

Ordinance No. 228-2025

By Council Members Polensek and Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

To amend Sections 630.01 and 630.02 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 574-18, passed May 14, 2018, relating to criminal activity nuisances declared and action to abate nuisances and cost of enforcement.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Sections 630.01 and 630.02 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 574-18, passed May 14, 2018, are amended to read as follows:

Section 630.01 Criminal Activity Nuisances Declared

(a) Activities, as defined in any of the following Codified Ordinances, occurring on properties in the City, and engaged in by an owner, occupant, ~~or~~ invitee of the owner or occupant of the property, or person associated with the property are declared to be nuisance activities. To be a nuisance activity, a criminal conviction, citation, or arrest is not necessary. There must be probable cause to believe that the activity occurred. A member of the Division of Police may rely on a witness's statement(s) to find that there is probable cause that the nuisance activity occurred. "Property or premises" ~~means any residential or commercial building or structure on a parcel or parcels of land in the City; individual units within a building or structure together comprise one property; "property" also means any privately owned parking lot or parking area in the City~~ means 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. "Owner" means any person, for-profit or not-for-profit corporation, partnership, limited partnership, joint venture, unincorporated association, estate, trust or other commercial or legal entity ~~having title to the property who alone or jointly with others, who is in possession of or has any control of any property, or is listed as the owner of a property on the records of the Cuyahoga County Fiscal Officer.~~ "Person associated with" means any person who, whenever engaged in a nuisance or nuisance activity, enters, patronizes, or visits; attempts to enter, patronize or visit; or waits to enter, patronize, or visit, a property or person present on a property, including any officer, director, customer, agent, employee, or independent contractor of an owner.

(1) Any animal violation under Sections 603.01 (Animals or Fowl at Large), 603.02 (Unmuzzled Dogs at Large), 603.04 (Dog Nuisances), 603.07 (Killing or Injuring Animals), 603.072 (Illegal Fights between Animals), 603.08 (Poisoning Animals), 603.09 (Cruelty to Animals), 603.091 (Neglect of Animals), 603.11 (Large Cats), 603A.03 (Keeping an Exotic Animal Without a Permit), 603A.08 (Care and Treatment of Exotic Animal Held Under Permit), 603A.14 (Facilities Housing Reptiles), 603A.17 (Snakes in Multi-Family Residences Prohibited), 604.03 (Control of Vicious and Dangerous Dogs) of the Codified Ordinances;

(2) Any disorderly conduct or disorderly activity violation under Sections 605.01 (Riot), 605.02 (Failure to Disperse), 605.03 (Disorderly Conduct; Intoxication), 605.05 (Misconduct at an Emergency), 605.06 (Inducing Panic), 605.02 (Making False Alarms), 605.071 (Improper Use of 9-1-1 Telephone System), 605.10 (Unnecessary Noise), 605.14 (Minor's Curfew) of the Codified Ordinances;

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(3) Any drug abuse violation under Chapter 607 of the Codified Ordinances or any violation under Section 2925 of the Ohio Revised Code;

(4) Any family offense violation under Sections 609.04 (Endangering Children), 609.10 (Contributing to Unruliness or Delinquency of a Child) of the Codified Ordinances;

(5) Any gambling violation under Chapter 611 of the Codified Ordinances;

(6) Any littering violation under Chapter 613 of the Codified Ordinances;

(7) Any liquor control violation under Sections 617.02 (Sales to and Use by Minors; Securing Public Accommodations), 617.021 (Purchase, Consumption or Possession by Minor; Misrepresentation), 617.03 (Sales to Intoxicated Persons), 617.05 (Permit Required), 617.06 (Printed Warnings to be Posted), 617.08 (Hours of Sale or Consumption), 617.09 (Bottle Clubs) of the Codified Ordinances;

