants and landlords for calling the police, municipalities can run afoul of the First Amendment to the U.S. Constitution which guarantees the right "to petition the government for a redress of grievances." This includes the right to seek municipal assistance, such

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[40] *See, e.g.*, McGary v. City of Portland, 386 F.3d 1259, 1261-64 (9th Cir. 2004) (refusing to dismiss plaintiff's claim that the municipality failed to provide him a reasonable accommodation when it denied his request for additional time to comply with a nuisance abatement ordinance).

[41] *See* Tsombanidis v. City of W. Haven, 180 F. Supp. 2d 262, 287-88 (D. Conn. 2001).

[42] Of course, the ability of a tenant to learn of and successfully use eviction protections in state and/or federal law will often depend on her ability to obtain a lawyer to represent her, which is rarely an option for low- and even moderate-income tenants. Practically, therefore, the existence of such protections will do little to diminish the harms caused by these ordinances.

[43] *See* 735 ILCS 5/9-106.2.

[44] *See* 42 U.S.C. § 14043e-11.

[45] *See, e.g.*, City Wide Assoc. v. Penfield, 564 N.E.2d 1003, 1005 (Mass. 1991) (landlord required to stop pursuing eviction for a lease violation related to tenant's mental illness while tenant sought counseling); Douglas v. Kriegsfeld Corp., 884 A.2d 1109, 1133-38 (D.C. 2005) (staying eviction while the tenant obtained assistance with remedying lease violations was *prima facie* a reasonable accommodation).

as by calling the police.[46] Local governments can violate a tenant's and/or landlord's First Amendment rights by pursuing ordinance enforcement efforts based on a person's attempts to obtain police assistance. Furthermore, the mere existence of an ordinance with such potential consequences may unlawfully chill the future exercise of the First Amendment right by deterring tenants and landlords from seeking help at all.[47]

Harming Innocent Tenants and Household Members

Frequently in enforcing these ordinances municipalities require the eviction of an entire household based on the alleged criminal activity of a single household member, guest, or other person. Municipalities typically do not assess whether the other occupants had any involvement in or even knowledge of this activity. In fact, some ordinances actually specify their intent to penalize the entire household for criminal activity regardless of whether members were aware of the activity or able to control the participants in the activity.

Eviction is a highly disruptive event that can have serious detrimental consequences for families.[48] Displacing tenants who have neither engaged in nor permitted illegal activity can needlessly exacerbate community problems such as educational instability for children and homelessness.

Misusing Arrests and Other Criminal History Information

Municipalities typically premise their enforcement of these ordinances on the mere fact that there has been an arrest or citation. Sometimes the ordinance will explicitly state the municipality can pursue enforcement based simply on an arrest. Regardless of language in the ordinance, however, it is typical for an arrest at a property to trigger a notice from the municipality directing the

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[46] *See* Tamara L. Kuennen, *Recognizing the Right to Petition for Victims of Domestic Violence,* 81 FORDHAM L. REV. 837, 843 & n.20, 849-52 (2012), *available at* http://fordhamlawreview.org/assets/pdfs/Vol_81/Kuennen_November.pdf; Lenora M. Lapidus, *Doubly Victimized: Housing Discrimination Against Victims of Domestic Violence*, 22 J. OF GENDER, SOC. POL. & THE LAW 377, 383 (2003), *available at* http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1398&context=jgspl.

[47] Fais, *supra* note 36, at 1220-22 (2008); Lapidus, *supra* note 46, at 383-84 (2003).

[48] *See* Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 AM. J. OF SOC. 88, 89 (2012), *available at* http://www.law.harvard.edu/faculty/faculty-workshops/desmond.faculty.workshop.spring2013.pdf (identifying harms associated with increased residential mobility including higher rates of adolescent violence, poor school performance, health risks, psychological costs, and loss of neighborhood ties); Matthew Desmond et al., *Evicting Children,* SOCIAL FORCES 91, 1-2, 18 (2013), *available at* http://scholar.harvard.edu/files/mdesmond/files/evictingchildren.socialforces.2013.pdf (identifying harms associated with eviction including homelessness, high residential mobility, poor school performance, trauma, depression, material hardship, and declines in housing and/or neighborhood quality).

landlord to evict tenants or face penalties. Some ordinances even require that crime free leases must specify that an arrest proves that criminal activity which violates the lease has occurred.

This practice of basing ordinance enforcement on arrests may violate laws that prohibit discrimination, including practices that have an adverse disparate impact on protected groups and are not supported by a sufficient justification.[49] In many communities African Americans and/or Hispanics are arrested at disproportionate rates relative to their share of the population and their actual level of participation in criminal conduct.[50] In addition, persons with mental illness suspected of committing offenses may be more likely to be arrested than persons without a mental illness in some communities.[51] An arrest simply documents law enforcement's response to the possibility of criminal activity.[52] An ordinance that displaces tenants from housing based on the mere fact of an arrest may have a disparate impact based on race, ethnicity, and/or disability that cannot be justified and violates civil rights laws.[53]

Furthermore, these ordinances typically impose one-size-fits-all obligations on landlords to evict tenants who are accused of crime that make no allowance whatsoever for the possibility that this ordinance enforcement may be a result of a tenant's disability. However, a landlord's obligation to provide reasonable accommodation to a tenant with a disability may require that the landlord not

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[49] *See supra* notes 14, 33-34 and accompanying text.

