

ORDINANCE NO. 2023 - 13

**ORDINANCE AMENDING PART FIVE – GENERAL OFFENSES CODE OF THE CODIFIED ORDINANCES OF THE VILLAGE OF LEWISBURG AND ADDING CHAPTER 504.**

Whereas, for the health, safety, morals, and welfare of the citizens of Lewisburg, Ohio, it is necessary and appropriate to regulate chronic and habitual nuisance activity within the Village of Lewisburg;

And Whereas, the premise owners, occupants, or persons associated with a premise located within the Village of Lewisburg may have engaged in or permitted others to engage in activity that constitute a “Nuisance” or “Nuisance Activity” on a chronic basis;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LEWISBURG, PREBLE COUNTY, OHIO, TO AMEND THE CODIFIED ORDINANCES OF THE VILLAGE OF LEWISBURG PART FIVE AND CREATING CHAPTER 504 ENTITLED “CHRONIC NUISANCE PROPERTY REDUCTION PROGRAM AS SET FORTH IN ATTACHED EXHIBIT “A”**

This Ordinance shall be effective at the earliest time permitted by law.

Dated: 10-19-2023

Marsha Jones  
Mayor

Attest: Elizabeth A. Wagner  
Clerk of Council

## CHAPTER 504

### Chronic Nuisance Property Reduction Program

#### 504.01 Definitions.

#### 504.02 Notification that premises may be a chronic nuisance.

#### 504.03 Determination that premises is a chronic nuisance.

#### 504.04 Citations for chronic nuisance activities; criminal and civil penalties.

#### 504.05 Appeals.

#### 504.06 Liens.

#### 504.07 Rules and regulations.

#### 504.01 DEFINITIONS.

- (a) "Chronic nuisance" shall mean a premises or property that is in violation of this chapter.
- (b) "Nuisance" or "nuisance activity" shall mean any of the following activities, conduct or behavior whenever engaged in by premises owners, operators, occupants or person associated with a premises:
- (1) Assault, negligent assault, aggravated assault or felonious assault as defined in Ohio R.C. 2903.11, 2903.14, 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 R.C. 2909.04;
  - (5) Disorderly conduct as defined in Ohio R.C. 2917.11, or Codified Ordinance 509.03;
  - (6) Discharging firearms observed by police in violation of Codified Ordinance 549.08;
  - (7) Drug sale or use as defined by Ohio R.C. Chapter 2925;
  - (8) Compelling or promoting prostitution, procuring, soliciting or loitering to engage in solicitation, or prostitution as defined by Ohio R.C. 2907.21. through 2907.25;
  - (9) Public gaining as defined in Ohio R.C. 2915.02 through 2915.04;
  - (10) Unauthorized possession, sale or discharge of fireworks as defined in Ohio R.C. 3743.65;
  - (11) Loud noises as defined in Codified Ordinance 509.10;
  - (12) Barking, howling, dangerous, vicious, unconfined and/or unsanitary conditions as defined in Codified Ordinances 505.08, 505.09;
  - (13) Kidnapping, as defined in Ohio R.C. 2905.01.
  - (14) Offenses against justice including obstructing official business, obstructing justice, assaulting a police dog, resisting arrest and failure to comply with order or signal of a police officer as defined in Ohio R.C. 2921.31 through 2921.331
  - (15) Allowing an underage person(s) to possess, or consume alcohol, allowing minors to consume alcohol on the premises (hosting), or selling alcohol to a minor as defined in Ohio R.C. 4301.69
  - (16) Allowing nuisances under the property maintenance code as defined in Codified Ordinances 1333.04
- (c) "Occupant" shall mean the person residing in or having use of a premises. The same person or person can be owner and occupant,
- (d) "Operator" shall mean any person, firm, company, corporation, association, including their employees, agents or contractors that control, operates or manages a premise(s).
- (e) "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 of the Preble County Auditor.

(1) "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 visits a premises or person present on a premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.

(g) "Property" or "premises" shall mean a platted lot or part thereof, or un-platted lot or parcel of land, or plot of land either occupied or unoccupied by any building or structure, equipment or property of any kind.

