



NORWOOD, OHIO

Ordinance No. 62 20 20

**ORDINANCE ENACTING NEW CHAPTER 567 OF THE NORWOOD CODIFIED
ORDINANCES ENTITLED “CHRONIC NUISANCES”
AND DECLARING AN EMERGENCY**

WHEREAS, Chronic Nuisance Properties within the City of Norwood present health, safety, and welfare concerns to the City of Norwood, and have a negative impact upon the neighborhoods in which they are located; and

WHEREAS, Chronic Nuisance Properties are a financial burden to the City of Norwood due to the calls for City service for Nuisance Activities that occur repeatedly on these properties; now, therefore,

BE IT ORDAINED by the Council of the City of Norwood, State of Ohio:

SECTION 1. Chapter 567 of the Codified Ordinances of the City of Norwood, entitled “Chronic Nuisances,” is hereby adopted to read as follows:

CHAPTER 567: CHRONIC NUISANCES

567.01 Purpose.

567.02 Definitions.

567.03 Violation.

567.04 Warning of a Possible Chronic Nuisance Finding.

567.05 Notice of Chronic Nuisance and Order of Abatement.

567.06 Appeals.

567.07 Burden of Proof; Affirmative Defenses.

567.08 Impact Fees and Civil Penalties.

567.09 Other Penalties.

567.01 PURPOSE.

(a) Chronic Nuisance Properties present health, safety, and welfare concerns to the City of Norwood, and have a negative impact upon the quality of life, safety, and health of the neighborhoods in which they are located. This chapter is enacted to remedy nuisance activities that occur throughout the City of Norwood and affect citizens by providing a process for abatement.

(b) Chronic Nuisance Properties are a financial burden to the City of Norwood due to the calls for service for nuisance activities that occur repeatedly on these properties. This chapter is a means to lessen that burden and hold accountable those persons responsible for such properties.

567.02 DEFINITIONS.

(a) **Abatement.** "Abatement" as used in this Chapter is the removal, reduction or control of nuisance activity.

(b) **Call for Service.** "Call for service" as used in this Chapter is a call to the residence or building that could involve a citation/arrest or warning.

(c) **Chronic Nuisance Property.** As used in this chapter, a "Chronic Nuisance Property" is:

- (1) A Single Family Property at/on which there have been four or more nuisance activities and/or one felony drug offense during any six-month period; or
- (2) A Multi-Family (2-9 Units) Property at/on which there have been eight or more nuisance activities and/or two felony drug offenses during any six-month period; or
- (3) A Multi-Family (10+ Units) Property on which there have been fifteen or more nuisance activities and/or two felony drug offenses during any six-month period; or
- (4) A Commercial Property (1000 sqft to 4999 sqft) at/on which there have been six or more nuisance activities and/or two felony drug offenses during any six-month period; or
- (5) A Commercial Property (5000+ sqft) at/on which there have been twelve or more nuisance activities and or two felony drug offenses during any six-month period.

Any nuisance activity initially reported to the City by the owner or person in control of a property shall be excluded from the operation of this Chapter.

(d) **Code.** "Code" as used in this chapter refers to the Norwood Codified Ordinances.

(e) **Felony Drug Activity.** As used in this chapter, the term "Felony Drug Activity" means any violation under Ohio R.C. Chapters 2925 or 3917. This includes, but is not limited to, possession of a controlled substance, permitting drug abuse, trafficking drugs, corrupting another with drugs, illegal manufacture of drugs, and illegal assembly of chemicals.

(f) **Nuisance Activities.** "Nuisance Activities" as used in this chapter means any of the following activities, behaviors, or criminal conduct:

- (1) Assault, aggravated assault, or felonious assault, menacing, aggravated menacing, or menacing by stalking, endangering children or contributing to the unruliness or delinquency of a child as defined in Chapter 537 of the Code of Ordinances ("Code") or as defined in Ohio Revised Code Sections 2903.11, 2903.12 or 2903.13, 2903.21, 2903.22; or any offense of violence as defined in Ohio Revised Code Section 2901;
- (2) Inducing panic; inciting violence; making a false alarm or use of a hoax weapon of mass destruction; disorderly conduct; public intoxication; disturbing the peace; failure to disperse; keeping, occupying, frequenting disorderly house; or sound systems contained in a motor vehicle as defined in Chapter 509 of the Code or in Ohio Revised Code Sections 2917.31, 2917.32, 2917.33;
- (3) Curfew violation as defined in Chapter 530 of the Code;
- (4) Commission of any drug offense under Chapter 513 of the Code or Chapter 2925 or 3719 of the Ohio Revised code;
- (5) Compelling or promoting prostitution; procuring, soliciting, or loitering to engage in solicitation or prostitution as defined in Chapter 533 of the Code or Ohio Revised Code Sections 2907.21 through 2907.25;