[50] *See, e.g.*, ILLINOIS DISPROPORTIONATE JUSTICE IMPACT STUDY COMM'N, FINAL REPORT 14, 29-30 (2010), *available at* http://www.centerforhealthandjustice.org/djis_fullreport_final.pdf (non-whites were disproportionately arrested for drug offenses in majority of counties in Illinois and this difference is not explained by differences in rates of illicit drug use); DELBERT S. ELLIOTT, LIES, DAMN LIES, AND ARREST STATISTICS 4 (1995), *available at* http://www.colorado.edu/cspv/publications/papers/CSPV-015.pdf (racial and ethnic disparities in arrest rates largely disappear in rates of self-reported criminal activity).

[51] *See* Chiefs of Police, *supra* note 38, at 6.

[52] *See, e.g.,* Aleksander Tomic & Jahn K. Hakes, *Case Dismissed: Police Discretion and Racial Differences in Dismissals of Felony Charges*, 10 AM. L. ECON. REV. 110 (2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=618122 (finding evidence that blacks are erroneously arrested on certain felony charges at a higher rate than whites).

[53] The Equal Employment Opportunity Commission has disapproved of making employment decisions based on an arrest record without further inquiry into whether the record actually reflects a person's conduct, because of the disparate impact this can have on groups protected by Title VII (the federal anti-discrimination law for employment). *See* U.S. EQUAL EMPLOYMENT OPPORTUNITY COMM'N, ENFORCEMENT GUIDANCE ON THE CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (2012), *available at* http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm. Courts often look to interpretations of Title VII in determining how to apply the Fair Housing Act. *See* Rebecca Oyama, *Do Not Re(Enter): The Rise of Criminal Background Tenant Screening as a Violation of the Fair Housing Act*, 15 MICH. J. RACE & L. 181, 199-200 (2009).

move forward with an eviction where a lease violation is related to the tenant's disability.[54] At the very least, the landlord must engage with a tenant who seeks to avoid an eviction based on a disability to determine whether this would be a reasonable accommodation.[55] By rigidly requiring landlords to evict, these ordinances expose landlords to liability for violating the fair housing rights of disabled tenants. In addition, municipalities that do not allow for exceptions in ordinance enforcement when informed that allegations of crime are related to a tenant's disability may themselves be liable for failing to provide a reasonable accommodation or even intentional discrimination.[56]

Finally, ordinances that connect a violation of the ordinance and/or a crime free lease with the mere fact of an arrest can also conflict with state law. For example, an Illinois appellate court determined that a public housing authority provided no evidence that an individual engaged in criminal activity when the housing authority relied on the existence of arrests that were dismissed without offering any additional supporting information.[57]

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[54] *See supra* note 45. *See also* Super v. J. D'Amelia & Assocs., LLC, No. 3:09 CV 831, 2010 U.S. Dist. LEXIS 103544, at *2-3, *25-28 (D. Conn. Sept. 30, 2010) (application of defendants' policy of terminating rent subsidies to tenants who commit acts of violence to an individual with a mental illness now receiving new treatment could be an unlawful denial of a reasonable accommodation).

[55] *See, e.g.*, *Douglas,* 884 A.2d at 1122-23 & n.22 (the Fair Housing Act "requires the landlord to 'open a dialogue' with the tenant" in order to determine whether a requested accommodation is reasonable).

[56] *See supra* notes 40-41 and accompanying text. These ordinances increase the risk a tenant will lose his current home for reasons related to a disability, and can discourage landlords from housing persons with disabilities because of the possibility that enforcement will not permit for reasonable accommodations. These ordinances may therefore increase the already high levels of homelessness among persons with disabilities. *See* U.S. DEPT. OF HOUS. AND URBAN DEV., THE 2011 ANNUAL HOMELESS ASSESSMENT REPORT TO CONGRESS 20 (2012), *available at* https://www.onecpd.info/resources/documents/2011AHAR_FinalReport.pdf (in 2011, nearly 38% of homeless persons staying in a shelter had a disability). Further, these ordinances can interfere with state efforts to enable persons with disabilities to live in integrated community settings rather than being unnecessarily institutionalized. This is mandated by the Americans with Disabilities Act. *See* Olmstead v. L.C. ex rel. Zimring, 527 U.S. 581, 587 (1999). Many states have been subject to litigation and other actions to enforce this obligation. For example, Illinois is required by consent decree to develop supportive housing and provide services to enable individuals with mental illness to live in community-based settings. *See* Consent Decree, Williams v. Quinn, No. 05 CV 4673 (Sept. 29, 2010), *available at* https://www.dhs.state.il.us/OneNetLibrary/27897/documents/Mental%20Health/LegalDocs/EnteredWilliamsConsentDecree.pdf. In fact, some municipalities even explicitly apply ordinances to facilities providing supportive housing to enable persons with disabilities to live in the community, and may utilize enforcement to push out these facilities because of Not-In-My-Backyard ("NIMBY") opposition or concerns about burdens on municipal services.

[57] *See* Landers v. Chicago Hous. Auth., 404 Ill.App.3d 568, 573-77 (1st Dist. 2010). Forcing a landlord to evict based merely on an arrest could put him in an untenable position and compel him to resort to unlawful self-help to remove an accused tenant. In fact, forcing a landlord to evict a tenant accused of criminal activity based on the mere fact of an arrest can violate the landlord's due process rights. *See* Cook v. City of Buena Park, 126 Cal. App. 4th 1, 8-9 (4th Dist. 2005) (notice that just identified the tenant's name, an apartment number, and the date and time of alleged criminal activity or an arrest was insufficient for due process).

Municipalities also aim to keep crime out of rental properties through the use of criminal background screening of tenants. Oftentimes criminal background screening is heavily promoted by municipalities through the required crime free housing training for landlords. Some municipalities have also adopted ordinances that require landlords to perform criminal background checks of prospective tenants or authorize the municipality to impose background screening as a condition for a landlord facing enforcement to avoid penalties. Typically ordinances do not lay out any standards that landlords are to use in conducting this screening, which can contribute to widespread violations of fair housing laws.

