

THE CITY OF SOUTH EUCLID SCHEDULE OF MEETING

February 8, 2016

8:00 PM

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

3. **APPROVAL OF MINUTES:**

January 11, 2016; January 13, 2016 (Special Meeting); and January 25, 2016

4. **OPEN MEETING**

5. **REPORT OF COMMITTEES**

SAFETY COMMITTEE

1. ORDINANCE 26-15

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. **SECOND READING.**

6. **MAYOR'S REPORT**

7. **LEGISLATION REQUESTED BY THE MAYOR AND ADMINISTRATION**

1. ORDINANCE 01-16

APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION AND PUBLICATION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY. **FIRST READING.**

8. **LAW DIRECTOR'S REPORT**

9. **LETTERS AND COMMUNICATIONS**

10. **ADJOURN**

CITY OF SOUTH EUCLID, OHIO

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

November 9, 2015
As Amended in Safety Committee: January 25, 2016
Second Reading: February 8, 2016

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 or 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

Approve:

Georgine Welo, Mayor

Attest:

Keith A. Benjamin, Clerk of Council

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 01-16
INTRODUCED BY: Goodman
REQUESTED BY: Mayor

February 8, 2016

AN ORDINANCE

APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION AND PUBLICATION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation has completed its annual updating and revision of the Codified Ordinances of the City, and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council since the date of the previous updating and revision of the Codified Ordinances and have been included in the Codified Ordinances of the City, and

WHEREAS, certain changes were made in the Codified Ordinances to bring City law into conformity with State law, now therefore:

BE IT ORDAINED by the Council of the City of South Euclid, Cuyahoga County, Ohio:

Section 1. That the editing, arrangement and numbering or renumbering of the following ordinances and parts of ordinances are hereby approved as parts of the various component codes of the Codified Ordinances of the City so as to conform to the classification and numbering system of the Codified Ordinances:

| <u>Ord. No.</u> | <u>Date</u> | <u>C.O. Section</u> |
|-----------------|-------------|--------------------------|
| 17-12 | 5-11-15 | 710.08 |
| 18-12 | 5-11-15 | 721.03 |
| 13-14 | 6-22-15 | 722.05 |
| 14-14 | 6-22-15 | 505.17 |
| 18-14 | 2-9-15 | 521.18 |
| 21-14 | 4-13-15 | 933.07 |
| 01-15 | 2-9-15 | 1405.29 |
| 03-15 | 3-9-15 | 521.11 |
| 07-15 | 9-30-15 | 1408.01 to 1408.18 |
| 09-15 | 7-13-15 | 131.08 |
| 19-15 | 11-9-15 | 505.14 |
| 21-15 | 10-26-15 | 172.01 to 172.26, 172.99 |
| 25-15 | 11-9-15 | 505.01 |

Section 2. That the following sections of the Codified Ordinances are or contain new matter in the Codified Ordinances and are hereby approved, adopted and enacted:

331.26, 333.01, 335.01, 335.035, 335.09, 335.20, 339.11, 341.01, 341.03, 341.04, 341.05, 341.07, 373.02, 501.06, 501.07, 501.08, 501.13, 501.99, 513.01, 525.02, 525.12, 529.07, 537.09, 549.01, 549.22, 1540.04, 1540.06

Section 3. That pursuant to Article II, Section 5(d), of the City Charter, Ohio R.C. 731.23 and Section 113.05 of the Codified Ordinances, the Clerk of Council shall publish the number, title and date of passage of this ordinance, twice on the same day of two successive weeks in a newspaper of general circulation within the City, and, further, shall post a certified copy of this ordinance, together with such summary, for at least fifteen days in a public place in the City Hall.

Section 4. 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 Ohio R.C. Section 121.22.

Section 5. That this Ordinance is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety and for the further reason that it will update the codification of the legislation of the City, consistent with the City Charter and with State law, where and as required by Article XVIII, Section 3, of the Ohio Constitution, with which to administer the affairs of the City, enforce law and order and avoid practical and legal entanglements. Wherefore, this Ordinance and the 2015 Replacement Pages for the Codified Ordinances hereby approved, adopted and enacted, 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 _____, 2016.

Jane Goodman, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

EXHIBIT A

SUMMARY OF NEW MATTER
CONTAINED IN THE 2014 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF SOUTH EUCLID, OHIO

New matter in the 2014 Replacement Pages for the Codified Ordinances of South Euclid, Ohio, includes legislation regarding:

| <u>Section</u> | <u>New or amended matter regarding:</u> |
|----------------|---|
| 301.04 | Definition of "bicycle; motorized bicycle or moped." |
| 301.063 | Definition of "chauffeured limousine." |
| 301.163 | Definition of "highway maintenance vehicle." |
| 301.19 | Definition of "motorcycle." |
| 301.255 | Definition of "predicate motor vehicle or traffic offense." |
| 303.04 | Road workers, motor vehicles and equipment excepted. |
| 331.215 | Driving while approaching stationary public safety vehicle with flashing lights. |
| 333.03 | Maximum speed limits; assured clear distance ahead. |
| 335.07 | Driving under suspension or in violation of license restriction. |
| 335.073 | Driving under financial responsibility law suspension or cancellation; driving under a nonpayment of judgment suspension. |
| 337.16 | Number of lights, limitations on flashing, oscillating or rotating lights. |
| 337.17 | Focus and aim of headlights. |
| 337.31 | Air bags. |
| 339.12 | Chauffeured limousines. |
| 501.01 | Definitions relating to general offenses. |
| 501.06 | Limitation on criminal prosecutions. |
| 501.13 | Disposition of unclaimed or forfeited property held by Police Department. |
| 501.99 | Penalties for misdemeanor. |
| 513.01 | Definitions relating to drugs. |
| 513.16 | Pseudoephedrine sales. |
| 525.02 | Falsification. |
| 525.05 | Failure to report a crime or knowledge of death. |
| 525.18 | Misuse of 9-1-1 system. |
| 529.01 | Definitions related to alcoholic beverages. |
| 529.07 | Open container prohibited. |
| 529.12 | Conveying intoxicating liquor or cash onto grounds of detention facilities or other specified governmental facilities. |
| 533.09 | Soliciting. |
| 533.20 | Unlawful advertising of massage. |
| 537.05 | Aggravated menacing. |
| 537.051 | Menacing by stalking. |
| 537.06 | Menacing |
| 537.09 | Criminal child enticement. |
| 545.01 | Definitions relating to property offenses. |
| 545.02 | Determining property value in theft offense. |
| 545.05 | Petty theft. |
| 545.15 | Securing writings by deception. |
| 545.24 | Medicaid fraud. |
| 1530.01 | Definitions relating to open burning. |
| 1530.03 | Open burning in restricted areas. |