(8) Any obscenity and sex offenses violation under Sections 619.03 (Corruption of a Minor), 619.04 (Sexual Imposition), 619.05 (Importuning), 619.08 (Procuring), 619.09 (Soliciting), 619.10 (Prostitution), 619.12 (Disseminating Material Harmful to Juveniles), 619.14 (Possession of Obscene Material Involving Minor), 619.15 (Possession of Sexually-Oriented Material Involving Minor), 619.16 (Possession of Nudity-Oriented Material Involving Minor), 619.161 (Displaying Matter Harmful to Juveniles), 619.17 (Prohibited Conduct) of the Codified Ordinances;

(9) Any offense against another person under Sections 621.03 (Assault), 621.031 (Assault by a Minor; Parental Duty Imposed), 621.04 (Negligent Assault), 621.06 (Aggravated Menacing), 621.07 (Menacing), 621.08 (Unlawful Restraint), 621.09 (Coercion), 621.10 (Telephone Harassment), 621.11 (Threatening or Harassing Phone Calls), 621.14 (Hazing) of the Codified Ordinances;

(10) Any offense against property under Sections 623.02 (Criminal Damaging or Endangering), 623.03 (Criminal Mischief) of the Codified Ordinances;

(11) Any theft violation under Sections 625.05 (Petty Theft), 625.08 (Criminal Tools), 625.10 (Unauthorized Use of Property), 625.21 (Receiving Stolen Property), 625.27 (Trafficking In or Illegal Use of "WIC" Coupons) of the Codified Ordinances;

(12) Any weapons and explosives violation under Sections 627.04 (Using Weapons While Intoxicated), 627.06 (Failure to Secure Dangerous Ordnance), 627.07 (Improperly Providing Access to Firearms to a Minor), 627.09 (Improperly Discharging a Firearm on or near Prohibited Premises), 627.12 (Seizure and Confiscation of Deadly Weapon), 627.16 (Prohibition Against Transferring Firearms or Dangerous Ordnance to a Felon or Intoxicated Person), 627.15 (Unlawful Transactions in Weapons), 627.19 (Facsimile Firearms), 627.21 (Sale of Long Bladed Pocket Knives), 627.22 (Sale or Possession of Sling Shots and Pea Shooters), 627.23 (Unlawful Display of Weapons), 627.47 (Possession or Use of Stench Bombs), 627.25 (Tear Gas Guns), 627.26 (Containers of Combustibles), 627.27 (Jump Traps) of the Codified Ordinances;

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(13) Any sound devices violation under Section 683.01 (Playing of Sound Devices Prohibited) of the Codified Ordinances;

(14) Any massage establishment violation under Chapter 683A of the Codified Ordinances;

(15) Any explosives violation under Chapter 387 of the Codified Ordinances;

(16) Any open burning violation under Section 277.09 of the Codified Ordinances;

(17) Any safety and equipment violations under Sections 437.19 (Horn, Sirens, and Warning Devices) and 437.20 (Muffler; Muffler Cutout; Excessive Smoke, Gas or Noise) of the Codified Ordinances;

(18) Any reckless operation offense under Section 433.07 (Street Racing, Stunt Driving, and Street Takeover Prohibited) of the Codified Ordinances.

(b) When three (3) or more nuisance activities as defined in division (a) Occur on separate ~~occasions~~ calendar days on the same property within any six (6) month period, the Director of Public Safety, or his or her designee, may declare the premises to be a nuisance property and may abate the nuisance as provided in Section 630.02.

