

ORDINANCE NO. 2019-05

Village of New Richmond, Ohio

Council for the Village of New Richmond, Ohio met in regular session this 9 day of April 2019 with the following members present:

Richard Feldkamp yes
Mary Allen yes
Becky Ploucha yes

Paul Vanderbosch yes
Melanie Slade yes
Gary Skeene yes

Councilperson Feldkamp moved for adoption of the following:

AN ORDINANCE APPROVING, ADOPTING AND ENACTING REGULATIONS ON CHRONIC NUISANCES.

SECTION 1. CHRONIC NUISANCE DEFINITIONS

- (a) "Nuisance" or "nuisance activity" shall include, but is not limited to, mean any of the following or similar activities, conduct, or behavior engaged in by a premises owner(s), occupant(s), operator(s), or person(s) 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 manufacturing, possessing, selling, delivering, displaying, using, threatening to use, attempting to use, conspiring to use, or making readily accessible to others a hoax weapon of mass destruction as defined by Ohio RC 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) The parent of a child of compulsory school age consistently allowing that child not to attend school in violation of Ohio RC 3321.03;
 - 6) Disorderly conduct as defined in Ohio RC. 2917.11;
 - 7) Improper discharging of firearms;
 - 8) Drug sale or use as defined by Ohio Revised Code Chapter 2925 and/or permitting a premises or real estate to be used for the commission of a felony drug abuse offense by another person;

- 9) Compelling, engaging in, or promoting prostitution and/or procuring, soliciting, or loitering to engage in solicitation of prostitution as defined by Ohio RC 2907.21 through 2907.25, inclusive;
- 10) Participating, promoting, or permitting gambling and/or public gaming as defined in Ohio RC 2915.02 through 2915.04, inclusive;
- 11) Unauthorized possession, sale, or discharge of fireworks as defined in Ohio RC 3743.65;
- 12) Causing or creating consistent and disruptive loud noises over 150 decibels;
- 13) Keeping or permitting a dangerous, vicious, unconfined, and/or unsanitary dog or animal which causes serious annoyance to the neighborhood or to persons passing along the public streets in this municipality by loud frequent or habitual howling, yelping, barking or the making of any other noises by such animal within the corporate limits;
- 14) Kidnapping, as defined in Ohio RC. 2905.01.
- 15) Obstructing Official Business, as defined in Ohio RC 2921.31.
- (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 premises on the records the Clermont 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 consistently and habitually in violation of this Ordinance.

SECTION 2. NOTIFICATION THAT PREMISES MAY BE A CHRONIC NUISANCE

The Police Chief or his/her designee may notify a premise owner in writing that the premises is in danger of becoming a chronic nuisance and/or has a general reputation as a place where a nuisance is alleged to exist 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) 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 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 Clermont 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.
- (d) 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 Police Chief 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 Police Chief or his or her designee;
 - (4) A statement that the cost of future enforcement at the premises as a result of nuisance activities will be billed to the premises owner and will become a lien against the property if not paid.

SECTION 3. DETERMINATION THAT PREMISES IS A CHRONIC NUISANCE

- (a) Whenever the Police Chief or his/her designee determines that an additional nuisance activity has occurred at a premises for which a notice has already been issued pursuant to Section 2 the Police Chief or his/her designee shall 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. The Police Chief or his/her designee also may calculate the cost of enforcement for this and any subsequent nuisance activities, notify the owner that the owner will be billed for the cost of this abatement and any subsequent abatements necessary to address nuisance activities and that the owner will be billed in full for the cost of such enforcement and/or abatement(s).
- (b) 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 Clermont 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:
 - i. The street address or legal description sufficient for identification of the premises;
 - ii. 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;
 - iii. An order that the nuisance activity be abated; and
 - iv. 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.
- (c) The determination that a premises is a chronic nuisance subject to bills for the cost of enforcement and/or abatement(s) pursuant to this section and subject to fines or criminal prosecution 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. CITATIONS FOR CHRONIC NUISANCE ACTIVITIES; CRIMINAL AND CIVIL PENALTIES.

- (a) Whoever violates this Ordinance or fails to obey any lawful order issued by the Police Chief or his/her designee to abate a chronic nuisance, is guilty of a misdemeanor of the fourth degree on the first offense and guilty of a misdemeanor of the third degree on the second and subsequent offense. Each day's continuation of a violation or failure to comply is a separate offense.
- (b) As an alternative to criminal prosecution, the Police Chief or his/her designee may cite a person who violates any provision of this Ordinance or fails to obey any order to abate a chronic nuisance.
 - (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 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 Police Chief or his/her designee shall issue a citation to the premises owner as follows:
 - i. For the fourth bill within a two year period, an assessment against the premises of two hundred fifty dollars (\$250.00) shall be imposed in addition to whatever costs have been incurred to enforce and/or abate the nuisance(s);
 - ii. For the fifth bill within a two year period, an assessment against the premises of five hundred dollars (\$500.00) shall be imposed in addition to whatever costs have been incurred to enforce and/or abate the nuisance(s);
 - iii. For the sixth bill within a two year period, an assessment against the premises of seven hundred fifty dollars (\$750.00) shall be imposed in addition to whatever costs have been incurred to enforce and/or abate the nuisance(s);
 - iv. For each bill after the sixth bill within a two year period, an assessment against the premises of one thousand dollars (\$1,000.00) shall be imposed in addition to whatever costs have been incurred to enforce and/or abate the nuisance(s).

SECTION 5. APPEALS

- (a) A premises owner may appeal the determination of the Police Chief or his/her 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 and/or the abatement(s) of such nuisance activities at the premises pursuant to this Ordinance within thirty days from the date of the notification from the Police Chief or his/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 and/or the abatement(s) of such 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(b)(1-3) 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 magistrate for the Village Mayor's Court. Said determination letter shall state how many days the premises owner has to appeal the assessment. The magistrate for the Village Mayor's Court will issue a written determination on any appeal brought before the court within fourteen days of the hearing.

Councilperson Allen seconded the motion to adopt the foregoing resolution and upon roll call the vote was as follows:

Richard Feldkamp	<u>yes</u>
Mary Allen	<u>yes</u>
Paul Vanderbosch	<u>yes</u>
Melanie Slade	<u>yes</u>
Becky Ploucha	<u>yes</u>
Gary Skeene	<u>yes</u>

First reading:	<u>03-12-2019</u>
Second reading:	<u>03-26-2019</u>
Third reading:	<u>04-09-2019</u>

Adopted: 04-09-2019

Attest:

Theresa A. Leigh
Theresa Leigh, Clerk of Council

Ramona Carr
Ramona Carr, Mayor

Solicitor Approval: Scott Sollmann
Scott Sollmann