- (6) Public gambling as defined in Chapter 517 of the Code or Ohio Revised Code Chapter 2915;
- (7) Unauthorized possession, sale, or discharge of fireworks as defined in the Ohio Revised Code Section 3743.65;
- (8) Loud, dangerous, or vicious dog as defined in Section 505 of the Code;
- (9) Abandoned refrigerators and airtight containers; littering and deposit of garbage, rubbish, junk, etc.; noxious or offensive odors; or placement of upholstered indoor furniture on the exterior of houses as defined in Section 521 of the Code;
- (10) Junk and inoperative vehicle storage as defined in Section 523 of the Code; or
- (11) Trees, weeds, grass, and nuisance violations as defined in Section 1759 of the Code.
- (g) **Permit.** As used in this chapter, the term “Permit” means to suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.
- (h) **Person.** As used in this chapter, the term “Person” means any natural person, agent, association, firm, partnership, or corporation capable of owning, occupying, or using property.
- (i) **Person in Charge.** As used in this chapter, the term “Person in Charge” means any person in actual or constructive possession of a property, including but not limited to an owner or occupant of a property under his or her dominion, ownership, or control.
- (j) **Person Associated With.** As used in this chapter, the term “Person Associated With” means any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize, or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a person in charge or owner in relation to the property. Any person that has been served with a Notice of Trespass will no longer be considered a “Person Associated With” as defined above.
- (k) **Property or Premises.** As used in this chapter, the terms “Property” or “Premises” may be used interchangeably, and mean any public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential property.

567.03 VIOLATION.

- (a) Any property which is a Chronic Nuisance Property is in violation of this section and subject to its remedies.
- (b) Any person in charge who permits property to be a Chronic Nuisance Property shall be in violation of this section and subject to its remedies.

567.04 WARNING OF A POSSIBLE CHRONIC NUISANCE FINDING.

- (a) The Chief of Police, or his or her designee, upon finding that property is in danger of becoming a Chronic Nuisance Property shall cause a Chronic Nuisance Warning to be served on the owner of the property advising that such property is in danger of becoming a Chronic Nuisance Property, and that additional nuisance activity(ies) or felony drug offense(s), may result in the property being deemed a Chronic Nuisance Property subject to the penalties of this chapter. Such notice shall be sent:

- (1) for a Single Family Property, when there have been two or more nuisance activities, or one felony drug offense within a six month period;
 - (2) for a Multi-Family (2-9 Units) Property, when there have been four or more nuisance activities, or one felony drug offense, within a six month period;
 - (3) for a Multi-Family (10+ Units) Property, when there have been seven or more nuisance activities, or one felony drug offense, within a six month period;
 - (4) for a Commercial Property (1000 sqft to 4999 sqft), when there have been three or more nuisance activities, or one felony drug offense, within a six month period;
 - (5) for a Commercial Property (5000+ sqft), when there have been six or more nuisance activities, or one felony drug offense, within a six month period.
- (b) The notice under subsection (a) shall contain the following:
- (1) The street address or a legal description sufficient to identify the property.
 - (2) A statement detailing the nature of the nuisance activities, the estimated costs to abate any future nuisances, and that the owner may avoid being charged the costs of abatement by taking steps to prevent any further nuisance activity as set forth in this section.
 - (3) The definition of "Chronic Nuisance Property" from subsection 567.02(c) above.
 - (4) A statement that, if sufficient additional or subsequent nuisance activities or felony drug offenses occur within six months of the date of the first nuisance activity or first felony drug offense to meet the definition of Chronic Nuisance Property, the City of Norwood will deem the property a Chronic Nuisance Property; and that the City may abate the nuisance by responding to the nuisance activity using administrative and law enforcement actions; and that the costs of such abatement shall be assessed to the nuisance property.
 - (5) A statement that, provided the owner or person in charge submits a written plan to abate or prevent further nuisance activities, the City of Norwood will not deem the property a Chronic Nuisance Property for thirty days to allow the owner or person in charge to carry out such abatement plan.
 - (6) A statement that a finding that the property is a Chronic Nuisance Property may subject the owner to Civil Penalties under Section 567.08.
 - (7) A statement that the right to appeal may be available under the provisions of Section 567.06.
- (c) Any nuisance activity initially reported to the City by the owner or person in control of a property shall be excluded from the operation of this chapter.
- (d) The Warning shall be posted on the premises or at the site of the nuisance directing the responsible party to abate the nuisance. A copy of the Warning shall be sent by certified mail to the address of the owner as listed in the County Auditor's office. Personal service may be used in lieu of mailing. In the event the certified mail is uncollected or returned, a copy of the Warning shall be sent by first class mail.
- (e) Return of service shall be made by affidavit of the person serving, mailing or posting such notice, and when notice is given by mail, such affidavit shall identify the property by the street address and the County Auditor's parcel number and shall show the name and address of the person to whom the notice was mailed and the date of mailing.

