

## CHAPTER 44

### SPECIFIED CRIME PROPERTY

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

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

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

**44.03 PENALTIES.** Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a Municipal Infraction punishable by the Civil Penalty as provided by Chapter 3 of this Code of Ordinances.

**44.04 PROCEDURE FOR ENFORCEMENT.**

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

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

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

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

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

**44.06 SERVICE OF NOTICE.**

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

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

**44.07 ADMINISTRATIVE APPEAL.**

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

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

**44.08 CONDUCT OF HEARING.**

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

**44.09 EFFECT OF NOTICE.**

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