#### **504.02 NOTIFICATION THAT PREMISES MAY BE A CHRONIC NUISANCE.**

(a) The Police Chief or his or her designee, or the zoning official may notify a premise owner in writing that the premise is in danger of becoming a chronic nuisance when either of the following circumstances has occurred at the premises:

(1) When three or more nuisance activities have occurred at a single premise, whether a single-family residence or within a multi/apartment residential unit, on separate days during a ninety-day period; or

(2) When, within a ninety-day period, the following number of nuisance activities has occurred at the premises:

A. Premises with 2, 3, or 4 residential units: 6 nuisance activities;

B. Premises with 5 to 19 residential units: 14 nuisance activities;

C. Premises with 20 to 39 residential units: 18 nuisance activities;

D. Premises with over 40 residential units: 25 nuisance activities; or

(3) When, two or more drug offenses, firearms offenses, or violent crimes occur within a one-year period at a single premise, whether a single-family residence or within a multi/apartment residential unit; or

(4) Felony violations at a single premise, whether a single-family residence or within a multi/apartment residential unit, will automatically be deemed a nuisance.

(b) The notice provided for in the first paragraph of this section shall be deemed properly delivered in any one of the following methods:

(1) Sent by certified mail to the address for the owner listed on the records of the Preble County Auditor and not returned; or

(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.

(c) 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 and any associated police report numbers;

(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 may be billed to the premises owner and could become a lien against the property if not paid.

#### **504.03 DETERMINATION THAT PREMISES IS A CHRONIC NUISANCE.**

(a) Whenever the Police Chief or his or her designee, or the Zoning Official determines that an additional nuisance activity has occurred at a premises for which a notice has been issued pursuant to Section 504.02 the Police Chief or his or her designee, or the Zoning Official may determine that the premises is a chronic nuisance and order that the owner abate the nuisance within thirty days (30) of the owner's receipt of the notice. The Police Chief or his or her designee, or the Zoning Official 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.

(b) The notice and order provided for in subsection (a) referred to above shall be deemed properly delivered if:

- (1) The notice and order are sent by certified mail to the address for the owner listed on the records of the Preble 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 the owner.
- (4) The notice shall contain the following information:
  - A. The street address or legal descriptions 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 that the premises owner may appeal the determination that the owner's premises are a chronic nuisance or may appeal the amount of the bill as provided in this chapter.

(c) 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 or criminal prosecution pursuant to Section 504.04 described below shall be effective for a two (2) 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.

#### **504.04 CITATIONS FOR CHRONIC NUISANCE ACTIVITIES; CRIMINAL AND CIVIL PENALTIES.**

(a) Whoever violates this chapter or fails to obey any lawful order issued by the Police Chief or his or 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 addition or alternative to criminal prosecution, the Police Chief or his or her designee may fine a person one hundred dollars (\$100.00), plus any additional costs for services rendered, who violates any provision of this chapter or fails to obey any order to abate a chronic nuisance.

- (1) Fines for nuisance activities shall be imposed based on the number of bills for enforcement sent to a premises owner for a specific premise(s) within a two (2) year period beginning with the date of the nuisance activity that is the subject of the first bill for enforcement sent to the premise owner for that specific premises.
- (2) In addition to the fine stated in subsection (b) hereof, 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 premise owner of the specific premises, the Police Chief or his or her designee, or the Zoning Official shall issue a citation to the premises owner as follows:
  - A. For the fourth bill within a two-year period, an assessment against the premises of two hundred fifty dollars (\$250.00) shall be imposed.
  - B. For the fifth bill within a two-year period, an assessment against the premises of five hundred dollars (\$500.00) shall be imposed;
  - C. For the sixth bill within a two-year period, an assessment against the premises of seven hundred fifty dollars (\$750.00) 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 (\$1,000.00) shall be imposed.

#### **504.05 APPEALS.**

(a) A premises owner may appeal the determination of the Police Chief or his or her designee, or Zoning Official pursuant to Section 504.03 that a premise is a chronic nuisance or may appeal the amount of the bill for enforcement related to nuisance activities at the premise pursuant to Section 504.03 within thirty

days from the date the bill is issued.

(b) An appeal of the determination that premise is a chronic nuisance or the amount of the bill for enforcement related to nuisance activities at the premise must be made in writing and directed to the Village Administrator. A written notification of the Village Administrator determination will be sent within thirty days of receipt of appeal by the same three methods as described in Section 504.03. 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 Administrator'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 Village Administrator's determination letter is post marked by requesting a hearing before the Planning, Zoning and Building Appeals Board. Said determination letter shall state how many days the premise owner has to appeal the assessment.

#### **504.06 LIENS**

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

#### **504.07 RULES AND REGULATIONS.**

The Village Administrator shall establish rules and regulations for the maintenance of information, notification of violations, calculation of bills for enforcement services, imposition of fines, determination of whether calls for service are counted for purposes of this chapter, appeals of decisions made, and all other relevant issues as he or she deems necessary for implementation of this chapter. The rules, regulations, and amendments thereto shall be made available for public viewing thirty days prior to their effective date.

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