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REMINDER

CITY COUNCIL

- Ruth Gray**
President
- Sara Continenza**
- Chanell Elston**
- John Fahsbender**
- Joe Frank**
- Susan Hardy**
- Justin Tisdale**

NOTICE OF MEETING

MEETING OF: **SAFETY COMMITTEE**

CALLED BY: CHANELL ELSTON, CHAIR

DATE: **APRIL 25, 2022**

LOCATION: WEBEX VIRTUAL MEETING (see info above)

TIME: 5:30 P.M.

RE: Ord. 06-22 Abatement of Criminal Nuisances

COMMITTEE MEMBERS:

- JUSTIN TISDALE
- JOE FRANK

COUNCIL MEMBERS

- SARA CONTINENZA
- JOHN FAHSBENDER
- RUTH GRAY
- SUSAN HARDY

ADMINISTRATION

- MICHAEL LOGRASSO, LAW DIRECTOR
- JOE MAYS, POLICE CHIEF
- LAURA HEILMAN, BUILDING COMMISSIONER
- T.J. MURRAY, HOUSING MANAGER
- MICHAEL LOVE, PLANNING & DEVELOPMENT DIRECTOR
- KEITH BENJAMIN, COMMUNITY SERVICES DIRECTOR

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 06-22
INTRODUCED BY: Gray
REQUESTED BY: Mayor

April 11, 2022
Safety Committee April 25, 2022

AN ORDINANCE

AN ORDINANCE CREATING NEW SECTION 531.10 "ABATEMENT OF CRIMINAL NUISANCES" OF CHAPTER 531 "NUISANCES" OF PART FIVE "GENERAL OFFENSES" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO, FIRST READING.

WHEREAS, the intent of the nuisance abatement ordinance is to promote, protect, and improve the health, safety, and welfare of our resident.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Section 531.10 "Abatement of Criminal Nuisances" of Chapter 531 "Nuisances" of Part Five "General Offenses Code" of the Codified Ordinances of the City of South Euclid, Ohio be created as follows:

531.10 ABATEMENT OF CRIMINAL ACTIVITY NUISANCES.

(a) The following activities occurring on either residential or commercial properties, or within **100** feet of the property line of a residential or commercial property, and engaged in by an owner, occupant or invitee of the owner or occupant of such residential or commercial properties, are hereby declared to be public nuisances.

(1) Any animal violations under **Codified Ordinance** Sections 505.01, Dogs and Other Animals Running at Large; Dangerous and Vicious Dogs; 505.09, Barking or Howling Dogs; 505.06, Poisoning Animals; 505.07, Cruelty to Animals; 505.071, Neglect of Animals; 505.08, Noxious Odors; Unsanitary Conditions, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(2) Any disorderly conduct, disturbance of the peace or other violation of Chapter 509 of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(3) Any drug abuse violation under Chapter 513 of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(4) Any gambling violation under Chapter 517 of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(5) Any health, safety or sanitation violation under Chapter 521 of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(6) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(7) Any alcohol violations under Chapter 529 of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(8) Any sex offenses under Sections 533.07, Public Indecency; 533.08, Procuring; 533.09, Soliciting; or 533.10, Prostitution, of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(9) Any offense against another person under Chapter 537 of the Codified Ordinances with the exception of Domestic Violence charged pursuant to Section 537.14 or equivalent Ohio Revised Code section; Menacing by Stalking charged pursuant to Section 537.051 or equivalent Ohio Revised Code section; or Violating Protection Order charged pursuant to Ohio R.C. 2919.27;

(10) Any offense against property under Sections 541.03, Criminal Damaging or Endangering; 541.04, Criminal Mischief, of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(11) Any littering or deposition of waste under Chapter 527 of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(12) Any theft violation under Sections 545.05, Petty Theft; 545.08, Unauthorized Use of Property, of the Codified Ordinances, **or the corresponding equivalent offense pursuant to the Ohio Revised Code;**

(13) Any weapons, explosives, firearm or handgun violation under Chapter 549 of the Codified Ordinances, or the corresponding equivalent offense pursuant to the Ohio Revised Code;

(14) Any fireworks violation under Chapter 1540 of the Codified Ordinances, or the corresponding equivalent offense pursuant to the Ohio Revised Code;

(15) Any waste container violation under Section 1411.081 of the Codified Ordinances, or the corresponding equivalent offense pursuant to the Ohio Revised Code;

(16) Any violation of Section 147.04(s), Prohibited Standing or Parking Places, no vehicle shall be parked on any lot other than in an enclosed structure thereon or on the driveway from the public right-of-way to the enclosed structure or Section 147.04(b), Prohibited Standing or Parking Places, on a sidewalk, except a bicycle;

(17) Any violation under Section 1405.24 of the Codified Ordinances;

(18) Any violation under Section 1405.245 of the Codified Ordinances;

(19) Any violation under Section 1609.07 of the Codified Ordinances; and

(20) Any offense that is a felony under the Ohio Revised Code.