Unless municipalities ensure that landlords adopt a tailored approach to screening, landlords that are encouraged or required to screen prospective tenants are likely to err on the side of rejecting anyone with a record – even if the person was never found guilty of alleged criminal activity or if the offenses are minor, old, and/or unrelated to a person's ability to be a good tenant.[58] However, a ban on all applicants with criminal records can disproportionately hurt African Americans, Hispanics, and/or persons with some disabilities.[59] A record of past crime does not necessarily predict that someone will engage in future criminal activity.[60] Therefore, when a landlord adopts a blanket policy to screen out all prospective tenants with criminal records – without regard to the outcome of arrests or how old, minor, or irrelevant records might be – the disproportionate impact on minorities and/or persons with disabilities can be unjustified and a violation of the Fair Housing Act.[61]

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[58] *Cf.* MARIE CLAIRE TRAN-LEUNG, WHEN DISCRETION MEANS DENIAL: THE USE OF CRIMINAL RECORDS TO DENY LOW-INCOME PEOPLE ACCESS TO FEDERALLY SUBSIDIZED HOUSING IN ILLINOIS 4-5(2011), *available at* http://povertylaw.org/sites/default/files/webfiles/when-discretion-means-denial.pdf (noting overly broad background screening by subsidized housing providers as a result of insufficient guidance from HUD).

[59] *See, e.g.,* Disproportionate Justice, *supra* note 50, at 28-38 (2010) (non-whites are more likely than whites to be arrested, prosecuted, and/or incarcerated for drug offenses in various Illinois counties even though they engage in illicit drug use at comparable rates); MARC MAUER & RYAN S. KING, UNEVEN JUSTICE: STATE RATES OF INCARCERATION BY RACE AND ETHNICITY 3-6 (2007), *available at* http://www.sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf (nationally African Americans are incarcerated at nearly 6 times and Hispanics are incarcerated at nearly 2 times the rate of whites); Chiefs of Police, *supra* note 36, at 6-7 (studies reflect disproportionate arrest and/or incarceration of persons with mental illnesses).

[60] *See* EEOC Guidance, *supra* note 53, at n.118 (discussing studies that show that after a certain number of years a person with a criminal record is no more likely to offend than a person without one). *See also* Daniel K. Malone, *Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults With Behavioral Health Disorders*, PSYCHIATRIC SERVICES, Vol. 60, No. 2 (2009), *available at* http://ps.psychiatryonline.org/article.aspx?articleid=100171 (finding that presence of criminal history did not predict whether formerly homeless individuals would have successful tenancy).

[61] *See generally* Oyama, *supra* note 53; Marie Claire Tran-Leung, *Beyond FEAR and MYTH: Using the Disparate Impact Theory Under the Fair Housing Act to Challenge Housing Barriers Against People with Criminal Records,* 45 CLEARINGHOUSE

In addition, refusing to rent to a person with a criminal record can violate the landlord's obligation to provide reasonable accommodation to individuals with disabilities in order to enable them to access housing.[62] If a person has a criminal history that is related to his disability (e.g. – an individual with mental illness was convicted of disorderly conduct because of erratic behaviors arising from his disability but is now controlling his symptoms through medication) then the landlord may be required to accept that person as a tenant as a reasonable accommodation. At the very least, landlords should not be imposing strict bans on prospective tenants with criminal backgrounds without making an individualized assessment of the circumstances surrounding the offenses on a person's record.[63]

Finally, barriers to stable housing for persons who have criminal records can actually undermine public safety. These housing barriers stand in the way of efforts to successfully reintegrate people into the community and thus increase the likelihood that they will re-offend in the future.[64]

Using Inappropriate Enforcement Officials

Ordinance enforcement is often carried out by police officials who are unfamiliar with the civil rights and landlord-tenant laws that place restrictions on when and how a landlord may properly evict tenants. Police officials are not only often formally charged with ordinance enforcement, but may also frequently use the existence of these ordinances to informally pressure landlords to get rid of certain tenants.[65] This exacerbates the risk that the municipality will improperly force out a tenant, and expose itself not only to the various liabilities discussed above but also to other potential claims that can arise when police get involved in resolving non-criminal matters.

REV. 4 (2011), *available at* http://povertylaw.org/sites/default/files/webfiles/tran-leung.pdf. *Cf.* EEOC Guidance, *supra* note 53.

[62] Broad criminal background screening by landlords can also impose a barrier to housing persons with disabilities in community settings instead of unnecessary institutionalization.

[63] *See* DEPT. OF HOUS. AND URBAN DEV. AND DEPT. OF JUSTICE, REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT 4 (May 17, 2004), *available at* http://www.hud.gov/offices/fheo/library/huddojstatement.pdf (a housing provider may only exclude a tenant with a disability because that person poses a direct threat to safety following an "individualized assessment that is based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat.").

[64] *See* Oyama, *supra* note 53, at 183, 196.

[65] *See* Desmond & Valdez, *supra* note 2, at 122-24.

Overreaching in Enforcement Authority and Discretion

Ordinances often define the conduct that violates the ordinance and/or exposes tenants to eviction very broadly. Many ordinances apply to all illegal activity that occurs at the property, regardless of whether that activity actually involves a threat to the health or safety of others. Ordinances often also include local ordinance violations – including loud noises, high grass, garbage on a property, abandoned vehicles, and many other similarly minor infractions – among the conduct that can lead to eviction of the tenant household. Some ordinances even include vague and seemingly limitless catch-all descriptions of additional tenant conduct that can trigger a violation, such as "creating a nuisance" or "endangering health, safety or welfare".[66]

Similarly, ordinances that require landlord licensing will often deny or take away the license based on non-compliance with local building and property maintenance codes. Any deviation from code standards can trigger the loss of a landlord license, including minor violations that do not actually bear on the habitability of the property. Some ordinances require that landlords without a valid license must then immediately vacate their properties.