567.05 NOTICE OF CHRONIC NUISANCE AND ORDER OF ABATEMENT.

(a) If, following a Warning under Section 567.04, sufficient additional nuisance activities or felony drug offenses occur so as to qualify a property as a Chronic Nuisance Property under Section 567.02(c), the Chief of Police, or his or her designee, shall notify the owner that the property has been deemed a Chronic Nuisance Property and direct the owner to abate the nuisance. If the owner has not done so within thirty days, the City of Norwood may abate the nuisance by responding to the activity using administrative and law enforcement actions.

(b) The Notice that a property has been declared a Chronic Nuisance Property and ordering abatement shall be posted on the premises or at the site of the nuisance directing the responsible party to abate the nuisance. A copy of the notice shall be forwarded by certified mail to the address of the owner as listed in the County Auditor's office. Personal service may be used in lieu of mailing.

(c) Return of service shall be made by affidavit of the person serving, mailing or posting such notice, and when notice is given by mail, such affidavit shall identify the property by the street address and the County Auditor's parcel number and shall show the name and address of the person to whom the notice was mailed and the date of mailing.

(d) The notice to abate shall contain:

(1) The street address or a legal description, including the parcel number, sufficient to identify the property.

(2) A direction to abate the nuisance within thirty calendar days from the date of the notice.

(3) A description of the nuisance.

(4) A statement that, unless the nuisance is abated, the City of Norwood may abate the nuisance and any subsequent nuisance, and that the cost of abatement shall be charged to the owner or assessed against the property, or both.

(5) A statement that in the event of future nuisance activities, the owner will be subject to Civil Penalties under Section 567.08.

(6) A statement that an appeal may be made under the provisions of Section 567.06.

(e) Within ten days of the property being deemed a chronic nuisance, the owner or person in charge is required to submit to the Safety/Service Director a written plan of abatement and/or plan for preventing further nuisance activities.

(f) Upon the owner's failure to submit a plan of abatement and/or prevention within 10 days, or upon the owner's failure to abate the nuisance within a reasonable time, the City of Norwood may abate the nuisance by responding to the activity using administrative and law enforcement actions. The cost of such abatement shall be billed to the owner.

567.06 APPEALS.

(a) A Chronic Nuisance Appeals Board is hereby established. The Board will consist of three Members who are citizens and residents of the City, appointed by Council. Initially, one of the Members of the Board shall be appointed for one year, one for two years, and one for three years. Thereafter, Members shall be appointed for a term of three years. In the event that a vacancy shall occur during the term of any Member, his or her successor shall be appointed for the unexpired portion.

(b) Members of the Board shall serve without compensation. Upon request of the Board, Council shall appropriate funds for any reasonable expenses of the Board.

(c) Board members may petition Norwood City Council to expand the number of Board members.

(d) Appeals to the Chronic Nuisance Appeals Board concerning interpretation or administration of this Chronic Nuisance Code may be taken by any person aggrieved by any action or decision of the City under this Chapter. Such appeal shall be taken by filing with the Safety/Service Director and Chief of Police a notice of appeal specifying the grounds upon which the appeal is being taken. Appeals shall be made in writing, within ten days of the date of the challenged decision or action.

(e) A hearing on any appeal shall not be scheduled any later than 45 days after the appeal has been filed. The hearing shall be conducted by the Chronic Nuisance Appeals Board. The Chronic Nuisance Appeals Board shall determine whether there is sufficient evidence to support the designation of the subject property as a Chronic Nuisance Property or other challenged action. All witnesses shall be sworn, and a record of the proceeding shall be kept. The Chronic Nuisance Appeals Board shall issue a written decision within ten days of the hearing. Any such appeal shall not stay any actions by the City of Norwood unless an owner or landlord can provide sufficient evidence that the owner has abated a specific nuisance activity within the six month period, in which case, the nuisance activity number shall then be reduced to reflect the abatement of the specific nuisance activity for that property.

567.07 BURDEN OF PROOF; AFFIRMATIVE DEFENSES.

(a) In an action under this section, the City of Norwood shall have the initial burden of proof to show by a preponderance of the evidence that a violation under that section has occurred.

(b) The City of Norwood shall be deemed to have failed to have met this standard 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;
- (2) He or she has knowledge of the nuisance activity, but has promptly and vigorously taken all actions necessary to abate each nuisance including, without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 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 Warning or notice of the declaration of the property as a Chronic Nuisance Property, he or she promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 5321.04(A)(9).

567.08 IMPACT FEES AND CIVIL PENALTIES.

(a) Once a property has been deemed a Chronic Nuisance Property, the owner of that property shall be charged an impact fee for the actual cost of each subsequent service by the City of Norwood for a nuisance or felony drug activity for that property.