(b) The Chief of Police or his designee, upon finding that two or more nuisance activities declared in this section have occurred within any 12-month period, may cause a written notice and order to be served on the owner(s) and occupant(s) of the property declaring that such property is a nuisance property. The notice and order shall set forth the nature of the nuisances, the estimated costs to abate any future nuisances, and state that the owner(s) and occupant(s) may avoid being charged the costs of abatement by taking steps to prevent any further nuisance activity as set forth in this section. **The notice shall also set forth the timeframe and methodology in which the owner(s) or occupant(s) may file for a reconsideration or appeal of the determination that such property is a nuisance property as is hereinafter set forth in this section.** The notice shall further state that if a third or subsequent nuisance activity as declared in this section occurs within 12 months of the written notice, the City may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property. Notice shall be served as set forth in Sections 531.02 and 531.03 of the Codified Ordinances.

(c) If within 12 months after the written notice referred to in division (b) of this section has occurred, a third nuisance activity as declared in this section occurs, the City may abate the nuisance by responding to the activity using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property in the same manner as in Section 531.04 of the Codified Ordinances, and the costs shall be calculated as set forth in division (e) of this section. The City shall provide notice to the owner(s) and occupant(s) of the nuisance property of the City's intent to assess the costs of abatement against the owner's property at least 30 days before such costs are certified to the County for assessment against the property, and such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be served as set forth in Section 531.03 of the Codified Ordinances.

(d) The owner(s) and/or occupant(s) of a property who receives a notice from the Chief of Police or his designee pursuant to this section may appeal such notice by submitting a written request for reconsideration to the Chief of Police within 30 days of the date of the notice. If the Chief of Police finds that the facts presented do not support the declaration of a nuisance, the Chief shall rescind the notice. Otherwise, the Chief shall deny the request and refer the appeal for hearing by the Board of Zoning Appeals. Any such appeal shall not **require any filing fee, but does not** stay any actions by the City to abate the first or any subsequent nuisance activity. In any such appeal, the City must show by a preponderance of the evidence that each violation stated in the notice being appealed has occurred, and that the declaration of the property as a nuisance property or of the intent of the City to assess the property for abatement costs, whichever is applicable, is justified. The City shall be deemed to have failed to have met this standard if the **owner or occupant demonstrates** by a preponderance of evidence that:

(1) He or she was not the owner(s) or occupant(s) 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 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 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 Ohio R.C. 5321.17(C) and 5321.04(A)(9).

(e) Costs of abatement shall be assessed based upon an escalating defined cost. The escalating defined costs are: two hundred and fifty dollars (\$250.00) upon the first declaration of nuisance under this chapter; five hundred dollars (\$500.00) on the second nuisance declaration; seven hundred fifty dollars (\$750.00) on the third nuisance declaration; and one thousand dollars (\$1,000.00) on each subsequent nuisance declaration. If any violation of nuisance activities described in division (a)(1) through (a)(16) above involves the possession and/or discharge of a firearm in violation of any Federal, State or local law, there shall be an additional cost assessed of two thousand dollars (\$2,000) to each enumerated cost listed in this section.

(f) The declaration of a nuisance property, an order to abate a nuisance, or the assessment of costs by the City on a property, do not affect or limit the City's right or authority to bring criminal prosecution or other legal action against any person for violation of the City's ordinances.

(g) No enforcement action or abatement under this section will be ordered against a real property owner who is either: (1) an individual who was a complainant or a victim in whole or in part of the incidents that formed the basis of the nuisance enforcement action; or (2) an individual who has a known disability or has a relationship or association with an individual who has a known disability pursuant to the Americans with Disabilities Act, as is set forth in 28 C.F.R. Ch. 1, Pt. 35, as may be hereinafter amended ("ADA"), in whole or in part of the incidents that formed the basis of the nuisance enforcement action. No abatement measure against an individual will be predicated upon the fact that such individual called for police or emergency services. Any decision or related order in a nuisance proceeding imposing enforcement or abatement action shall make a finding whether that individual is a victim, complainant, or qualifies for an exemption pursuant to the ADA. If the individual is not found to be a victim or complainant, and also does not qualify for an exemption pursuant to the ADA, then that individual may be the subject of such enforcement or abatement action under this Section.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This ordinance shall take effect and be enforced from and after the earliest period allowed by law and upon signature of the mayor.

Passed this _____ day of _____, 2022.

Ruth I. Gray, Council President

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law