



**CHRONIC NUISANCE RULES AND REGULATIONS
PURSUANT TO HAMILTON CODIFIED ORDINANCE § 543.07**

PART ONE--GENERAL

1. Authority. These rules and regulations are issued by the City Manager with the approval of the City Law Director to implement Chapter 543 of the Codified Ordinances of the City of Hamilton (HCO), pursuant to HCO Section 543.07.
2. Purpose. The purpose of these rules and regulations is to assist the victims of crimes and those adversely impacted by crimes in their neighborhoods, hold property owners accountable for permitting unlawful conditions to exist on their property, and enhance the quality of life in all neighborhoods.
3. Conflicts of Laws. No part of these rules and regulations is intended to conflict with local, state or federal law and should be interpreted consistently to the extent there is any ambiguity. If there is a conflict between these rules and regulations and local, state or federal law, the local, state and federal law preempts these rules and regulations.
4. Definitions.
 - a. Abatement Period: two (2) years following submission and acceptance of a written abatement plan.
 - b. Abatement Plan: a written plan designed to abate the nuisance activity submitted by an owner of a premises in response to an Initial Notice issued by the City Manager pursuant to HCO Section 543.03(c).
 - c. Billing Notice: the written notice issued for law enforcement costs associated with a property that has been declared a chronic nuisance and has an abatement plan issued by the City Manager. Said notice shall include the dates of the enforcement action being billed, the address of the activity and the right to appeal the bill and where said notice shall be sent and the return address for service of the hearing.
 - d. Call for service: any law enforcement request received by the Hamilton Police Department related to a nuisance or nuisance activity on a premises where there is probable cause the nuisance activity occurred. Criminal incidents involving domestic violence, stalking, or violation of protection orders are excluded.
 - e. Chief of Police: the Police Chief for the City of Hamilton or his designee.

- f. Chronic Nuisance: a property or premises that is in violation of HCO Chapter 543.
- g. City Manager: the City Manager for the City of Hamilton or his designee.
- h. Cost of Enforcement: may include any cost or expense incurred by Hamilton Police Department related to responding to a chronic nuisance, attempted abatement or enforcing local or state law on the premises. Personnel costs are the hourly rate and benefit costs for the officers responding from the time of their response to the end of the law enforcement action related to the call. Other costs may include damage to any police property.
- i. Initial Notice: the written notice sent by the City Manager to the premises owner pursuant to the provisions of HCO Chapter 543. That notice shall include:
 - the street address or other legal description identifying the premises;
 - a description of the nuisance activities and dates of same that have occurred at the premises;
 - a statement that the owner must respond within fifteen (15) days after the mailing of said notice with a written plan to abate the nuisance; and,
 - a statement that the requirement to provide a written plan to abate the nuisance is a lawful order, and that the failure to provide a written plan could result in the imposition of penalties found in HCO Section 543.04 owner and the costs of subsequent enforcement.
- j. Three (3) or more Nuisance Activities: three or more Nuisance Activities within any thirty (30) day time period.
- k. Multiple dwelling means a building containing two or more dwelling units and/or rooming units.
- l. No Trespass Agreements: written agreements between property owners and the Hamilton Police Department giving the police authority to enter common areas of a multiple dwelling property for the purpose of conducting trespass investigations. Common areas include, but are not limited to, hallways, parking lots, or greenspace.
- m. Nuisance or nuisance activity: any crime or activity as defined in HCO Section 543.01(c).
- n. Occupant: any person living, sleeping, cooking, or eating in, or who has actual or constructive possession of property, including, without limitation, a lessee, sublessee, assignee, licensee, or permittee. A person can be both the occupant and owner.
- o. Operator: any person, firm, partnership, company, corporation, association, or

governmental agency that controls, operates or manages a property.