(b) Once a property has been deemed a Chronic Nuisance Property, the Chief of Police, or his or her designee, shall also assess a civil penalty against an owner who further violates any provision of this chapter or fails to obey any order to abate a chronic nuisance. Assessments for nuisance activities shall be imposed based on the number of nuisance or felony drug activities that occur on that property after it has been deemed a Chronic Nuisance Property. The civil fee shall be issued as follows:

- (1) For the first nuisance or felony drug activity, a civil penalty against the owner of one hundred and fifty dollars (\$150.00) shall be imposed;
 - (2) For the second nuisance or felony drug activity, a civil penalty against the owner of three hundred dollars (\$300.00) shall be imposed;
 - (3) For the third nuisance or felony drug activity, a civil penalty against the owner of seven hundred and fifty dollars (\$750.00) shall be imposed;
 - (4) For the fourth nuisance or felony drug activity, a civil penalty against the owner of one thousand (\$1,000.00) shall be imposed;
 - (5) For each nuisance or felony drug activity after the fourth, a civil penalty against the owner of three thousand dollars (\$3,000.00) shall be imposed.
- (c) If an owner or person in control submits a plan to abate or prevent further nuisance activities, no impact fees shall be imposed for nuisance activities or felony drug activities during the period reasonably required to carry out that plan, if that plan is executed.
- (d) The determination that a premises is a Chronic Nuisance Property subject to remittance for the cost of enforcement pursuant to this section and subject to civil penalties or criminal prosecution pursuant to this chapter shall be effective for a two year period beginning with the date the property is declared to be a Chronic Nuisance Property. If at any point during that two-year period, another nuisance activity or felony drug activity occurs at the property, the two-year period shall restart from the date of that activity. The two-year period shall restart again for any subsequent nuisance activity or felony drug activity.
- (e) In addition to other relief ordered, a court of competent jurisdiction may authorize the City of Norwood to physically secure the property against all access, use or occupancy in the event that the owner fails to do so within the time specified by the court. In the event that the City of Norwood is authorized to secure the property, all costs reasonably incurred by the City of Norwood to physically secure the property shall be paid to the City of Norwood by the Owner and may be included in the City's money judgment, including court costs.

567.09 OTHER PENALTIES.

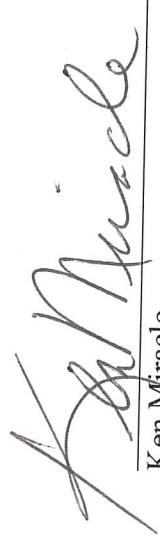
- (a) Permits, including those for occupancy, health, etc., granted to the owner may be subject to revocation based on the declaration that a property is a Chronic Nuisance Property.
- (b) The declaration of a Chronic Nuisance Property, an order to abate a nuisance, or the assessment of costs by the City of Norwood on a property do not affect or limit the City's right or authority to bring a criminal prosecution or other legal action against any person for violation of the City's ordinances or the Ohio Revised Code, including those provided for in Ohio Revised Code Chapter 3767.

SECTION 2. This ordinance is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City who will benefit from its enforcement as soon as practicable upon its adoption.

PASSED

October 27th, 2020

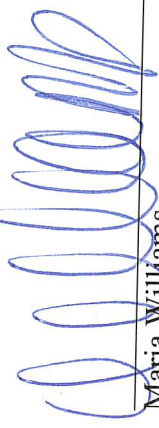
Date



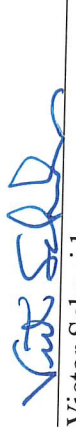
Ken Miracle
President of Council

ATTEST:

Maria Williams, the duly appointed Clerk of Council, attests that this Ordinance was passed at a regular/special meeting of Norwood City Council on the 27th day of October, 2020 in compliance with the rules of Norwood City Council and the laws of the State of Ohio. The foregoing Ordinance was submitted to the Mayor of the City of Norwood, Ohio for his signature on the 27th day of October, 2020.

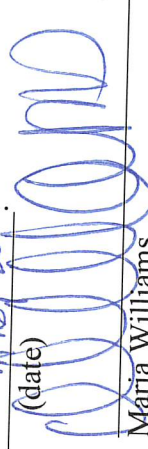

Maria Williams
Clerk of Council

APPROVED 29 Oct 20
Date


Victor Schneider
Mayor

CERTIFICATION OF PUBLICATION:

Maria Williams, the duly appointed Clerk of Council, attests that this Ordinance was published in the Cincinnati Enquirer on 11/9/20 and 11/16/20
(Name of Newspaper) (date) (date)


Maria Williams
Clerk of Council

ORDINANCE READINGS

1st Reading 10-13-20
Date

2nd Reading 10-27-2020
Date

3rd Reading 10-27-2020
Date

All 3 Readings _____
Date

Tabled _____
Date