Furthermore, some municipalities apply these ordinances to the conduct of tenants, household members, and guests that occurs at a different location from the property where the tenant lives. Some ordinance explicitly state that a crime free lease is violated by and/or a landlord can be penalized for such conduct.[67] Other ordinances are simply drafted so broadly that they could reach criminal activity either on or off the property.

Municipalities that carve out such vast and/or vague authority in their ordinances may be accused of arbitrary and abusive enforcement if they do not utilize the full extent of their authority and instead just use a broad ordinance to go after a few properties.[68] However, most municipalities cannot enforce these broadly written ordinances in every situation where they might apply without burdening already limited public safety resources. Further, the expansiveness of many ordinances

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[66] Ordinances that penalize an "excessive" number of calls for police service, without specifying the number of calls that will lead to penalties, are another example of how municipalities often carve out vague and highly discretionary authority.

[67] Ordinances vary in terms of how far they extend in this regard – some apply to conduct "near" the specific rental property, others apply to conduct within the jurisdictional limits of the municipality, and still others explicitly apply to conduct at any location.

[68] *See, e.g.*, City of Oakland v. Abend, No. C-07-2142 EMC, 2007 U.S. Dist. LEXIS 53186, at *33-35 (N.D. Cal. July 12, 2007) (denying motion to dismiss Equal Protection Clause claim based on allegations of selective enforcement in nuisance action brought by City against property owners).

creates a risk that Not-In-My-Backyard ("NIMBY") hostility to rental housing and/or the people that live there – such as low-income minorities or persons with disabilities – will infect the enforcement process. When officials have wide leeway to decide whether a rental property that falls within the broad scope of an ordinance should be the subject of an enforcement action, this opens the door to a risk that certain properties or tenants will be targeted for illegitimate and ultimately illegal reasons.[69] A municipality violates civil rights laws if it treats protected groups differently in its ordinance enforcement without a valid reason, or pursues enforcement at the behest of neighbors it knows are motivated by discrimination.[70]

However, even if a municipality were to pursue the eviction of tenants or take away a landlord's license to rent out his property in every situation encompassed by an expansive ordinance, serious concerns remain. The municipality could end up increasing the number of vacant residential buildings and/or homeless families in the community. It may also decrease the supply of rental housing, which can conflict with civil rights laws.

Finally, applying these ordinances to criminal conduct that takes place off the property can exacerbate fair housing problems. This can increase the disparate adverse impact on minorities and disabled persons that results from the greater likelihood that these groups will be arrested. This can also increase the risk that victims of domestic and sexual violence will lose their housing because of the conduct of an abuser.[71]

Exposing Tenants and Landlords to Enforcement Errors

Typically once a municipality believes conduct has occurred which triggers its ordinance it notifies the landlord that he must evict his tenants or face penalties, but the municipality will not usually provide any notice to the tenants that this demand has been made on the landlord nor offer

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[69] *See, e.g.*, Desmond & Valdez, *supra* note 2, at 125-30, 132-33 (finding that eligible properties in black Milwaukee neighborhoods were more likely to actually receive a nuisance citation from the municipal government than eligible properties in other neighborhoods).

[70] *See supra* note 15. Even some of the more concrete aspects of these ordinances can create opportunities for community prejudice to infect enforcement. For example, when an ordinance requires eviction of a household based on a certain number of calls for police service to a unit, neighbors may make repeated baseless calls to the police as a tactic for getting rid of unpopular tenants for discriminatory reasons.

[71] Ordinances that apply to alleged crime occurring away from the property where a tenant lives can also be inconsistent with state law establishing when criminal activity should be the basis for evicting tenants. For example, Illinois law recognizes that there should be a connection between the criminal activity and the rental property prior to displacing a tenant. *See* 735 ILCS 5/9-120 (giving lessor the option to terminate a lease if the lessee uses or permits use of the premises to commit an act constituting a felony or Class A misdemeanor).

the tenants any opportunity to come forward with relevant information.[72] There are many instances where a tenant may be able to demonstrate that an eviction demanded by the municipality is inappropriate, including: 1) when there has been a false allegation of conduct that triggers the ordinance, and in fact no such conduct occurred; 2) when an occupant is a crime victim or otherwise sought police help and so her eviction violates civil rights laws and/or the terms of the ordinance; 3) when the tenant had no involvement in conduct allegedly triggering the ordinance and so her eviction may violate the terms of the ordinance; 4) when an occupant has a disability related to conduct allegedly triggering the ordinance and so a reasonable accommodation is appropriate; and/or 5) when corrective steps have been taken by the occupants to prevent future conduct that could trigger the ordinance. A tenant should have the chance to raise such rights and defenses with the municipal government directly, and should not have to rely on the landlord to protect the tenant's interests. However, few ordinances give tenants any such opportunity. Even when tenants are afforded some opportunity to challenge ordinance enforcement, this often only occurs when a landlord does not evict a tenant as demanded by the municipality and instead faces penalties. This will be a rare occasion.