- p. Owner: the owner or owners of record of the property in fee, or lesser estate therein; a mortgagee or lienholder in possession; a vendee of record; an assignee of the rents; any receiver, executor, administrator, trustee, lessee or other person firm, corporation or business entity or organization in control of a building or their authorized agents.
 - q. Person associated with: any person who, whenever engaged in a nuisance or nuisance activity, enters, patronizes, or visits; attempts to enter or is waiting to enter said premises; or has just left said premises.
 - r. Prioritized enforcement list: the list of properties which have been issued an Initial notice of nuisance activity by the City Manager.
 - s. Property or premises: a lot, plot, or parcel of land, including any buildings or structures thereon.
 - t. Unit: an individual residential dwelling in which the occupants have a right to exclusive possession, including but not limited to an individual apartment within an apartment complex.
5. Service of Notices. Any notice required by HCO Chapter 543 shall be deemed properly delivered if sent by first class mail or UPS to the address of the owner listed on the records of the Butler County Auditor. If the notice is returned "undelivered", notice will be deemed properly delivered if it is either posted on the front door of the premises that is the subject of the notice or if it is delivered in person to the owner. Subsequent to the service of the initial notice, the owner may agree to receive service via email communication. In order to do so, the owner will provide a notarized document agreeing to accept service in this matter. Service by email shall be effective when sent.

PART TWO--PRIORITIZED ENFORCEMENT

1. The Police Chief may on at least a quarterly basis run an analysis for call for service, arrests, and other enforcement actions related to nuisance activity under HCO Chapter 543.
2. The Police Chief may generate reports on a more frequent basis indicating properties where nuisance activities exceed three or more nuisance activities or involve the commission of a felony drug offense under Ohio Revised Code (ORC) Chapters 2925 or 3719 (or any similar federal offense).
3. The Police Chief shall forward the reports to the City Manager for review.

4. Upon receipt of these reports, the City Manager shall review said information and based upon his evaluation and considering the totality of the circumstances and the most effective use of city resources, the City Manager may issue an initial notice or chose to pursue other legal remedies.
5. The City Manager will forward the prioritized enforcement list to the Police Chief and request monthly reports on nuisance activities for those properties.

PART THREE--CHRONIC NUISANCE DESIGNATION

1. The Police Chief shall run an analysis for calls for service, arrests, and other related law enforcement action related to a nuisance or nuisance activity on properties on the prioritized enforcement list.
2. The Police Chief shall assign personnel to review said information. Said review shall include, but is not limited to the following:
 - a. Whether there is probable cause to believe the nuisance activity occurred;
 - b. Whether the nuisance activity was perpetrated by an owner, operator, occupant or person associated with an owner, operator or occupant;
 - c. Whether the nuisance activity was domestic violence, stalking or violation of protection order as defined by the Ohio Revised Code;
 - d. Whether an occupant is the victim of the offense;
 - e. Whether the person causing the nuisance activity suffers from a physical or mental impairment that substantially limits one or more major life activities and which contributed to the incident; and,
 - f. Whether the nuisance activity occurred on the property.
3. If the Police Chief determines an additional nuisance activity has occurred more than eighteen (18) days after the issuance of an initial notice, the Police Chief shall notify the City Manager the property qualifies as a Chronic Nuisance and forward a report of the nuisance activity.
4. Upon receiving notice from the Police Chief that a property qualifies as a Chronic Nuisance, the City Manager shall designate the property as a Chronic Nuisance.

