

**VILLAGE OF WEST ALEXANDRIA  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND PART 8 OF THE VILLAGE OF WEST ALEXANDRIA CODE TO ENACT CHAPTER 878 REGULATING CHRONIC NUISANCES IN THE VILLAGE, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Village of West Alexandria, like all municipalities, has finite resources for the provision of police and fire services to its residents; and

**WHEREAS**, there exist some real properties in the Village, herein described as “chronic nuisance” properties which require disproportionate Police and Fire/EMS services and cause an unnecessary burden on those public services and therefore on all taxpayers of the Village; and

**WHEREAS**, property owners are ultimately responsible for the conduct and actions that occur on their property; and

**WHEREAS**, properties with disproportionate service calls are an indication that such properties are not being properly managed and/or maintained; and

**WHEREAS**, the Village Council finds that the burden of costs for the provision of such disproportionate and unnecessary services should fall on the property owners who failed to properly manage and/or maintain their properties; and

**WHEREAS**, the Village Council deems it appropriate, necessary and in the best interests of the health, safety and welfare of the citizens and residents of the Village of West Alexandria to adopt regulations to identify and address properties that are not properly managed and/or maintained and which burden adjacent properties and the Village.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WEST ALEXANDRIA, COUNTY OF PREBLE, STATE OF OHIO; A MAJORITY OF THE MEMBERS ELECTED THERETO CONCURRING THAT:**

**Section 1:** Chapter 878 of Part 8 of the Village of West Alexandria Codified Ordinance is hereby created to read as follows:

**Chapter 878 – Regulation of Chronic Nuisances**

- Sec. 878.01**    **Definitions**
- Sec. 878.02**    **Notification that Premises May Be a Chronic Nuisance.**
- Sec. 878.03**    **Determination that Premises is a Chronic Nuisance.**
- Sec. 878.04**    **Citations for Chronic Nuisance Activities; Criminal and Civil Penalties.**
- Sec. 878.05**    **Appeals.**
- Sec. 878.06**    **Liens.**
- Sec. 878.07**    **Rules and Regulations.**

**Sec. 878.01 - Definitions.**

- A) "Chronic nuisance" shall mean a premises or property that is in violation of this chapter.
- B) "Nuisance" or "nuisance activity" shall mean any of the following activities, conduct or behavior whenever engaged in by premises owners, operators, occupants or invitees to the property:
1. Felonious assault, aggravated assault, assault, or negligent assault as defined in Ohio R.C. 2903.11, 2903.12, 2903.13, 2903.14, or any offense of violence as defined in Ohio R.C. 2901.01;
  2. Aggravated menacing, menacing by stalking, or menacing as defined in O.R.C. 2903.21, 2903.211, or 2903.22;
  3. Inducing panic, making false alarms, or unlawful possession or use of a hoax weapon of mass destruction as defined by Ohio R.C. 2917.31, 2917.32, or 2917.33;
  4. Disrupting public services such as, but not limited to, fire and police services as defined in Ohio R.C. 2909.04;
  5. Disorderly conduct as defined in Ohio R.C. 2917.11;
  6. Discharging firearms in violation of Codified Ordinances § 672.09 or § 672.095;
  7. Commission of any drug offense under Ohio R.C. Chapter 2925 or 3719;
  8. Compelling or promoting prostitution, procuring, soliciting or loitering to engage in solicitation, or prostitution as defined in Ohio R.C. 2907.21 through 2907.25;
  9. Gambling as set forth in Ohio R.C. 2915.02 through 2915.04;
  10. Unauthorized possession, sale, or discharge of fireworks as defined in Ohio R.C. 3743.65;
  11. Loud noises or disturbing the peace as set forth in Codified Ordinance § 648.09;
  12. Barking, howling, dangerous, vicious, or unconfined dog as set forth in Codified Ordinances § 618.01 and § 618.07;
  13. Kidnapping, as defined in Ohio R.C. 2905.01;
  14. Offenses against justice including obstructing official business, obstructing justice, assaulting a police dog or horse or service dog, resisting arrest, or failure to comply with order or signal of a police officer as defined in Ohio R.C. 2921.31 through 2921.331;
  15. Allowing an underage person(s) to possess, or consume alcohol, allowing minors to consume alcohol on the premises (hosting), or selling alcohol to a minor as defined in Ohio R.C. 4301.69.
- C) "Occupant" shall mean the person residing in or having use of a premises. The same person or person can be owner and occupant.
- D) "Operator" shall mean any person, firm, company, and corporation, association, including their employees, agents, or contractors that controls, operates, or manages a premise.
- E) "Owner" shall mean any person, partnership, firm, company, corporation, association, who alone or jointly with others, shall be in possession of or have control of any premises, or is listed as the owner of a premises on the records the Preble County Auditor.
- F) "Person associated with" shall mean a person who, whenever engaged in a nuisance or nuisance activity, enters, patronizes, visits; attempts to enter, patronize or visit; or waits to