Municipalities can deprive tenants of due process guaranteed by the Fourteenth Amendment to the U.S. Constitution if they undertake enforcement efforts that expose a tenant to the threat of being displaced from her housing without first giving the tenant notice and an opportunity to dispute the validity of these efforts.[73] Once the municipality exerts pressure on the landlord to evict, a tenant faces the prospect of having to choose between defending the eviction or simply moving and never asserting her claims that she is in fact innocent, has been a crime victim, etc.[74] Tenants

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[72] Sometimes in a nuisance property scheme the demand to the landlord will be to simply "abate" the nuisance, without specifying that abatement requires eviction of tenants. However, if the alleged nuisance arises from the conduct of a tenant or person associated with that tenant's household then an obvious way for the landlord to abate the nuisance will be to get rid of that tenant, and so practically a demand to abate a nuisance amounts to much the same thing as a demand to evict.

[73] *See* Garrett v. City of Escondido, 465 F. Supp. 2d 1043, 1058-59 (S.D. Cal. 2006) (City's ordinance raised serious due process concerns by prohibiting landlords from renting to tenants deemed to be illegal aliens and providing for suspension of the business license of non-complying landlords without giving tenants any prior notice or hearing); Richmond Tenants Org., Inc. v. Kemp, 956 F.2d 1300, 1306-1308 (4th Cir. 1992) (summary eviction of public housing tenants by federal government without notice or an opportunity for a hearing was a violation of Due Process Clause). In addition to pressuring landlords to evict, some municipalities may try to get rid of tenants accused of activity that triggers an ordinance directly, such as by ordering the tenant to vacate the property or by condemning the property. The obligation to first give tenants notice and an opportunity to challenge this decision is equally applicable in such situations. *See Richmond Tenants*, 956 F.2d at 1306-1308.

[74] Defending against an eviction action can be daunting for most low- and moderate-income tenants, who tend to be unrepresented. The existence of an eviction judgment on a tenant's record can present a major barrier to

are entitled to safeguards against instances where this threat to their housing security is imposed by a municipality in error.[75]

Ordinances more often create procedural rights for landlords. However, there are still many ordinances that authorize imposing penalties against the landlord – including taking away a landlord's license – without first giving the landlord any opportunity to contest whether he actually committed a violation of the ordinance. Further, some ordinances that ostensibly give landlords procedural rights do not set up any mechanism for informing landlords of these rights or how to exercise them. This lack of safeguards is not only unfair to landlords who face the loss of their livelihood if their license is revoked, but can also increase the pressure on landlords to try to evict a tenant at the first municipal demand even if such an eviction would in fact be contrary to the terms of the ordinance or other laws.

The Fourteenth Amendment's due process protection requires a municipality to give a landlord the chance to contest whether he has in fact violated such an ordinance before it can impose any penalties against him. This must include providing the landlord with a meaningful opportunity to challenge any determination by the municipality that the landlord is required to remove certain tenants *before* it is necessary for the landlord to actually evict.[76]

Recommended Steps to Address Harms Generated by Crime Free Rental Housing and Nuisance Property Ordinances

The best way for a municipality to avoid the liability and other harmful consequences that can result from crime free rental housing and nuisance property ordinances is to not pass them in the first place, and to focus instead on exploring other ways to address public safety concerns. However, municipalities that do have ordinances should limit their scope and include robust protections for tenants and landlords in order to at least mitigate the potential pitfalls. The

finding quality housing in the future, and tenants who are evicted may subsequently lose access to subsidies that they need to afford their housing. It is no wonder, then, that many tenants feel compelled not to pursue their rights and defenses in an eviction process. The fact that evictions occur through a judicial process is therefore not sufficient to prevent many tenants from losing their homes erroneously.

[75] Providing procedural protections to tenants is ultimately in the municipality's interest. Any enforcement actions that will force current tenants from their rental housing can increase the number of vacant properties and cause family homelessness. These are outcomes that are harmful for the whole community and should be avoided unless definitively warranted under the circumstances.

[76] Javinsky-Wenzek v. City of St. Louis Park, 829 F. Supp. 2d 787, 796-800 (D. Minn. 2011) (landlords were likely to succeed on their due process claim because the City enforced its crime free housing ordinance without first providing notice of and an opportunity for a hearing where the landlords could challenge the City's demand to evict certain tenants).

following are a collection of recommended steps that governments should pursue in this regard. Still, municipalities must bear in mind that while taking all these steps can reduce their legal exposure, it will not prevent the harms created by an ordinance nor absolve a municipality of the risk of liability entirely.

1) All police officers, code inspectors, and other municipal employees whose work may relate to enforcement of an ordinance should be trained on the limits placed on the municipality's authority by the ordinance itself and civil rights laws. This will help to ensure that employees are acknowledging and respecting those limits in all interactions with landlords and/or tenants. In addition, primary responsibility for enforcement should not be placed with police officials.

2) An ordinance should explicitly prohibit the eviction of crime victims and their families as a result of its enforcement.[77] It is not sufficient to simply exempt certain categories of criminal activity like domestic violence from the conduct that leads to eviction and/or penalties under an ordinance. First, this will still expose victims of other crimes to eviction. Second, a perpetrator of domestic or sexual violence will often simultaneously be arrested for additional crimes that would still trigger ordinance enforcement. Finally, the victims of domestic violence who call the police for assistance themselves often end up being arrested for offenses that stem from their status as a victim. Therefore, it is necessary to have an explicit limitation on the authority of the municipality to demand or even encourage eviction of any tenant who is a crime victim.[78] Furthermore, an ordinance must give the landlord an explicit defense to any penalties when his tenant is a crime victim and require that the landlord be notified of this defense, so that landlords are not led to believe that evicting the victim is the only way to ensure penalties will be avoided.

