

south euclid

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REMINDER

CITY COUNCIL

Jane Goodman

President

Dennis Fiorelli

Marty Gelfand

Ruth Gray

Edward A. Icové

Modestino Romeo

Jason Russell

NOTICE OF MEETING

MEETING OF: **SAFETY COMMITTEE**

CALLED BY: MARTY GELFAND, CHAIRMAN

DATE: **JANUARY 25, 2016**

LOCATION: COMMITTEE/JURY ROOM

TIME: 7:15 P.M.

RE: ORD. 26-15: NUISANCE
ABATEMENT CHARGES

COMMITTEE MEMBERS:

DENNIS FIORELLI
RUTH GRAY

COUNCIL MEMBERS:

JANE GOODMAN
ED ICOVE
MOE ROMEO
JASON RUSSELL

ADMINISTRATION:

KEVIN NIETERT, POLICE CHIEF
MICHAEL LOGRASSO, LAW DIRECTOR

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 26-15
INTRODUCED BY: Miller
REQUESTED BY: Mayor

November 9, 2015

AN ORDINANCE

AN ORDINANCE AMENDING SECTION 531.09 "ABATEMENT OF CRIMINAL ACTIVITY NUISANCES" OF CHAPTER 531 "NUISANCES" OF PART FIVE "GENERAL OFFENSES CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, the Council of the City of South Euclid recognizes the need to periodically review and amend the codified ordinances in order to best serve the residents of the community.

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

Section 1: That Section 531.09 "Abatement of Criminal Activity Nuisances" of Chapter 531 "Nuisances" of Part Five "General Offenses Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby amended to read as follows:

531.09 ABATEMENT OF CRIMINAL ACTIVITY NUISANCES.

(a) The following activities occurring on **properties in the City of South Euclid and engaged in by an owner, occupant, or invitee of the owner or occupant of such properties or involving an offender residing at a property within the City of South Euclid are hereby declared to be a public nuisance.** ~~either residential or commercial properties, or within 1,000 feet of the property line of said 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 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;
- (2) Any disorderly conduct, disturbance of the peace or other violation of Chapter 509 of the Codified Ordinances;
- (3) Any drug abuse violation under Chapter 513 of the Codified Ordinances;
- (4) Any gambling violation under Chapter 517 of the Codified Ordinances;
- (5) Any health, safety or sanitation violation under Chapter 521 of the Codified Ordinances;
- (6) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances;
- (7) Any alcohol violations under Chapter 529 of the Codified Ordinances;
- (8) Any sex offenses under Sections 533.07, Public Indecency; 533.08, Procuring; 533.09, Soliciting; or 533.10, Prostitution, of the Codified Ordinances;
- (9) Any offense against another person under Chapter 537 of the Codified Ordinances;
- (10) Any offense against property under Sections 541.03, Criminal Damaging or Endangering; 541.04, Criminal Mischief, of the Codified Ordinances;
- (11) Any littering or deposition of waste under Chapter 527 of the Codified Ordinances;
- (12) Any theft violation under Sections 545.05, Petty Theft; 545.08, Unauthorized Use of Property, of the Codified Ordinances;
- (13) Any weapons, explosives, firearm or handgun violation under Chapter 549 of the Codified Ordinances;
- (14) Any fireworks violation under Chapter 1540 of the Codified Ordinances;
- (15) Any waste container violation under Section 1411.081 of the Codified Ordinances; and
- (16) 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 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 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 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 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 of a nuisance 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 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 demonstrates by a preponderance of 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 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.

(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.

Section 2: That 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 in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2015 2016.

Jane Goodman, President of Council

Attest:

Approve:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law