Section 630.02 Action to Abate Nuisances; Costs of Enforcement

(a) ~~Notice of Declaration of that Property May be Declared a Nuisance.~~ The Director of Public Safety or his or her designee, upon finding that three (3) or more nuisance activities as defined in Section 630.01 have occurred on separate occasions within any six (6) month period on the same property, may cause a written notice and order to be served on the owner of the property ~~declaring that the property is a nuisance property; warning that the property is in danger of being declared a nuisance. Any notice provided for in Chapter 630 is a lawful order. Each directive contained in a notice is a separate lawful order, and failure to obey any directive is subject to penalties pursuant to Section 630.02(d)~~ This notice and order shall identify the nuisance activities, and the estimated costs to abate any future nuisance activity; shall state that the owner may avoid being charged the costs of abatement by taking steps to prevent any further nuisance activity as set forth in division (d) of this section; and shall state the appeal process. The notice shall further state that if a fourth or subsequent nuisance activity as defined in Section 630.01 occurs later than thirteen (13) days after the date of the written nuisance declaration notice and within six (6) months of the date of the third or any subsequent nuisance activity, the City may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of the abatement shall be charged to the owner of the nuisance property and may be certified as a lien on the nuisance property. Notice shall be deemed properly delivered by delivering it personally to the owner or leaving it at the owner's usual place of business or residence, or by mailing it to the owner, or by publishing it once in a newspaper of general circulation within the City, or by posting it in a conspicuous place on the real estate involved. The notice shall also set forth the civil fines if a fifth or any subsequent nuisance activity occurs within six (6) months of the date of the notice of a charge for the cost of abatement issued under division (b) of this section. The notice shall be deemed properly delivered if sent by first class mail to the address for the owner listed on the records of the Cuyahoga County Fiscal Office. If the notice is returned as undeliverable, the notice shall be deemed properly delivered if it is either posted on the front door of the premises that is the subject of the notice or if it is delivered in person to the owner. The notice shall contain the following information:

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(1) The street address or legal description sufficient for identification of the 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 Director of Public Safety or his or her designee within ten (10) days of the date of the owner's receipt of the notice with a written plan to abate the nuisance activities;

(4) A statement that the requirement that the owner provide a written plan to abate the nuisance is a lawful order, and that failure to provide a written plan could subject the owner to penalties pursuant to Section 630.02(d); and

(5) A statement that the cost of future enforcement at the premises as a result of nuisance activities shall be billed to the premises owner and could become a lien against the property if not paid.

(b) ~~*Abatement Determination That Property is a Nuisance.*~~ If the Director of Public Safety or his or her designee determines that a fourth or subsequent nuisance activity as defined in Section 630.01 occurs later than thirteen (13) days after the date of delivery of the initial written nuisance declaration notice that the property may be declared a nuisance and within six (6) months after the date of the third or any subsequent nuisance activity, the City may declare the property a nuisance, provide such notice, and proceed to abate the nuisance activity by using administrative and law enforcement actions, and the costs of the abatement shall be charged to the owner of the property and, if not paid, may be certified by the Commissioner of Assessments and Licenses to the County ~~Auditor~~ Fiscal Officer to be placed on the nuisance property as a lien to be collected as other taxes and returned to the City. The cost to abate the nuisance activity shall be calculated as set forth in division (c). The City shall provide notice to the owner of the nuisance property of the City's decision to charge the cost of abatement. If the costs are not paid by the owner, the City shall notify the owner at least thirty (30) days before the costs are certified to the County ~~Auditor~~ Fiscal Officer. The notice shall contain a street address or legal description of the property, a description of the nuisance activities and the cost to abate. ~~Notices~~ All notices in this division shall be served as set forth in division (a) of this section. The Director of Law may take any other action necessary to collect the costs of abatement.

(c) *Costs of Abatement.* Costs of abatement shall be determined based on the time required to respond to the nuisance activity multiplied by an hourly rate based upon the wages and benefits of a police officer, dispatch costs, vehicle and equipment costs, and supervisory and administrative costs. The hourly rate may be adjusted based on the number of police officers required to abate the nuisance.