3) An ordinance should never make a direct connection between calls for police service (or other efforts to obtain municipal government assistance) and the possibility of eviction or penalties under the ordinance. This is necessary to prevent any unlawful chilling of the right of tenants and landlords to request government assistance and any abuse of the ordinance by third parties.[79]

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[77] Even when an ordinance includes some language that is intended to safeguard victims, individuals who are focused on immediate survival for themselves and their families are often not in a position to discover and take advantage of such protections. There still remains a great risk that victims of domestic and sexual violence will lose their homes or otherwise be harmed.

[78] Ordinances should only permit eviction of a crime victim when the eviction is based on the victim's own illegal conduct that is unrelated to the person's status as a victim of domestic or sexual violence or other crime.

[79] Some ordinances require the municipality to inform the landlord of all calls for police and/or other municipal services to the landlord's property. This automatic notice to landlords could have a chilling effect on tenants who need assistance, particularly in the absence of any limits on what a landlord can do with such information. It could

Furthermore, ordinances should explicitly prohibit any penalization of tenants and/or landlords who have contacted the police for assistance as a result of subsequent enforcement efforts.

4) Any ordinance that requires landlords to use a crime free lease should specify that tenants must have either engaged in or allowed the conduct that is made a violation of the lease. Ordinances should also specify that a landlord may only be forced to evict tenants and/or penalized based on alleged crime at a property if the tenants either engaged in or allowed the conduct that is the basis for the eviction and/or penalties.[80]

5) Ideally an ordinance should require a conviction for a criminal offense before the municipality sends any notice that requires a landlord to evict tenants or takes other enforcement actions. At the very least, however, an ordinance should require municipal officials to identify evidence beyond the mere fact of an arrest or citation which confirms that criminal conduct has actually occurred prior to initiating enforcement action. Furthermore, ordinances should not include any language that makes the mere fact of an arrest sufficient to prove that there has been an ordinance violation and/or a violation of a crime free lease.[81]

6) Municipalities that mandate criminal background screening in an ordinance or incorporate it into a landlord training program should also set forth parameters for fair and lawful screening that landlords are required or at least encouraged to adopt. The focus should be on identifying applicants who pose a current threat to the safety of other residents. These well-defined screening parameters should require a case-by-case determination on a person's application for housing that only takes account of the convictions on a person's record (and not arrests or charges that never resulted in a conviction) and that takes into consideration the seriousness, age, number, and relationship to a safe and successful tenancy of these convictions.[82]

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endanger tenants who call the police on their landlords and/or neighbors for engaging in criminal activity. Ordinances should also not include provisions of this nature.

[80] To the extent that just one member of a tenant household has been involved in some criminal activity without the assent of the remaining household members, ordinances should give those other occupants an opportunity to keep their housing by removing the one culpable person.

[81] Likewise, ordinances should not include language that makes hearsay evidence that would not be admissible in court – such as a police report – sufficient alone to prove that there has been an ordinance violation and/or a violation of a crime free lease.

[82] One possible approach to establishing such parameters could include the following basic elements: a) only obtaining criminal background information directly from an official source (such as a local courthouse or a state government's criminal records repository); b) only considering those offenses on a person's record that resulted in a documented conviction within the prior three years (or some other limited time period); c) only considering those convictions on a person's record that are for felonies involving violence, sexual violence, or drug trafficking (or some other defined set of convictions where the nature and severity of the offenses indicates that a person

7) Ordinances should prioritize serious offenses by explicitly identifying specific crimes that violate an ordinance and/or require the eviction of tenants. These should be crimes with the potential to directly affect the safety of others. To further target the most harmful conduct, ordinances should require that a threshold number of crimes must be committed within a specific time period before any eviction requirement or penalties under the ordinance can be triggered (i.e. – three offenses within six months). In addition, ordinances that require landlords to comply with property maintenance standards as a condition of maintaining a license to rent out property should explicitly identify conditions at rental units that present a serious and immediate risk to the safety of residents. The ordinance should make these conditions the only permissible reasons for displacing current tenants from a unit and/or restricting the landlord's legal ability to rent out that unit in the future. Finally, any scheme of landlord licensing or nuisance abatement should be conducted on a unit by unit basis, so that conditions and/or activities at one of the landlord's apartments do not impact his ability to rent out any other units he may own in the jurisdiction.

8) Ordinances should specify that enforcement actions against the owner and/or residents of a particular property can only be triggered by activity that occurs at that property. Likewise, if an ordinance requires a crime free lease then it should specify that only criminal activity that occurs at the specific leased premises will violate the lease and be a basis for eviction.

9) Ordinances should require that tenants be notified of and given an opportunity to challenge the basis for any enforcement actions that could lead to them being displaced from their housing. Tenants should be able to present their case to a neutral decision-maker who had no prior involvement in the decision to take enforcement action, such as a judge or an administrative hearing officer.[83] To ensure that situations involving crime victims and others who sought police assistance do not fall through the cracks, the notice to tenants should include information about the

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poses a substantial and direct threat to the safety of others in the immediate vicinity); d) giving a person who may be rejected based on a criminal background the opportunity to review the record and at least two weeks to correct any inaccuracies (including pointing out if it improperly contains charges or convictions that have been sealed or expunged); e) giving a person who may be rejected based on a criminal background the opportunity to present mitigating evidence (such as information regarding the circumstances surrounding any offenses and/or subsequent rehabilitation, including any state certification of rehabilitation); and f) making an individualized determination whether to rent to a person based on all relevant information. In addition, landlords should not directly ask prospective tenants whether they have any prior arrests or convictions at the time of a person's application for housing but instead should inform the applicant that criminal background screening will be conducted and identify the parameters that will be used, so that individuals with old or irrelevant records are not discouraged from applying in the first place.

