

VILLAGE OF CLEVES STATE OF OHIO

ORDINANCE NO. 4 - 2022

ORDINANCE REPEALING ORDINANCE 13-2012 AND ENACTING REGULATIONS ON CHRONIC NUISANCES

WHEREAS, repeated calls for police and fire services are a drain on resources and at times present public safety issues which cannot be adequately controlled through criminal citations or arrests and compliance with Ohio Administrative and the Ohio Revised Code or and repeated violation of the International Property Code; and

WHEREAS, additional enforcement tools are needed to require property owners for the sites of such repeated calls for service to better monitor and control criminal activity and nuisance activities upon and within their properties; and

WHEREAS, establishing a process to define and control chronic nuisance activities will assist in maintaining public safety; and

WHEREAS, Ordinance 13-2012 originally codified the Chronic Nuisance Ordinance in the Village of Cleves, and;

WHEREAS, due to the fact that the Village of Cleves entered into a contract for police services with the Hamilton County Sheriff's Office and Miami Township for fire and EMS services, and;

WHEREAS, as a result of that contract, Ordinance 13-2012 shall be repealed, and this ordinance shall take its place.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CLEVES, STATE OF OHIO, THAT:

SECTION 1. CHRONIC NUISANCE DEFINITIONS.

(a) "Nuisance" or "nuisance activity" shall mean any of the following activities. conduct, or behavior whenever engaged in by premises owners, operators, occupants or persons associated with a premises:

- (1) Assault, aggravated assault or felonious assault as defined in Ohio RC. 2903.11, 2903.12, or 2903.13;
- (2) Menacing, aggravated menacing, or menacing by stalking as defined in Ohio R.C. 2903.21, 2903.22, or 2903.211;
- (3) Inducing panic, making a false alarm, or perpetrating a hoax weapon of mass destruction as defined by Ohio R.C. 2917.31, 2917.32 and 2917.33;
- (4) Disrupting public services such as, but not limited to fire and police services as defined by Ohio RC.2909.04;
- (5) Curfew violation as defined by any applicable Village of Cleves Ordinance;
- (6) Attendance at school violations as defined by Ohio RC. 3321.03;

- (7) Disorderly conduct as defined in Ohio RC. 2917.11;
- (8) Discharging firearms observed by police in violation of Ohio RC 2923.161; 2923.162 or any other applicable statute under Ohio RC;
- (9) Drug sale or use as defined by Ohio Re. Chapter 2925;
- (10) Compelling or promoting prostitution, procuring, soliciting, or loitering to engage in solicitation, or prostitution as defined by Ohio RC. 2907.21 through 2907.25, inclusive;
- (11) Public gaming as defined in Ohio RC. 2915.02 through 2915.04;
- (12) Unauthorized possession, sale or discharge of fireworks as defined in Ohio R.C. 3743.65;
- (13) Loud noises as defined in Village of Cleves Codified Ordinance, Ohio RC 2917.11, or any applicable Ohio RC statute;
- (14) Barking, howling, dangerous, vicious, unconfined, and or unsanitary dog or conditions as defined in Village of Cleves Codified Ordinances and Ohio RC Chapter 955;
- (15) Kidnapping, as defined in Ohio RC. 2905.01.
- (16) Obstructing Official Business, as defined in Ohio RC 2921.31.
- (17) Vacant or abandoned structures that are being used in violation of Revised Code and/or Ohio Administrative Code. In addition, per the Ohio Administrative Code 1301:7-7-03, Section 311; all vacant or abandoned structures must be safe guarded against any and all hazards
- (b) "Occupant" shall mean the person residing in or having use of a premises. The same person or persons can be owner and occupant.
- (c) "Operator" shall mean any person, firm, company, corporation, association, including their employees, agents, or contractors, that control, operates or manages a premise(s).
- (d) "Owner" shall mean any person, partnership, corporation, who alone or jointly with others, shall be in possession of or control of any premises or is listed as the owner of a premise on the records the Hamilton County Auditor.
- (e) "Person associated with" shall mean a person who, whenever engaged in a nuisance or nuisance activity, enters, patronizes, visits; attempts to enter, patronize or visit; or waits to enter, patronize, or visit a premises or person present on a premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.
- (f) "Property" or "premises" shall mean a platted lot or part thereof, or unplatted lot or parcel of land, or plot of land either occupied or unoccupied by any building or structure, equipment or property of any kind.
- (g) "Chronic nuisance" shall mean a premises or property that is in violation of this Ordinance.

SECTION 2. NOTIFICATION THAT PREMISES MAY BE A CHRONIC NUISANCE.

