

ORDINANCE NO.: 42-2024

INTRODUCED BY: Mayor Thomas and All of Council

AN ORDINANCE ENACTING NEW CHAPTER 171, "CRIMINAL ACTIVITY NUISANCES", OF THE ADMINISTRATIVE CODE OF THE CODIFIED ORDINANCES OF THE CITY OF RICHMOND HEIGHTS AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and this Council find that it is in the best interest of the health, safety and wellbeing of the public, including the owners, occupants, and neighboring property owners of properties in the residential and commercial zoning districts of the City, to declare and regulate criminal activity nuisances which are occurring more regularly within the City and causing the need for police intervention;

NOW, THEREFORE, BE IT ORDAINED by the Council of Richmond Heights, State of Ohio, that:

Section 1: New Chapter 171, Criminal Activity Nuisances, of the Administrative Code of the Codified Ordinances of the City of Richmond Heights is hereby enacted to read as follows:

"CHAPTER 171
Criminal Activity Nuisances

171.01 Declaration of nuisances.

171.02 Finding and notice of nuisance.

171.03 Abatement of nuisance and collection of costs.

171.04 Right of appeal.

171.05 Effect on City authority.

171.06 Severability.

171.01 DECLARATION OF NUISANCES.

The following activities occurring either on residential or commercial property, and engaged in by an owner, occupant or invitee of the owner or occupant of the property, or within 300 feet from the property line of any residential or commercial property, and engaged in by the owner, tenant, occupant or invitee of the owner of the property, are hereby declared to be public nuisances:

- (a) Any animal violations under Chapter 505 of the Codified Ordinances;
- (b) Any disorderly conduct, disturbance of the peace or other violation of Chapter 509 of the Codified Ordinances;
- (c) Any drug abuse violation under Chapter 513 of the Codified Ordinances;
- (d) Any gambling violation under Chapter 517 of the Codified Ordinances;
- (e) Any safety, sanitation or health violation under Chapter 521 of the Codified Ordinances;
- (f) Any obstruction of official business violation under Sections 525.07 or 525.08 of the Codified Ordinances;

- (g) Any alcohol violations under Chapter 529 of the Codified Ordinances;
- (h) Any sex offenses under Chapter 533 of the Codified Ordinances;
- (i) Any offense against another person under Chapter 537 of the Codified Ordinances, with the exception of domestic violence charged pursuant to Section 537.14;
- (j) Any offense against property under Chapter 541 of the Codified Ordinances;
- (k) Any weapons, explosives, firearm or handgun violation under Chapter 549 of the Codified Ordinances;
- (l) Any noise violation under any section of the Codified Ordinances;
- (m) Any overcrowding of the premises violation of the Codified Ordinances or state code.

171.02 FINDING AND NOTICE OF NUISANCE.

The Chief of Police or the Chief's designee, upon finding that one (1) or more nuisance activities declared in this chapter have occurred within any twelve (12)-month period at or within 300 feet of any property, may cause a written warning letter to be served on the owner and tenant (if applicable) of the property declaring that such property may be declared a nuisance property if a second or additional nuisance activity occurs at or within 300 feet of the property within any twelve (12)-month period. The Chief of Police or the Chief's designee, upon finding that two (2) or more nuisance activities declared in this chapter have occurred within any twelve (12)-month period at or within 300 feet of any property, may cause a written notice and order to be served on the owner and tenant (if applicable) of the property declaring that such property is a nuisance property. The notice and order shall set forth the nature of the nuisance(s), the estimated costs to abate any future nuisance, and state that the owner and tenant (if applicable) may avoid being charged the costs of abatement by taking steps to prevent any further nuisance activity as set forth in this chapter. The notice shall further state that if a third or subsequent nuisance activity as declared in this chapter occurs within twelve (12) months of the date of the first activity, the City may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of such abatement, including legal fees, shall be collected as set forth in Section 171.03. Notice shall be served by one or more of the following methods: hand-delivery to the owner and tenant (if applicable); delivery by a nationally recognized delivery service; or certified U.S. Mail service.