[83] *See Javinsky-Wenzek*, 829 F. Supp. 2d at 799-800.

protections provided to such persons by the ordinance.[84] In addition, the ordinance should specify that the tenant must receive these procedural protections *before* the landlord has any obligation to evict the tenant or otherwise abate an alleged nuisance that could lead to penalties if the landlord does not comply. The ordinance should also provide that the landlord will simultaneously be notified that this process for the tenant exists and may result in a determination that the landlord does not need to evict.[85]

10) Ordinances should guarantee that landlords will receive notice of any alleged violation and an opportunity to challenge the validity of any authorized penalty. As with the procedural protections for tenants, landlords should have the opportunity to present their case to a neutral decision-maker. Furthermore, ordinances should require that the landlord will be informed of his procedural rights at the same time that he is notified of any criminal activity that allegedly triggers the ordinance. This notice should clearly inform the landlord that he can pursue and complete an appeal before he has any obligation to evict tenants or otherwise take steps to abate a nuisance that may result in penalties if he does not comply.[86]

11) Ordinances must incorporate some mechanism so that both tenants and landlords can seek to avoid an eviction that is based on conduct related to the disability of a household member as a reasonable accommodation. This should include language requiring that landlords and tenants who are facing possible ordinance enforcement will receive notice of the municipality's mechanism for raising reasonable accommodation issues.[87]

12) Municipalities should restrict communications with landlords and tenants about the occurrence of and/or steps to be taken to address activity that allegedly triggers an ordinance to the formal notice and hearing processes that are set forth in the ordinance itself.

13) If a municipality which is obligated to AFFH because it receives federal housing and community development funds decides to have an ordinance, it should first assess any negative

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[84] So that victims of domestic and sexual violence feel safe coming forward, the municipality should create a confidential process to consider whether a person is a crime victim whose eviction would violate protections in the ordinance. Notice to tenants of these protections should specify that such a confidential process exists.

[85] Of course, if an ordinance authorizes any direct penalties against tenants – such as fines – for violations of the ordinance, then tenants must also receive due process before those penalties are imposed.

[86] In addition, in order to respect the due process rights of landlords and tenants an ordinance should make clear that the landlord's only obligation is to pursue removal of the tenants through the lawful eviction process under state law, and that the landlord will not be penalized if he is unsuccessful in an eviction proceeding or cannot conclude an eviction proceeding by a particular date. *See Cook*, 126 Cal. App. 4th at 9-10.

[87] No special words are required to request a reasonable accommodation. If a request is made to the municipality to alter a crime free rental housing or nuisance property policy because of a resident's disability this should trigger the reasonable accommodation process. *Douglas,* 884 A.2d at 1122.

impact that an ordinance could have on housing for protected groups and identify and implement all available options to mitigate this impact. In addition, state and county governments that disburse these funds to municipalities should develop procedures for monitoring whether the municipalities that request funds have or are considering such ordinances and for determining whether those ordinances create any barriers to fair housing. If so, then the state and county governments should withhold funds from the municipality until it eliminates or revises its ordinance to address those barriers.

Conclusion

Although municipalities are increasingly turning to crime free rental housing and nuisance property ordinances to respond to public safety concerns, these ordinances present numerous potential pitfalls that can cause serious harm to tenant households, landlords, and the community at large and expose municipalities to legal liability. These ordinances can reduce the supply of rental housing, displace crime victims and others who need to reach out to the police for help, chill reporting of crime to the police in the first place, increase the number of vacant properties and the rate of family homelessness, deny persons with disabilities the opportunity to access housing that is integrated into the community, and prevent persons with criminal records from finding stable housing, among other concerns. Municipalities can and should draft ordinances much more narrowly and thoughtfully to pursue their safety goals while mitigating these critical problems. However, the only sure way for a municipality to avoid these pitfalls is to not have a crime free rental housing or nuisance property ordinance in the first place, and to instead explore other available tools to combat concerns about public safety and the quality of the rental housing stock.

Appendix A:
Illinois Municipalities with Crime Free Rental Housing and/or Nuisance Property Ordinances[88]

Municipality	Crime Free Rental Housing Ordinance	Nuisance Property Ordinance
Addison	Sec. 10-84	Sec. 10-86.1 Sec. 12-35 – 12-38
Algonquin		Sec. 12-11
Alsip	Sec. 12-700 – 12-709	Sec. 12-700 – 12-709
Alton		Sec. 9-7-1 – 9-7-9
Aurora	Sec. 12-400 – 12-405	Sec. 29-125 – 29-131
Bartlett		Sec. 5-10-1 – 5-10-5
Batavia	Ordinance 11-27	Ordinance 11-27
Bellwood	Sec. 124.34	Sec. 124.34
Berwyn	Sec. 822.16 – 822.16	
Bloomington		Chapter 30.5
Bolingbrook	Sec. 27-210	Sec. 27-212 Sec. 27-301 – 27-306
Bourbonnais		Sec. 20-26 – 20-29
Bradley		Sec. 30-223 – 30-229
Calumet City	Sec. 54-2220 – 54-2237	Sec. 62-252.5 – 62.253
Calumet Park	Sec. 119.01 – 119.99	Sec. 119.09
Carbondale		Sec. 13-1-6
Carpentersville	Sec. 5.36.050 – 5.36.060	Sec. 8.20.040
Champaign		Sec. 22-800 – 22-810
Chicago		Sec. 8-4-087 – 8-4-090
Chicago Heights	Sec. 22-1 – 22-8	Sec. 22-2 and 22-7
Chicago Ridge	Sec. 22-711	Sec.22-718
Collinsville	Sec. 8.02.010 – 8.02.150	Sec. 8.02.130
Columbia		Sec. 8.26.010 – 8.26.090
Country Club Hills	Sec. 13.36.01 – 13.36.17	Sec. 13.36.13 Sec. 7.5.06
Crest Hill		Sec. 9.44.010 – 9.44.070
Crystal Lake		Sec. 364-4 – 364-10
Danville		Sec. 141.01 – 141.05
DeKalb	Sec. 10-10	Sec. 52.06
Des Plaines	Sec. 4-18A-1	Sec. 4-18A-1 Sec. 5-4-1 – 5-4-7
Dixon		Sec. 4-7-6
East Hazel Crest		Sec. 6-70
East Moline		Sec. 6-11-1 – 6-11-8
Elgin	Sec. 6.37.100	Sec. 10.44.010 – 10.44.080

