

12.372 CHRONIC NUISANCE PREMISES

References:

CMC Chapter 701-4, Dangerous dog to be properly confined or leashed
 CMC Chapter 701-5, Vicious dog to be properly confined or leashed
 CMC Chapter 701-6, Possession of a dangerous or vicious dog prohibited
 CMC Chapter 701-7, Possession of a dangerous or vicious dog limited
 CMC Chapter 701-27, Loud dog
 CMC Chapter 708-27, Discharging firearms
 CMC Chapter 761, Chronic nuisance premises
 CMC Chapter 906-9, Public gaming
 CMC Chapter 908-3, Menacing
 CMC Chapter 908-7, Aggravated menacing
 CMC Chapter 908-9, Menacing by stalking
 CMC Chapter 910-1, Attendance at school
 CMC Chapter 910-7, Loud noises
 CMC Chapter 910-21, Loitering with the intention of committing unlawful drug transaction
 CMC Chapter 910-23, Possession of marijuana
 CMC Chapter 911-27, Curfew for minors
 CMC Chapter 1213-7, Unauthorized possession, sale or discharge of fireworks
 CMC Title XVI, Neighborhood Quality of Life Uniform Code
 ORC 2903.11 – 13, Assault offenses
 ORC 2903.21 – 22, Menacing offenses
 ORC 2905.01, Kidnapping
 ORC 2907.21 – 25, Prostitution and related offenses
 ORC 2909.04, Disrupting public services
 ORC 2915.04, Public gaming
 ORC 2917.11, Disorderly conduct
 ORC 2917.32, Making false alarms
 ORC Chapter 2925, Drug Offenses
 ORC 3743.65, Unauthorized possession, sale or discharge of fireworks
 ORC 5323.02, Property owner registration
 Cincinnati Police Department Training Bulletin on Nuisance Premises

Purpose:

To assist victims of crime and penalize those who commit crimes or those who permit conditions to exist that give rise to crime or excessive calls for service to police. To establish rules, procedures and penalties to address the owners of multi-family premises that have chronic nuisance issues and fail to take corrective measures. These nuisances include activities related to drugs, disorder, and violence.

Policy:

To work in partnership with the owners and operators of multi-family premises to address the negative impacts caused by chronic nuisance activities, and improve the vitality of neighborhoods by addressing excessive calls for service to the police.

For the purpose of this procedure, calls for service made by the owners or operators of multi-family premises demonstrate their commitment to abate nuisance activities on their premises and will **not** be included as nuisance activity runs. In addition, domestic violence calls for service are **not** considered nuisance activities.

If a multi-family premise is deemed to be a chronic nuisance under Cincinnati Municipal Code (CMC) Chapter 761, the premises owner may be billed for the cost of enforcement services and cited civilly or criminally.

Definitions:

Multi-family premises - Any property capable of housing more than a single family by design or as classified by the Hamilton County Auditor.

Chronic nuisance - a premise or property that is in violation of Cincinnati Municipal Code (CMC) 761-5.

Nuisance or nuisance activity - any of the following activities, conduct, or behavior whenever engaged in by owners, operators, occupants, or persons associated with a premise:

- Assault, aggravated assault, or felonious assault as defined in CMC 908-5 or as defined in Ohio Revised Code Sections 2903.11, 2903.12, or 2903.13;
- Menacing, aggravated menacing, or menacing by stalking as defined in CMC 908-3, 908-7, or 908-9 or as defined in Ohio Revised Code Sections 2903.21, 2903.22, or 2903.211;
- Inducing panic, making a false alarm, or perpetrating a hoax weapon of mass destruction as defined in Ohio Revised Code Sections 2917.31, 2917.32, and 2917.33;
- Disrupting public services as defined in Ohio Revised Code Section 2909.04;
- Curfew violation as defined in CMC 911-27;

- Attendance at school violation as defined in CMC 910-1;
- Disorderly conduct as defined in Ohio Revised Code Section 2917.11;
- Discharging firearms in violation of CMC 708-27;
- Drug sale or use as defined in CMC 910-21 and 910-23 and Ohio Revised Code Chapter 2925;
- Compelling or promoting prostitution, procuring, soliciting, or loitering to engage in solicitation, or prostitution as defined Ohio Revised Code Sections 2907.21 through 2907.25, inclusive;
- Public gaming as defined in CMC 906-9 or in Ohio Revised Code Section 2915.04;
- Unauthorized possession, sale, or discharge of fireworks as defined in CMC 1213-7 or in Ohio Revised Code Section 3743.65;
- Loud noises as defined in CMC 910-7;
- Loud, dangerous, or vicious dog as defined in CMC 701-4, 701-5, 701-6, 701-7, or 701-27;
- Kidnapping as defined in Ohio Revised Code Section 2905.01.