The Mayor or his or her designee may notify a premise owner in writing that the premises is in danger of becoming a chronic nuisance when either of the following circumstances has occurred at the premises:

- (a) When three or more nuisance activities have occurred at a single family residence on separate days during a ninety day period; or
- (b) When, within a ninety day period, the following number of nuisance activities has occurred at the premises:
 - (1) Premises with 2, 3 or 4 residential units: 6 nuisance activities

2 notices

- (2) Premises with 5 to 19 residential units: 14 nuisance activities
 - (3) Premises with 20 to 39 residential units: 18 nuisance activities
 - (4) Premises with over 40 residential units: 25 nuisance activities.
- (c) The notice provided for in the first paragraph must be accompanied by an affidavit sworn to by a representative of the Hamilton County Sheriff's Department, or other law enforcement agency, specifying the activities, conduct or behavior that constituted the notification that a premises may be a nuisance.
- (d) The notice provided for in the first paragraph of this section shall be deemed properly delivered in anyone of the following methods:
- (1) Sent by first class mail to the address for the owner listed on the records of the Hamilton County Auditor and not returned;
 - (2) Posted on the front door or other conspicuous location of the premises that is subject to the notice and order; or
 - (3) Delivered in person to the owner.
- (e) The notice provided for in the first paragraph of this section shall contain the following information:
- (1) The street address or legal description sufficient for identification of premises;
 - (2) A description of the nuisance activities that have occurred at the premises, including the dates of the nuisance activities;
 - (3) A statement that the premises owner shall respond to the Mayor or his or her designee within ten days of the date of the owner's receipt of the notice with a written plan to abate the nuisance activities that is acceptable to the Mayor or his or her designee;
 - (4) A statement that the cost of future enforcement at the premises as a result of nuisance activities may be billed to the premises owner and could become a lien against the property if not paid.

SECTION 3. DETERMINATION THAT PREMISES IS A CHRONIC NUISANCE.

- (a) Whenever the Mayor or his or her designee determines that an additional nuisance activity has occurred at a premises for which a notice has been issued pursuant to Section 2, the Mayor or his or her designee may determine that the premises is a chronic nuisance and order that the owner abate the nuisance within thirty days of the owner's receipt of the notice.
- (b) As prima facie evidence of this additional nuisance activity, an affidavit sworn to by a representative of the Hamilton County Sheriff's Department, or other law enforcement agency, specifying the activities, conduct or behavior that constituted the notification that a premises may be a nuisance must be provided to the Mayor or his or her designee prior to the abatement notice in section (a) of this section being properly delivered in accordance with division (d) of this section. That sworn affidavit must also accompany the abatement notice.
- (c) The Mayor or his or her designee also may calculate the cost of enforcement for this and any subsequent nuisance activities, notify the owner that the owner is being billed for the cost of this and any subsequent nuisance activities and bill the owner for the cost of enforcement.
- (d) The notice and order provided for above shall be deemed properly delivered if:
- (1) The notice and order are sent by first class mail to the address for the owner listed on the records of the Hamilton County Auditor; or
 - (2) The notice and order are posted on the front door or other conspicuous location of the premises that is the subject of the notice and order; or
 - (3) The notice and order are delivered in person to owner.
 - (4) The notice shall contain the following information:

- A. The street address or legal description sufficient for identification of the premises;
 - B. A description of the nuisance activity, or activities for which the premises owner is being billed, including the dates of the nuisance activity or activities;
 - C. An order that the nuisance activity be abated; and
 - D. A statement the premises owner may appeal the determination that the owner's premises is a chronic nuisance or may appeal the amount of the bill as provided in this Ordinance.
- (e) The determination that a premises is a chronic nuisance subject to bills for the cost of enforcement pursuant to this section and subject to fines pursuant to this Ordinance shall be effective for a two year period beginning with the date of the first nuisance activity that is the subject of the first bill for enforcement sent to the premises owner for that specific premises.