[88] This is not a comprehensive list of all the municipalities in the state of Illinois that have some variation of a crime free rental housing and/or nuisance property ordinance. There may be additional municipalities in Illinois that have one or both of these ordinances that are not reflected on this list.

Elmhurst		Sec. 12.30 – 12.34
Elmwood Park	Chapter 41C	Chapter 41D
Evanston		Sec. 9-5-4
Fairview Heights	Sec. 18-12-1 – 18-12-10	Sec. 8-12-9
Ford Heights		Sec. 10-740
Forest Park		Sec. 5-2-8
Fox Lake		Sec. 5-1-2
Freeport		Sec. 659.01 – 659.08
Glendale Heights	Sec. 10-14A-4 and 10-14A-12 Sec. 10-14B-4	Sec. 5-2-2
Glenwood	Sec. 26-800 – 26-813	Sec. 26-812
Granite City	Sec. 5.142.010 – 5.142.080	
Grayslake		Sec. 8.28.050
Hainesville		Sec. 8.20.030
Hanover Park		Sec. 78-120 – 78-124
Hazel Crest		Sec. 6-70
Herscher		Sec. 6-1A-1 – 6-1A-7
Hoopeston		Sec. 8-12-050 – 8-12-080
Joliet	Sec. 8-150 – 8-163	Sec. 20-10 – 20-15
Kankakee		Sec. 24-30 – 24-38
Lansing	Sec. 16-613 – 16-622	Sec. 16-623
Lemont		Sec. 8.04.020
Lynwood	Sec. 18-275	
Manteno		Sec. 5-1-16-1 – 5-1-16-6
Midlothian	Sec. 4-19-1 – 4-19-17	Sec. 4-19-8
Momence		Sec. 5-6-1 – 5-6-8
Mount Prospect	Sec. 23.1814	Sec. 23.1813
Mundelein	Sec. 16.44.010 – 16.44.190	Sec. 16.44.070 Sec. 9.76.010 – 9.76.070
Niles	Sec. 22-590 – 22-591	Sec. 22-591
North Chicago	Sec. 5-14-1 – 5-14-22	Sec. 5-14-9 Sec. 6-8-1 – Sec. 6-8-6
North Riverside		Sec. 8.05.010 – 8.05.070
Northlake	Sec. 8-13-1 – 8-13-5	Sec. 4-2-2
Oak Forest	Sec. 117.35 – 117.44	
Oak Lawn	Sec. 6-5B-1 – 6-5B-15	Sec. 6-5B-12 Sec. 6-5C-1 – 6-5C-6
O'Fallon	Sec. 120.01 – 120.99	Sec. 120.09 – 120.10
Orland Hills		Sec. 134.01 – 134.05
Orland Park	Sec. 5-8-3-2	Sec. 5-8-3-2
Palatine	Sec. 10-16	Sec. 10-16
Park City		Sec. 8.22.010 – 8.22.060
Park Forest	Sec. 22-473	
Peoria		Sec. 20-200 – 20-207
Phoenix	Sec. 22-345	Sec. 22-366
Plainfield		Sec. 6-227

Princeton		Sec. 9-221 – 9-227
Rantoul		Sec. 20-308 – 20-317
Richton Park	Sec. 1467.01 – 1467.99	Sec. 1467.14
Riverdale	Sec. 15.120.010	Sec. 15.110.010 – 15.110.220
Riverwoods		Sec. 4-2-1 – 4-2-2
Rock Island		Sec. 4-146
Rockford		Sec. 17-41 – 17-46
Romeoville		Sec. 93.70 – 93.99
Round Lake		Sec. 12.13.010 – 12.13.070
Round Lake Beach	Ordinance 06-01-01	Ordinance 06-01-01 Sec. 6-1-3
Round Lake Heights	Sec. 3-9-1	Sec. 3-9-2 – 3-9-3
Sauk Village	Ordinance 13-001	Ordinance 13-001 Sec. 94.36
Schaumberg	Sec. 123.02	Sec. 90.55
Shorewood		Sec. 5-7-7
Skokie	Sec. 42-43	Sec. 42-35 – 42-36
South Chicago Heights	Sec. 18-800 – 18-810	Sec. 18-809
Springfield		Sec. 98.06
St. Charles		Sec. 9.45.010 – 9.45.080
Steger	Sec. 18-275	Sec. 18-271 – 18-274
Streamwood		Sec. 7-9-1 – 7-9-7
Streator		Sec. 8.24.010 – 8.24.070
Thornton	Sec. 7-11-8	Sec. 7-11-9
Tinley Park	Sec. 129F.01 – 129F.14	Sec. 129F.13
University Park		Sec. 650-01 – 650-07
Urbana		Sec. 15-80
Villa Park	Sec. 15-702	Sec. 15-703 – 15-707
Wauconda		Sec. 95.27
Waukegan		Sec. 15-140
West Chicago	Sec. 9-310 – 9-311	Sec. 9-312 Sec. 10-52 – 10-56
West Peoria		Sec. 4-11-11
Zion		Sec. 62-403

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