Occupant - the person residing in or having use of premises. The same person or persons can be owner and occupant.

Operator - any person, firm, company, corporation or association, including their employees, agents, or contractors, that controls, operates, or manages a premise.

Owner - any person, partnership, firm, or corporation, 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 of the Hamilton County Auditor.

Person associated with - any 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 premises, including any officer, director, customer, agent, employee, or independent contractor of a premises owner.

Property or premises - a platted lot or part thereof, or unplatted lot or parcel of land, or plot of land either occupied or unoccupied by any building or structure, equipment, or property of any kind.

Information:

Calls for service (CFS) for drugs, disorder, and violence will be analyzed monthly to determine if any multi-family residential premises are excessive users of police services on a monthly or annual basis. Domestic violence offenses and CFS made by an owner or operator are not included in this analysis.

Procedure:

- A. Data Integration Section (DIS) will:
1. Run an analysis by the tenth of each month of all CFS within the selected categories (drugs, disorder, and violence) for premises designated as multi-family premises. Multi-family premises designations are established by the Hamilton County Auditor.
 - a. Premises will appear on the **monthly** report when three or more nuisance activities have occurred at the premises on separate dates during a 30-day period.
 - b. Premises will appear on the **annual** report when, within a one-year period, the following number of nuisance activities has occurred at the premises:
 - 1) Premises with 2 or 3 residential units: 6 nuisance activities;
 - 2) Premises with 4 to 19 residential units: 14 nuisance activities;
 - 3) Premises with 20 to 39 residential units: 18 nuisance activities;
 - 4) Premises with 40 or more residential units: 11 nuisance activities.
 - c. The annual average of CFS for each nuisance activity to multi-family premises will be determined through statistical analysis, using one “standard deviation” and the “normal positive range” to establish a threshold of CFS.
 2. Generate a “Chronic Nuisance Premises” report listing all multi-family premises exceeding the **monthly** threshold of CFS.
 3. Generate a “Chronic Nuisance Premises” report listing all multi-family premises exceeding the **annual** threshold of CFS.

4. Forward these reports to the districts for review and appropriate action.
- B. Upon receiving these reports, the investigating officer will:
1. Review these reports. Conduct a thorough investigation of all Computer Aided Dispatch (CAD) incident histories for all CFS listed on these reports within the district boundaries.
 - a. Determine if the owner or operator of the premises initiated the call. Calls to the Police Department made by the owner or operator do not count against the premises.
 - b. The Department does **not** need to make an arrest, issue a citation, or obtain a conviction for a CFS to be counted as a nuisance activity.
 - c. The Department only needs **probable cause** to believe that the nuisance activity occurred at the premises.
 - d. If a premises is listed by the Hamilton County Auditor as Commercial – Office, Apartments Over; Commercial – Other Commercial Housing; Commercial – Retail, Apartments Over; or Publicly Owned - Metropolitan Housing Authority, the investigating officer must determine the total number of residential units within the premises. The threshold of CFS for these premises will be based on the schedule established in Section A.1.b. For example, if the premise being investigated contains eight residential units above a grocery store, compare it to the established threshold of CFS for all 4 - 19 unit dwellings in the City.
 - e. Ensure the CFS are related to the residential portion of the premises.
 2. Determine if the remaining CFS exceeds the threshold for the premises on either a monthly or annual basis.
 3. Recommend to the district commander that the premises be designated a “potential chronic nuisance” if it exceeds the threshold of CFS on either a monthly or annual basis.
 4. Enter the chronic nuisance premise information into the Chronic Nuisance Database. Maintain a district file of all chronic nuisance premises investigated and all-related paperwork.

