

Sec. 58-163.1. - Public morals nuisance violations.

(a)

Short title; purpose. This section shall be known and may be cited as the Public Morals Nuisance Violation Ordinance. The intent of this ordinance is to abate the demand for prostitution by increasing fines for those individuals patronizing persons in prostitution. The language of this ordinance should not be interpreted to apply to the actions of individuals who attempt to exchange sexual services provided by them for money or things of value.

(b)

Definitions. The following words, terms, and phrases, when used in this section, shall have the same meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Prostitution. Any person who performs, offers or agrees to perform any act of sexual penetration as defined in this subsection for any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value, for the purpose of sexual arousal or gratification commits an act of prostitution.

Soliciting of a Prostitute. Any person who performs any of the following acts commits the violation of soliciting for a prostitute:

(1)

Solicits another for the purpose of prostitution; or

(2)

Arranges to meet a prostitute, or offers to arrange a meeting with a prostitute.

(3)

Directs another to a place knowing such direction is for the purpose of prostitution.

Pandering. Any person who performs any of the following acts for any money, property, token, object, or article or anything of value commits pandering:

(1)

Compels a person to become a prostitute; or

(2)

Arranges or offers to arrange a situation in which a person may practice prostitution.

Pimping means any person who receives any money, property, token, object, or article or anything of value from a prostitute, not for lawful consideration, knowing it was earned in whole or in part from the practice of prostitution, commits pimping.

Sexual Penetration means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

Public place means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such place, or any other public way, within Cook County.

(c)

Street solicitation for prostitution.

(1)

Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly attempts to engage, passersby in conversation, or repeatedly interferes with the free passage of other persons, for the purpose of soliciting for a prostitute, shall be guilty of a violation of this subsection.

(2)

Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passersby in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons, for the purpose of pandering shall be guilty of a violation of this subsection.

(3)

Any person who responds to the beckoning of a prostitute in a public place by inquiring about, negotiating for, accepting an offer of prostitution, or by allowing another into his or her motor vehicle for purposes of inquiring about, negotiating for, accepting an offer of prostitution, shall be guilty of a violation of this subsection. The Sheriff shall make available to local newspapers, radio and television stations the names of all persons charged with violating this subsection.

(4)

Any person who engages in pimping as defined in this section, shall be guilty of a violation of this subsection.

(d)

Solicitation by Internet, electronic communication device or print media. Any person who utilizes a computer, phone, any electronic communication device or print media (including but not limited to answering ads and messages on commercial adult-themed websites or answering ads in all forms of print media) in the commission of any of the violations set forth in subsection (c) shall be guilty of a violation of this subsection.

(e)

Public morals nuisance violations, penalties.

(1)

Any person who violates any provision of subsections (c) and (d) of this Section shall be civilly liable for a public morals nuisance violation and shall be fined not less than \$500.00 and not more than \$1,000.00. In addition to payment of fines imposed under this subsection, a violator may be required to perform a minimum of 100 hours of community service in a program under the direction of the Sheriff.

(2)

Any violations of subsection (c) and (d) by a county licensee, including but not limited to liquor and roadhouse licensees, may be cause for suspension or revocation of such license.

(3)

Any motor vehicle that is used in violation of subsection (c) and (d) shall be subject to seizure and impoundment pursuant to Section 58-164.

(4)

Fines collected under this subsection shall be deposited in the Women's Justice Services Fund established by County Ordinance and shall be used to fund rehabilitation services, including mental health and substance abuse treatment services, provided by and through the Sheriff's Office Department of Women's Justice Services.

(f)

Administrative adjudication. Any person issued a notice of violation by the Sheriff for violation of any provision of this Section may request an administrative hearing.

(1)

Notice.

a.

Before any administrative adjudication proceeding may be conducted, the parties shall be afforded notice in compliance with this section.

b.