PART FOUR--CHRONIC NUISANCE ABATEMENT

1. The purpose of a nuisance abatement plan is to address those conditions which give rise to chronic nuisance activity.
2. Owners of rental property shall in their plans shall include, but are not limited to, screening of potential tenants for past criminal convictions, pending criminal matters, identity verification, rental history, references.
3. Owners of rental property shall include in their plans written leases which terms prohibit subleasing or occupancy by others than those listed on the lease, that all tenants or guests shall agree to abide by all local, state, and federal laws as a condition of continued occupancy.
4. Where the property is a multiple dwelling the abatement plan may include a no trespass agreement between the owner and the Hamilton Police Department.
5. Where the chronic nuisance activity is impacted by the physical conditions of the property such as lighting or fencing, the plan may include corrections to those conditions.
6. Where the owner and occupant are the same persons or in the same household, the abatement plan shall include what specific actions the owner will take to correct the underlying behavior.
7. If the owner and the City Manager are unable to agree on an abatement plan, the City Manager may adopt one. The owner has a right to appeal such an order pursuant to the appeal process.
8. No civil sanctions or bills shall be issued under HCO Chapter 543 during the abatement period, but the abatement plan may be amended to address changing conditions and the property remains subject to abatement under ORC Chapter 3767 or other applicable laws.

PART FIVE--ENFORCEMENT

1. The City Manager in determining whether to take enforcement action such as issuing a bill for the cost of law enforcement or civil citation, shall exercise due diligence so that enforcement against victims or crime or individuals with disabilities is not undue and complies with the Fair Housing Act of 1968, Americans with Disabilities Act of 1990 and the Violence Against Women Act.
2. If a property has been designated a chronic nuisance and there is subsequent law enforcement action, the Police Chief shall provide to the City Manager an invoice for the actual costs of enforcement and/or a request for the civil sanction imposed by HCO Chapter

543.

3. The City Manager shall serve the owner with said invoice but he may make a reasonable modification if there is no direct threat to the health or safety of the public or the result would not fundamentally alter the purpose or enforcement of HCO Chapter 543. Said service will be as permitted in HCO Section 543.02(c). If there has been no law enforcement action necessary for at least one (1) year after being placed on the Prioritized Enforcement List, the City Manager may waive the costs.

4. The City Manager shall include the owner's right to appeal the invoice amount pursuant to the ordinance and these rules and regulations.
5. Bills for the cost of enforcement and civil citations shall become a lien on the Premises to the extent permissible by law. For each letter, prominent notice that failure to pay the enforcement costs and civil penalty within thirty (30) days of the date of the violation notice will result in collection activity, including but not limited to, the penalty amount, plus court fees and interest, to be certified to Butler County Auditor's Office for collection with the real estate taxes, or other legal action.

PART SIX--APPEALS

1. An owner may appeal the determination of the City Manager that the property is a chronic nuisance, the amount of the bill for enforcement related to nuisance activities, or the civil sanction issued pursuant to the ordinance within thirty (30) days from the date of issuance of the decision.
2. Any appeal shall be filed with the City Manager (or the designee listed in the notice of action taken). Said appeal shall be in writing and must request a hearing and provide an address, or email for purposes of scheduling said hearing.
3. The Nuisance Appeals Board shall schedule a hearing within thirty (30) days and after said hearing shall issue a written decision which shall include the following:
 - a. whether there was service as required by the ordinance;
 - b. whether a nuisance activity occurred at the property;
 - c. whether the property is a Chronic Nuisance;
 - d. whether the owner had submitted a written abatement plan accepted by the City Manager and whether that plan had expired; and
 - e. whether any bill, invoice or civil sanction is sustained.

The Nuisance Appeals Board may not make any decisions or issue orders as part of his or her written determinations unless specifically provided by Chapter 543 or its rules and regulations.

PART SEVEN--REMOVAL FROM PRIORITIZED ENFORCEMENT LIST

1. The transfer of a property that has been designated as a chronic nuisance to a bona fide and unaffiliated third party shall cause the City Manager to remove the property from the Prioritized Enforcement List. Any owner who transfers a property on the Prioritized Enforcement List shall notify the City Manager.
2. Where no nuisance activities have occurred for a period of two (2) years at a property that has been designated a chronic nuisance, the City Manager shall remove the property from the Prioritized Enforcement List.

DATE: December 20, 2022

APPROVED:



Joshua A. Smith
City Manager, City of Hamilton