SECTION 4. CIVIL PENALTIES FOR CHRONIC NUISANCE ACTIVITIES

- (a) The Mayor or his or her designee may cite a person who violates any provision of this chapter or fails to obey any order to abate a chronic nuisance within thirty (30) days or to provide a written plan to abate the nuisance activities within ten (10) days. Such civil citation may then be pursued as a civil action in a Court of appropriate jurisdiction.
- (b) (1) Citations for nuisance activities shall be imposed based on the number of bills for enforcement sent to a premises owner for specific premise(s) within a two-year period beginning with the date of the nuisance activity that is the subject of the first bill for enforcement sent to the premises owner for that specific premises.
(2) Whenever a premises owner has been billed on three more separate dates in accordance with Section 3 within a two-year period beginning with the nuisance activity that is the subject of the first bill for enforcement sent to the premises owner of the specific premises, the Mayor or his or her designee shall issue an additional notice of penalty to the premises owner as follows:
 - A. For the fourth bill within a two-year period, an additional assessment against the premises of two hundred fifty dollars (\$500.00) shall be imposed;
 - B. For the fifth bill within a two-year period, an additional assessment against the premises of five hundred dollars (\$1000.00) shall be imposed;
 - C. For the sixth bill within a two-year period, an additional assessment against the premises of seven hundred fifty dollars (\$1500.00) shall be imposed;
 - D. For each bill after the sixth bill within a two-year period, an assessment against the premises of one thousand dollars (\$2,000.00) shall be imposed.
- (c) With regard to any premises or unit where a violation occurs that constitutes a nuisance activity, that premises or unit shall be a public nuisance subject to abatement pursuant to Ohio Revised Code Chapter 3767 including, but not limited to, a one year closure of the premises or unit where the nuisance activity occurred
- (d) Notwithstanding the requirements of this chapter, the Village Solicitor is authorized to file suit under state and local law to abate nuisances existing at property or premises, including seeking injunctive relief.
- (e) Notwithstanding subsections (a) and (b) OF Section 4, or Section 5, civil citations or bills shall be issued under this Chapter if the owner submits a written plan to abate the nuisance activities pursuant to Section 2, but the premises shall remain subject to abatement under Ohio Revised Code Chapter 3767.

SECTION 5. APPEALS.

(a) A premises owner may appeal the determination of the Mayor or his designee pursuant to Section 3 of this Ordinance that a premises is a chronic nuisance, and may appeal the amount of the bill for enforcement related to nuisance activities at the premises pursuant to this Ordinance within thirty days from the date of the notification from the Mayor or his or her designee that the premises is a chronic nuisance or within thirty days from the date the bill is issued.

(b) An appeal of the determination that a premises is a chronic nuisance or the amount of the bill for enforcement related to nuisance activities at the premises must be made in writing and directed to the Village Mayor. A written notification of the Mayor's determination will be sent within thirty days of receipt of appeal by the same three methods as described in Section 3 of this Ordinance. No change in the chronic nuisance status of the premises may be made without going through the written appeal process.

(c) A premises owner may appeal the Village Mayor's determination that the premise is a chronic nuisance or the determination regarding an amount of the bill for enforcement within thirty days from the date that the Mayor's determination letter is post marked by requesting an administrative hearing be conducted by the Legislative Authority of the Village of Cleves. Said determination letter shall state how many days the premises owner has to appeal the assessment. The Legislative Authority, by 2/3 vote, will issue a written determination on any appeal brought before the court within fourteen days of the hearing.

SECTION 6. LIENS

Bills for enforcement and civil citations that are not paid will become liens on the premises to the extent permitted under applicable law.

SECTION 7. EVICTION OR RETALIATION PROHIBITED

(a) It shall be unlawful for a landlord to terminate the Lease Agreement or periodic tenancy of any tenant without good cause or otherwise retaliate against any tenant because that tenant complained to the police or other Village official or employee about nuisance or criminal activities on the landlord's premises or made calls for service to the police related to nuisance or criminal activities on the landlord's premises. It shall be unlawful for a landlord or any person acting as an agent for the landlord to intimidate or actively discourage a tenant and/or persons associated with a tenant from calling the police to report nuisance activity associated with a property. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the twelve (12)-month period following receipt of the complaint by the a representative of the Hamilton County Sheriff's Department constitutes unlawful retaliation under this section.

(b) Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section. Notwithstanding the foregoing, a tenant's Lease Agreement or periodic tenancy may be terminated for a failure to pay rent; committing nuisance activity as

defined herein; committing waste upon the premises; violating the terms and conditions of the Lease Agreement or periodic tenancy; or as otherwise provided in O.R.C. 5321. A landlord's failure to renew a Lease Agreement or periodic tenancy upon expiration of such Lease Agreement or periodic tenancy shall not be deemed a violation of this subsection.

SECTION 8 COST OF ENFORCEMENT

From time to time, a representative of the Hamilton County Sheriff's Department shall review the budget to determine the cost for enforcement to be billed as provided herein to the premises owner. Such cost shall be allocated as a per officer/per hour basis according to the contract with the Hamilton County Sheriff's Department. This cost shall be reported to Council, which by motion shall establish the current costs to be billed for the succeeding twelve (12) months. With the enactment of this chapter, the cost has been determined to be sixty-five dollars (\$65.00) per hour per officer called to the scene of nuisance activities as defined herein.

SECTION 9 SEVERABILITY

The provisions of any part of this Chapter are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsection, and applications of such chapter to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein.

SECTION 10


That this Ordinance is an emergency, necessary for the immediate preservation of the health, public peace, safety and welfare and shall take effect immediately.

Passed: July 13, 2022

APPROVED AS TO FORM:



D. Douglas Nicholas
Solicitor



STEPHEN MYERS
Mayor



James Brett
Clerk of Council