(d) ~~*Nuisance Abatement Plan.*~~ The owner of a nuisance property may avoid ~~being charged the cost of abating future nuisances if the owner meets with the Director of Public Safety or his or her designee; presents a plan to prevent further nuisance activity and that plan is approved by the Director of Public Safety or his or her designee; and implements the plan.~~

(e) ~~(d)~~ *Civil Fine.* If the Director of Public Safety or his or her designee determines that a property owner failed to provide a written plan to abate the nuisance activity within ten (10) days of a property owner's receipt of the notice, the property owner shall be charged one hundred dollars (\$100.00) per day until a written plan is provided. If the Director of Public Safety or his or her designee declares the property a nuisance pursuant to division (b) of this section and provides notice, then for any fifth or subsequent nuisance activity as defined in Section 630.01 that occurs within six (6) months after the date of the such notice of a charge for the cost of abatement, a property owner shall be charged five hundred dollars (\$500.00) for a fifth nuisance activity,

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seven hundred fifty dollars (\$750.00) for a sixth nuisance activity and one thousand dollars (\$1,000.00) for a seventh or any subsequent nuisance activity occurring on the same property. ~~This~~ Any fine is in addition to the costs of abatement that may be charged and, if the fine is not paid, shall be certified to the County ~~Auditor~~ Fiscal Officer as set forth in division (b) of this section. Fines are subject to appeal as set forth in division ~~(f)~~ (e) of this section.

~~(f)~~ (e) *Appeal.* The owner of a nuisance property who receives a notice declaring the owner's property to be a nuisance property, a notice charging the cost of abating nuisance activity, a notice that the cost of abatement shall be certified to the County ~~Auditor~~ Fiscal Officer, a notice charging a fine for failing to provide a written plan to abate the nuisance activity, a notice charging a fine for a fifth or subsequent nuisance activity, or a notice that a fine shall be certified to the County ~~Auditor~~ Fiscal Officer, may appeal the notice by submitting a written request to the City official who issued the notice within ten (10) days of the date of the notice. If, after a decision on that appeal, the owner disagrees with the decision, the owner may appeal the decision of the City official to the Board of Zoning Appeals. An appeal to the Board of Zoning Appeals shall be made within fifteen (15) days of the postmark date of the decision from the City official denying the appeal. The Board shall conduct a hearing and render a decision in accordance with City ordinances and regulations governing its conduct and procedure. An appeal to the Board of Zoning Appeals shall not stay any actions by the City to abate any subsequent nuisance activity. In any appeal to the Board of Zoning Appeals, the City must show by a preponderance of the evidence that there was probable cause to believe that each nuisance activity stated in the notice being appealed has occurred, and that the declaration of the property as a nuisance property is justified, or that the charging of abatement costs and fines, if applicable, or the certification of abatement costs and fines, if applicable, is justified. The owner may prevail on appeal of any notice if the owner demonstrates by a preponderance of the evidence that:

- (1) He or she was not the owner at the time of any of the nuisance activity that is the basis of the notice; or
- (2) He or she had knowledge of the nuisance activity, but promptly and vigorously took all actions necessary to abate the nuisance activity including, without limitation, compliance with the requirements of RC 5321.17(C) and RC 5321.04(A)(9); or
- (3) He or she had no knowledge of the nuisance activity and could not, with reasonable care and diligence, have known of the nuisance activity; and upon receipt of the notice of the declaration of the property as a nuisance property, he or she promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of RC 5321.17(C) and RC 5321.04(A)(9).

Section 2. That existing Sections 630.01 and 630.02 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 574-18, passed May 14, 2018, are repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

SL:uo
2-24-2025
FOR: Director Drummond

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By Council Members Polensek and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

To amend Sections 630.01 and 630.02 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 574-18, passed May 14, 2018, relating to criminal activity nuisances declared and action to abate nuisances and cost of enforcement.

READ FIRST TIME on FEBRUARY 24, 2025
and referred to DIRECTORS of Public Safety, Finance, Law;
COMMITTEES on Safety, Finance Diversity Equity and Inclusion

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Published in the City Record _____

REPORT
after second Reading

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
SAFETY

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE, DIVERSITY, EQUITY
and INCLUSION