Unless otherwise provided by law or rule, the issuer of a notice of violation or notice of hearing shall specify on the notice his or her name and department; where known, the name and address of the person or entity charged with the violation; the date, time and place of the violation; and the section of the code or departmental rule or regulation which was allegedly violated; and shall certify the correctness of the specified information by signing his or her name to the notice. A notice of hearing shall also include the date, time and location of the hearing and the penalties for failure to appear at the hearing.

c.

The County shall notify the violator, within ten days, by certified mail return receipt requested, that an administrative adjudication hearing will be conducted. The hearing shall be scheduled and held, unless continued by order of the administrative law officer, no later than 30 days after the date of the violation.

(g)

Administrative hearings.

(1)

Any administrative adjudication proceeding conducted by the County shall afford the parties an opportunity for a hearing before an administrative law officer.

(2)

An attorney who appears on behalf of any person shall file with the administrative law officer a written appearance on a form provided for such purpose.

(3)

While the case for the County will not be presented by the administrative law officer; documentary evidence, however, including the notice of violation, which has been prepared by the Sheriff, may be presented at the hearing by the administrative law officer.

(4)

The administrative law officer may grant continuances only upon a finding of good cause.

(5)

All testimony shall be given under oath or affirmation.

(6)

The administrative law officer may permit witnesses to submit their testimony by affidavit.

(7)

The formal and technical rules of evidence shall not apply in the conduct of the hearing. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(8)

No violation may be established except upon proof by a preponderance of the evidence; provided, however, that a violation notice, or a copy thereof, shall be prima facie evidence of the correctness of the facts specified therein.

(9)

Upon the timely request of any party to the proceeding, any person, who the administrative law officer determines may reasonably be expected to provide testimony which is material and which does not constitute a needless presentation

of cumulative evidence, shall be made available for cross-examination prior to a final determination of liability.

(10)

The record of all hearings before an administrative law officer shall include: (i) a record of the testimony presented at the hearing, which may be made by tape recording or other appropriate means; (ii) all documents presented at the hearing; (iii) a copy of the notice of violation or notice of hearing; and (iv) a copy of the findings and decision of the administrative law officer.

(11)

Upon conclusion of a hearing, the administrative law officer shall issue a final determination of liability or no liability. Upon issuing a final determination of liability the administrative law officer may: (i) impose penalties and/or fines that are consistent with this Section or other applicable provisions of the County Code; (ii) issue orders that are consistent with applicable provisions of the County Code; and/or (iii) assess costs reasonably related to instituting the administrative adjudication proceeding; provided, however, that in no event shall the administrative law officer have the authority to impose a penalty of imprisonment or, except in cases to enforce the collection of any tax imposed and collected by the county, where this limitation shall not apply, impose a fine in excess of \$5,000.00 exclusive of costs of enforcement or costs imposed to secure compliance with this Code.

(12)

In the issuance of a final determination of liability, an administrative law officer shall inform the violator of his or her right to seek judicial review of the final determination.

(h)

Compliance bond. In order to ensure that code violations are remedied or fines are paid in a timely manner, an administrative law officer, upon issuing a final determination of liability, may require a code violator to post with the County a compliance bond. Bonds shall be approved by the County Comptroller as to form and amount.

(i)

Hearing procedures not exclusive. The use of the administrative adjudication procedure for public morals nuisance violations shall not preclude the county from using other methods to enforce the provisions of section 58-167.

(j)

Women's Justice Services Fund. As set forth in County Ordinance, fines collected for violations of this Section shall be accounted for and turned over not less than monthly to the Cook County Treasurer. The Treasurer shall create and deposit all such fees in a special fund, the "Women's Justice Services Fund" which shall be subject to budget and appropriation for purposes related to operation of the rehabilitation programs provided by the Department of Women's Justice Services and for female juveniles in the Juvenile Temporary Detention Center.

(Ord. No. 09-O-09, 12-17-2008.)

Editor's note—

Ord. No. 09-O-09, adopted Dec. 17, 2008, enacted provisions designated as § 58-167. For categorical purposes, said provisions have been redesignated as § 58-163.1 so the section may appear under an article pertaining to the same subject matter.