- C. The Patrol Bureau Commander or designee will:
1. Review the "Chronic Nuisance Premises" reports and the recommendations of the investigating officer.
 2. Notify the premises owner, in writing, that the premises are in danger of being declared a chronic nuisance.
 - a. The Initial Notice letter will contain:
 - 1) The street address or legal description sufficient for identification of the premises;
 - 2) A description of the nuisance activities that have occurred at the premises, including the dates of the nuisance activities;
 - 3) A statement that the premises owner must respond to the Police Chief or his designee within 10 days of the owner's receipt of the notice with a written plan to abate the nuisance activities that is acceptable to the Police Chief or his designee;
 - 4) A statement that the cost of future enforcement at the premises as a result of nuisance activities may be billed to the premises owner and could become a lien against the premises if not paid.
 - b. The Initial Notice letter will be deemed properly delivered if sent by first class mail to the address of the owner listed on the records of the Hamilton County Auditor.
 - 1) If the Initial Notice letter is returned as undeliverable, forward the returned letter to the district of origin. This 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.
 3. Schedule a meeting with the premises owner or operator to discuss the written plan to abate the chronic nuisance using the chronic nuisance abatement worksheet.

- a. If the premises owner or operator presents an acceptable plan and initiates action to abate nuisance activities occurring on the premises, the Department will delay further enforcement of the Chronic Nuisance Premises ordinance at that address.
 - 1) If the premises owner ceases to cooperate with the efforts to abate the nuisance activities, the Department will reinstitute enforcement of the Chronic Nuisance Premises ordinance.
 - a) The premises owner will be sent a Change in Status letter. This letter will document the Department's efforts to contact and/or obtain the cooperation of the owner.
- b. If the premises owner or operator presents a plan that is deemed unacceptable by the district commander or his designee, the district commander will send the premises owner a Revised Plan letter within 3 days of the determination that the plan is unacceptable.
 - 1) If the premises owner or operator meets with the district commander or his designee and presents an acceptable revised plan and initiates action to abate the nuisance activities occurring on the premises, the Department will delay further enforcement of the Chronic Nuisance Premises ordinance.
 - a) If the premises owner ceases to cooperate with the efforts to abate the nuisance activities, the Department will reinstitute enforcement of the Chronic Nuisance Premises ordinance.
 - 1) The premises owner will be sent a Change in Status letter. This letter will document the Department's efforts to contact and/or obtain the cooperation of the owner.
4. If the premises owner does not respond to the Initial Notice letter, and three additional nuisance activities have occurred at the premises for which an Initial Notice letter has been issued, and this nuisance activity occurred more than 13 days after the notice has been issued, the district commander may determine that the premises is a chronic nuisance and order that the owner abate the nuisance within 30 days of the owner's receipt of the Billing Notice letter.

5. The cost of enforcement for this and any subsequent nuisance activities will be calculated and the owner will be notified that he is being billed for the cost of enforcement services for the nuisance activity.
 - a. The Billing Notice letter will contain:
 - 1) The street address or legal description sufficient for identification of the premises;
 - 2) A description of the nuisance activity or activities for which the premises owner is being billed, including the dates of the nuisance activity or activities;
 - 3) An order that the nuisance activity be abated; and
 - 4) A statement that the premises owner may appeal the amount of the bill or the determination that the owner's premises are a chronic nuisance.
 - b. The Billing Notice letter will be deemed properly delivered if sent by first class mail to the address of the owner listed on the records of the Hamilton County Auditor.
 - 1) If the Billing Notice letter is returned as undeliverable, Personnel/Finance Management Section (PFMS) will forward the returned letter to the district of origin. This 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.
 - c. If after the receipt of the Billing Notice letter(s), the premises owner develops an acceptable plan and initiates action to abate nuisance activities occurring on the premises, the Department will delay further enforcement of the Chronic Nuisance Premises ordinance.
 - 1) The premises owner is still responsible for any enforcement costs incurred prior to the owner's submitting an abatement plan and must either pay or appeal the bill(s).
 - 2) If the premises owner ceases to cooperate with the efforts to abate the nuisance activities, the Department will reinstitute enforcement of the Chronic Nuisance Premises ordinance.