enter, patronize or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee, or independent contractor of a premises owner.

G) "Property" or "premises" shall mean a platted lot or part thereof, or un-platted lot or parcel of land, or plot of land either occupied or unoccupied by any building or structure, equipment, or property of any kind.

H) "Unit" shall mean an individual residential dwelling in which the occupant(s) have a right to exclusive possession, including but not limited to an individual apartment within an apartment complex or an individual dwelling within a multi-family home.

**Sec. 878.02 - Notification that Premises May Be a Chronic Nuisance by the Police Chief.**

A) A premises owner must be notified in writing that the premises a nuisance activity has occurred at their premises.

B) The premises owner must be notified their premises is in danger of becoming a chronic nuisance when any of the following circumstances have occurred at the premises:

1) Nuisance activities/occurrences in a single family residence or within a multi/apartment residential unit, and activity occurs on a separate day within a day period, or the following occurs:

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a) Premises with 2 (two) to 4 (four) residential units: 6 (six) nuisance activities.

b) Premises with 5 (five) or more residential units: 14 nuisance activities.

C) When a drug offense, firearms offense, or violent crime or felony violation occurs within a one year period at a single premises, either a single family or a multi/apartment residential unit, the premises may be deemed a nuisance.

D) A notice to the premises owner shall be provided in one of the following manner:

1) Certified mail to the address of the owner as listed on record of the Preble County Auditor, which shall be deemed delivered if not returned as undeliverable.

2) Hand-delivered to the premises owner, if possible.

E) If service of notice is not perfected by the methods above, then the notice shall be posted to the front door, or conspicuous location, of the premises.

F) Notice shall include the following information:

1) Street address or legal description that is sufficient for identification.

2) A factual description of the nuisance activities that have occurred at the premises, including the dates of the nuisance activities and any associated police report numbers.

- 3) A statement that the premises owner must respond to the Police Chief within 10 days of the dated notice with a written plan to abate the nuisance activities that is acceptable to the Police Chief.
- 4) A statement that the cost of future enforcement at the premises, resulting of nuisance activities, may be billed to the premises owner and could become a lien against the property if not paid.

**Sec. 878.03 - Determination that a Premises is a Chronic Nuisance.**

- A) When the Police Chief determines that additional nuisance activities have occurred at a premises, where a notice has been issued pursuant to Section 878.02, and the nuisance occur more than 13 days after a notice has been issued, the Police Chief may determine the premises a chronic nuisance. The following must happen:
  - 1) The Police Chief must issue an order that the owner must abate the nuisance within 30 days of the owner's receipt of the notice.
  - 2) The Police Chief must calculate the cost of enforcement for this activity and any subsequent nuisance activities, notify the premises' owner that he/she is being billed for the cost and any subsequent nuisance activities.
- B) A notice to the premises owner must be sent in the following manner:
  - 1) Certified mail to the address of the owner as listed on record of the Preble County Auditor, which shall be deemed delivered if not returned as undeliverable.
  - 2) Hand-delivered to the premises owner, if possible.
  - 3) If service of notice is not perfected by the methods above, then the notice shall be posted to the front door, or conspicuous location, of the premises.
- C) Notice shall include the following information:
  - 1) Street address or legal description that is sufficient for identification.
  - 2) A factual description of the nuisance activities that have occurred at the premises, including the dates of the nuisance activities and any associated police report numbers.
  - 3) An order that the nuisance activity be abated.
  - 4) A statement that the premises owner may appeal the determination of the chronic nuisance or appeal of the amount of the bill as provided in Sec. 878.05
  - 5) The statement that the premises is a chronic nuisance and is subject to bills for the cost of enforcement pursuant this Section and subject to citations or criminal prosecution pursuant to Sec. 878.04.
  - 6) The statement that the chronic nuisance determination shall be in effect for a two (2) year period beginning on the date of the first nuisance activity that is the

subject to the first bill of the cost for enforcement delivered to the premises owner.