171.03 ABATEMENT OF NUISANCE AND COLLECTION OF COSTS.

- (a) If within twelve (12) months after the first of the two (2) nuisances referred to in Section 171.02 has occurred, a third nuisance activity as declared in this chapter occurs, the City may abate the nuisance by responding to the activity using administrative and law enforcement actions, and the itemized costs of such abatement shall be invoiced to the owner and tenant (if applicable), along with the description of the nuisance activity that is the basis for the invoice. The invoice shall also notify the party being invoiced that in the event the invoice is not paid within thirty (30) days of its delivery to the owner and tenant (if applicable), the costs will be assessed on the nuisance property by the City Council making a written return to the County Fiscal Officer of its action under this chapter with a statement of the costs of such abatement and a proper description of the premises for the purpose of making the same a lien upon the property and to be collected as other taxes and

returned to the City with the General Fund. The costs shall be calculated as set forth in subsection (b) of this section. The invoice shall be served by one or more of the following methods: hand-delivery to the owner and tenant (if applicable); delivery by a nationally recognized delivery service; or certified U.S. Mail service.

(b) Costs of abatement shall be assessed based upon the hourly wage of the police officer or officers involved in the abatement of the nuisance activity and any other administrative personnel, plus seventy-five percent (75%), multiplied by the number of hours required to abate the nuisance, along with any legal fees associated therewith.

171.04 RIGHT OF APPEAL.

The owner and tenant (if applicable) of a nuisance property who receives a notice from the Chief of Police or the Chief's designee pursuant to this chapter may appeal such notice by submitting a written request for reconsideration to the Chief of Police within fourteen (14) 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 advise the appellant in writing of the denial, and of the appellant's right to file an appeal to the Mayor/Director of Public Safety. The appellant may appeal the denial of the request for reconsideration by submitting a written appeal letter to the Mayor/Director of Public Safety within twenty-one (21) days of the date of the Chief's denial. Any such appeal shall 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 and has been carried out. The City shall be deemed to have failed to meet this standard if the appellant demonstrates by a preponderance of evidence that:

- (a) The appellant was not the owner or tenant (if applicable) of the real property at the time of any of the nuisance activity that is the basis of the notice; or
- (b) The appellant 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
- (c) The appellant 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, the appellant 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).

171.05 EFFECT ON CITY AUTHORITY.

The declaration of a nuisance property, an order to abate a nuisance, or the assessment of costs by the City on a property under this chapter 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 or state law.

171.06 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.”

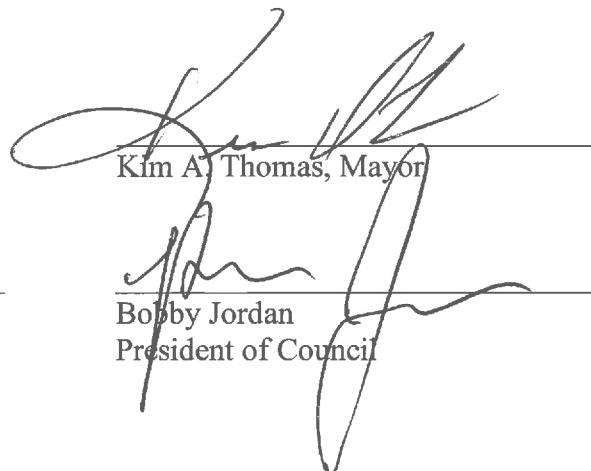
Section 2: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Ordinance is declared to be an emergency measure necessary for the immediate preservation for the public peace, health and safety of the City and the inhabitants thereof for the reason that this legislation is necessary to enable the City to effectively eliminate public nuisances that are a threat to the health, safety and general welfare of persons and to do so at the earliest possible time, and provided it receives approval of two-thirds of the members of Council, shall be in full force and effect from and after its approval by the Mayor, or otherwise take effect and be in force from and after the earliest period provided by law.

PASSED: March 26, 2024

APPROVED: March 26, 2024

ATTEST: Tracey Blair
Tracey Blair
Clerk of Council



Kim A. Thomas, Mayor

Bobby Jordan
President of Council