- a) The premises owner will be sent a Change in Status letter. This letter will document the Department's efforts to contact and/or obtain the cooperation of the owner.
- D. When requesting the billing of a premises owner for nuisance activities, the investigating officer will forward to PFMS:
1. A **copy** of the Initial Notice letter.
 2. The **original** Billing Notice letter signed by the district commander. Do not date this letter, Personnel/Finance Management Section will insert a date that corresponds with the date of the invoice/bill being sent.
 - a. Include **copies** of all previous Billing Notice letters.
 3. CAD printouts for all incidents for which the premises owner will be billed.
 4. When issuing a civil citation to a premises owner, include the Respondent copy of the Notice of Civil Offense citation.
- E. Upon receipt of the Billing Notice letter, PFMS will:
1. Calculate the cost for enforcement services.
 - a. The invoice for enforcement services is entered into the Cincinnati Financial System for tracking and collection purposes.
 - 1) Bills for the cost of enforcement services and civil citations that are not paid will become liens on the premises to the extent permitted under applicable law.
 2. Mail the **original** Billing Notice letter, a **copy** of the Initial Notice letter, **copies** of any previous Billing Notice letters, and the invoice for enforcement services to the address of the premises owner listed on the records of the Hamilton County Auditor.
 - a. If a civil citation is issued, include the Respondent copy of the Notice of Civil Offense citation with the letter(s) sent to the premises owner.
 3. Send a **copy** of the invoice for enforcement services to the district of origin for their records.

4. Maintain a database of premises owners billed for enforcement services.
- F. Civil and Criminal Citations
1. As an alternative to criminal prosecution, an officer may cite civilly a person who violates any provision of CMC Chapter 761 or fails to obey any order to abate a chronic nuisance.
 - a. Citations for nuisance activities will be imposed based on the number of bills for enforcement sent to a premises owner for a specific premise within a two-year period. This period will begin with the date of the nuisance activity that is the subject of the first bill for enforcement.
 - b. After a premises owner has been billed on three or more separate dates within a two-year period for a specific premise, an officer will issue a civil citation to the premises owner as follows:
 - 1) For the fourth bill within a two-year period, a civil citation of \$250 shall be imposed;
 - 2) For the fifth bill within a two-year period, a civil citation of \$500 shall be imposed;
 - 3) For the sixth bill within a two-year period, a civil citation of \$750 shall be imposed;
 - 4) For each bill after the sixth bill within a two-year period, a civil citation of \$1000 shall be imposed.
 2. Premises owners who are cited civilly for violations of CMC Chapter 761 must be given a written "Notice of Civil Offense".
 - a. The Respondent copy will be deemed properly delivered if sent by first class mail to the address of the owner listed on the records of the Hamilton County Auditor.
 - 1) If the Notice of Civil Offense is returned as undeliverable, PFMS will forward the returned civil citation to the district of origin. This Notice of Civil Offense 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.

- b. The pink copy goes to the Office of Administrative Hearings (OAH), via interdepartmental mail.
 - c. The yellow copy goes to the Treasurer's Office at City Hall, via interdepartmental mail.
 - d. The remaining white copy (Mail copy) will be forwarded to the district/section/unit designee responsible for entering civil citations into the Civil Citation Tracking System for entry.
3. Prior to charging a premises owner criminally, contact the Prosecutor's Office for review.
 - a. Criminal charges will only be filed after review and approval by the Prosecutor's Office.

G. Appeal Process

1. A premises owner may appeal to the Patrol Bureau Commander the determination that the premises are a chronic nuisance or the amount of the bill for enforcement related to nuisance activities at the premises.
2. The appeal must be made in writing within 30 days of the date of the notification that the premises is a chronic nuisance or within 30 days from the date the bill is issued.
3. The Patrol Bureau Commander must respond in writing to the appellant within 30 days of receipt of the appeal.
 - a. No change in the chronic nuisance status of the premises may be made without going through the written appeal process.
 - b. A premises owner may appeal the Patrol Bureau Commander's determination that the premises are a chronic nuisance or the determination regarding the amount of the bill for enforcement. The appeal must be made in writing within 30 days from the date of the Patrol Bureau Commander's decision by requesting an administrative hearing be conducted by a Hearing Examiner with the Office of Administrative Hearings (OAH).
 - 1) The Hearing Examiner will issue a written response to any appeal that is presented in a timely manner.

- c. A premises owner may appeal the issuance of a civil citation within 30 days from the date the citation is issued by requesting an administrative hearing be conducted by a Hearing Examiner with the OAH. The OAH Hearing Examiner will issue a written determination on any appeal.
 - 1) The Hearing Examiner will issue a written response to any appeal that is presented in a timely manner.

