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Appleton Police Department

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To: Chief Thomas
From: Sgt. Biese
Re: Request for Nuisance Ordinance Update
Date: 01/20/22

Dear Chief Thomas:

I am writing to request consideration of an ordinance update.

Appleton Municipal Code Sec. 12-141(4) defines a Chronic Nuisance Premise as it relates to drug nuisances as:

... a premises which has had one (1) enforcement action associated with the premises resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes or a premises which is used as a meeting place of a criminal gang, or that is used to facilitate the activities of a criminal gang as defined in s.939.22(9), Wis. Stats.

This ordinance seems to parallel Wis. Stat. § 823.113(1), which defines a chronic nuisance premise as (emphasis added):

Any building or structure that is ***used to facilitate*** the delivery, distribution or manufacture, as defined in s. [961.01 \(6\)](#), [\(9\)](#) and [\(13\)](#) respectively, of a controlled substance, as defined in s. [961.01 \(4\)](#), or a controlled substance analog, as defined in s. [961.01 \(4m\)](#), and any building or structure where those acts take place, is a public nuisance and may be proceeded against under this section.

It appears that our ordinance is missing inclusion of the word “facilitate.” This may have occurred because the state law appears to have been created after our municipal ordinance was created. Regardless, this omission is more constrictive than its statutory counterpart and therefore creates a higher burden of proof for enforcement purposes.

I propose Municipal Code Sec. 12-141(4) be revised to include “facilitation of”, which I have bolded and italicized below:

Is a premises which has had one (1) enforcement action associated with the premises resulting from ***facilitation of*** the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes or a premises which is used as a meeting place of a criminal gang, or that is used to facilitate the activities of a criminal gang as defined in s.939.22(9), Wis. Stats.

Finally, I have reviewed this modification with Deputy City Attorney Abshire who advised that this update is consistent with state law. Thank you for your consideration.

Sincerely,

Sgt. Christopher Biese 9144

Community Liaison Officer