**Sec. 878.04 - Citations for Chronic Nuisance Activities – Criminal and Civil Penalties.**

- A) Persons who violate this Chapter by failing to obey any lawful order issued by the Police Chief to abate a chronic nuisance within 30 days, or to provide a written plan to abate the nuisance activities within 10 days, are subject to the following:
  - 1) First offense – guilty of a misdemeanor of the fourth degree
  - 2) Second and subsequent offenses – guilty of a misdemeanor of the third degree.
  - 3) Each day's continuation of a violation or failure to comply is a separate offense.
  
- B) Citations for nuisance activities shall be imposed based on the following:
  - 1) Number of bills for enforcement delivered to a premises owner for a specific premises within a two (2) year period beginning on the date of the nuisance activity that is the subject of the first bill for the cost of enforcement delivered to the premise owner for that specific premises occurred.
  
- C) Whenever a premises owner has been billed on three (3) more separate dates within the two (2) year period beginning with the date of the nuisance activity that is the subject of the first bill for the cost of enforcement sent to the premises owner for that specific premises, the Police Chief must issue a citation to the premises owner as follows:
  - 1) Fourth bill: \$250.00 assessment against the premises.
  - 2) Fifth bill: \$500.00 assessment against the premises.
  - 3) Sixth bill: \$750.00 assessment against the premises.
  - 4) For each bill incurred after the sixth, a \$1,000.00 assessment will be placed against the premises.

**Sec. 878.05 - Appeals.**

- A) A premises owner may appeal the following:
  - 1) Determination of the premises being deemed a chronic nuisance by the Police Chief pursuant to Section 878.03(A).
  - 2) The amount of the bill for the cost of enforcement related to nuisance activities at the premises pursuant to Section 878.03(A)(2).
  
- B) An appeal of the determination that a premises is a chronic nuisance or the amount of the bill for the cost of enforcement related to nuisance activities at the premises must be made in writing and directed to Council and delivered to the Fiscal Officer. A written notification of the Police Chief's determination will be sent within 30 days of receipt of the appeal by the same methods as described in Section 878.03(B).

- C) A premises owner may appeal the Police Chief's determination that a premises is a chronic nuisance, the determination regarding an amount of the bill for enforcement, or a citation within 30 days from the date that the Police Chief's determination letter is post marked by requesting a hearing before Council. The determination letter must state how many days the premises owner has to appeal the assessment.

**Sec. 878.06 - Liens**

Bills for enforcement and assessments that are not paid will become liens on the premises to the extent permitted under applicable law.

**Sec. 878.07 - Rules and Regulations.**

The Village will establish rules and regulations for the maintenance of information, notification of violations, calculation of bills for the cost of enforcement services, imposition of fines, determination of whether calls for service are counted for purposes of this Chapter, appeals of decisions made, and all other relevant issues necessary for implementation of this chapter. The rules and regulations and amendments thereto shall be made available for public viewing 30 days prior to their effective date.

**Section 2:** 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 Council and that all deliberations of the Council and any of the decision making bodies of the Village of West Alexandria which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

**Section 3:** This Ordinance is deemed to be an emergency measure necessary for the preservation of the public peace, health, and safety of the residents of the Village of West Alexandria and further, to immediately address the disproportionate and unnecessary use of Village services by certain property owners. Wherefore, as allowed by law, provided this Ordinance receives the required affirmative votes of Council, this Ordinance shall take effect and be in force immediately upon passage by Council.

Passed in Council on this \_\_\_\_ day of February, 2021.

**SHAYLIE WERNER, FISCAL OFFICER**

**JEFF HICKEY, MAYOR**