

ORDINANCE NO. 2021 - 20

AN ORDINANCE ENACTING CHAPTER 680 [ABATEMENT OF CRIMINAL ACTIVITY NUISANCES] OF THE GENERAL OFFENSES CODE OF THE CITY OF PARMA HEIGHTS, OHIO AND DECLARING AN EMERGENCY

WHEREAS, chronic nuisance properties present grave health, safety and welfare concerns, where the persons responsible for such properties have failed to take corrective action to abate the nuisance condition; and

WHEREAS, chronic nuisance properties have a tremendous negative impact upon the quality of life, safety and health of the neighborhoods where they are located; and

WHEREAS, the Chief of Police is recommending that this ordinance be enacted to remedy nuisance activities that are particularly disruptive to quality of life and repeatedly occur or exist at properties by providing a process for abatement; and

WHEREAS, this proposed ordinance is not an exclusive remedy under any state or local laws and may be used in conjunction with such other laws; and

WHEREAS, chronic nuisance properties are a financial burden to the city because of repeated calls for service to the properties because of the nuisance activities that repeatedly occur or exist on such property; and

WHEREAS, this proposed ordinance is intended to provide a means to ameliorate those conditions and hold accountable those persons responsible for such property or business owners; and

WHEREAS, the City is pursuing additional measures to expand housing and business enforcement tools to eliminate conditions of deterioration, as well as criminal and nuisance behavior, in order to protect the health, safety and welfare of occupants, neighbors, police officers and firefighters; and

WHEREAS, this Council believes that the Police Department should be authorized to include criminal activities occurring within 300 feet of a person's residence to count against the owner of the residence under the Criminal Activity Nuisance Ordinance, which would cover the right of way, street and homes located approximately 3 to 7 houses away from the property where the person committing the criminal activity lives; and

WHEREAS, this Council believes that the Police Department should be authorized to include criminal activities occurring within 300 feet of a business or within its parking lot and adjacent areas where patrons park or congregate that should count against the business owner/operator under the Criminal Activity Nuisance Ordinance, and

WHEREAS, this Council has determined that it is necessary and desirable to adopt this Ordinance to include the authority granted by the Ordinance to address persons involved in criminal activities

both inside residences/businesses in the City, as well as in the immediately surrounding neighborhood.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Parma Heights, State of Ohio:

Section 1. Chapter 680 of the City of Parma Heights Codified Ordinances entitled “Abatement of Criminal Activity Nuisances” is enacted to read as follows;

CHAPTER 680 ABATEMENT OF CRIMINAL ACTIVITY NUISANCES

The following activities occurring on residential or commercial property within the City of Parma Heights, and engaged in by an owner, occupant or invitee of the owner, occupant or person in charge of commercial (including retail, restaurant and liquor establishments) or residential property (including individual apartment and condominium units), are declared to be public nuisances:

680.01 DECLARATION OF NUISANCES.

- (a) Any animal violations under Section **618** to include; dogs running at large, animal odors, biting, and noise, dangerous dogs, vicious dogs, killing or injuring animals, cruelty to animals of the Codified Ordinances; (or similar state offense)
- (b) Any disorderly conduct, disturbance of the peace or other violation of Chapter **648** of the Codified Ordinances; (or similar state offense)
- (c) Any drug abuse violation under Chapter **620** of the Codified Ordinances; (or similar state offense)
- (d) Any gambling violation under Chapter **624** of the Codified Ordinances; (or similar state offense)
- (e) Any health, safety, or sanitation violation under Chapter **660** of the Codified Ordinances; (or similar state offense)
- (f) Any obstruction of official business violation under Section **606** of the Codified Ordinances; (or similar state offense)
- (g) Any alcohol violations under Chapter **612** of the Codified Ordinances ;(or similar state offense)
- (h) Any sex offenses under Sections **666** to include; public indecency, procuring, soliciting, or prostitution of the Codified Ordinances; (or similar state offense)
- (i) Any offense against another person under Sections **636** to include assault, negligent assault, aggravated menacing, menacing, and Section **630** to include; endangering children, contributing to the unruliness and delinquency and section **606.37** (misuse of 9-1-1) of the Codified Ordinances;

(or similar state offense) **This does NOT include domestic violence or incidents under similar ordinance, as its intention is not to penalize the victim of such acts.**

(j) Any offense against property under Sections 642 to include; criminal damaging or endangering or criminal mischief of the Codified Ordinances; (or similar state offense)

(k) Any littering or deposition of waste under Section 660 of the Codified Ordinances;

(l) Any theft violation under Sections 642 petty theft, unauthorized use of property, receiving stolen property or section 672.16 criminal tools of the Codified Ordinances; (or similar state offense)

(m) Any weapons, explosives, firearm or handgun violation under Chapters 672 of the Codified Ordinances; (or similar state offense)

(n) Any noise violation under Chapter 648 of the Codified Ordinances; (or similar state offense)

(o) Any fireworks violation under Section 672 of the Codified Ordinances; (or similar state offense)

680.02 FINDING AND NOTICE OF NUISANCE.

(a) The Chief of Police or his designee, upon finding that one or more nuisance activities, as defined in Section 680.01, have occurred within any twelve month period at or within 300 feet of a dwelling containing a rental unit, as defined in the Housing Code, or within the defined confines of any business establishment within the city limits may serve a written warning letter to the residential property owner, business property owner and/or lessee, and/or business operator of the property/business declaring that such property/business may be declared a nuisance property if a second or additional nuisance activities occur at or within 300 feet of the property within any twelve months of the most recent period.

(b) The Chief of Police or his designee, upon finding that two or more nuisance activities declared in this Chapter have occurred within any twelve-month period at or within 300 feet of any residential property/business, may cause a written notice and order to be served on the owner of the property owner/operator of the business declaring that such property/business is a nuisance property. The notice and order shall set forth the nature of the nuisances, the estimated costs to abate any future nuisance, and 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 this Section.

(c) The notice or warning letters shall be served by delivering it personally, leaving it at the person's usual place of business or residence, by posting it in a conspicuous place on the property involved or by mailing it to the person by regular U.S. mail.

680.03 ABATEMENT OF NUISANCE AND COLLECTION OF COSTS.

(a) If, following a notice that a property has been declared a nuisance, an additional nuisance occurs that requires abatement by the City, the person or persons will be assessed the costs of abatement. If more than one person received a notice declaring a property a nuisance, the costs of abatement will be divided equally. Notice shall be sent to the person(s) detailing the latest nuisance activity and the cost of abatement. The notice shall also state that the costs must be paid to the City within thirty days. This notice shall be served in the same manner as set forth in Section 680.02(c).

(b) The costs of abatement will be calculated based on the hourly wage of each participating employee of the Police Department multiplied by the number of hours required to abate the nuisance. The minimum charge shall be two (2) hours for each participating employee of the Police Department.

(c) If the party noticed fails to pay the costs of abatement within the thirty days the City may assess the costs of abatement against the owner's property. Should the City elect this option, the City shall provide notice to the owner of the nuisance property of the City's intent to assess the costs of abatement against the owner's property at least thirty (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. Any election of the City under this subsection does not affect or limit the City's right or authority to bring criminal prosecution under Section 680.05.

680.04 RIGHT OF APPEAL.

(a) A person who receives the warning or notice letter referred to in Section 680.02 or Section 680.03(a) may appeal such warning, notice or order by submitting a written request for reconsideration to the Chief of Police within ten days of receiving the letter. Such written request shall include the reasons the person feels that warning, notice or order is not justified or that the person should not be named in the notice and any mitigating circumstances.

(b) If the Chief of Police finds that the facts do not support the notice or warning he shall rescind the notice. Otherwise, the Chief shall advise the person in writing that the request for reconsideration has been denied and that the person may appeal to the Board of Zoning Appeals. The person may appeal the denial of the request for reconsideration by submitting a letter to the Board of Zoning Appeals setting forth the reasons for appeal. The Board of Zoning Appeals after reviewing the facts, shall render a decision as to whether the warning or notice shall stand and notify the parties in writing.

(c) During the appeal process, the City has the right to abate further nuisances and to assess the costs providing the City ultimately prevails in the appeal process.

(d) If a person appeals the Chief's decision, the thirty-day period in which a person must pay the costs of abatement is stayed until a final decision is rendered.

680.05 FAILURE TO PAY ABATEMENT COSTS.

(a) No person shall fail to pay the costs assessed by Section 680.03 within the prescribed period of time described therein subject to Section 680.04(b) if a proper appeal is filed. Each thirty-day period a person fails to pay abatement costs is a separate violation. A person found guilty under this section is not relieved of the duty to pay the abatement costs.

(b) Whoever violates this Section is guilty of failure to pay abatement costs, a misdemeanor of the first degree.

680.06 EFFECT ON CITY AUTHORITY.

(a) 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.

Section 2. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

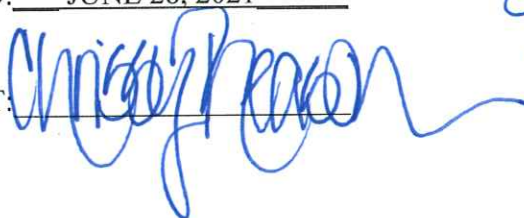
Section 3. This Ordinance is declared to be an emergency measure necessary for the public peace, health and safety of the Municipality and for the further reason that the Council, upon the recommendation of the Chief of Police desires to enact Chapter 680 to address chronic nuisance properties that have a tremendous negative impact upon the quality of life, safety and health of the neighborhoods where they are located; wherefore it shall be in full force and effect immediately after its passage by Council and approval by the Mayor.

PASSED: JUNE 28, 2021



PRESIDENT OF COUNCIL

ATTEST:



APPROVED JUNE 28, 2021

FILED WITH
THE MAYOR: JUNE 28, 2021



MAYOR

ONE READING: JUNE 28, 2021

