

ORDINANCE NO. 2022-74

**AN ORDINANCE ESTABLISHING CHAPTER 535 OF THE
CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY,
OHIO, TITLED, "CRIMINAL ACTIVITY NUISANCES".**

WHEREAS, the City believes that it will promote the health, safety and welfare of the City and its residents to enact a new ordinance to address criminal nuisances that arise within specific use areas of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY, THE COUNTY OF LAKE, AND THE STATE OF OHIO:

SECTION 1. Chapter 535 of the Codified Ordinances of the City titled, "Criminal Activity Nuisances" is hereby established to provide as follows:

**CHAPTER 535
CRIMINAL ACTIVITY NUISANCES**

535.01 PURPOSE.

These regulations are herein established to regulate the abatement of criminal nuisances occurring in hotels and motels located in the City's General Business (G-B) District under its Planning and Zoning Code and in violation of certain Municipal Code provisions which substantially interfere with the interests of the public. The City has determined that the continued occurrence of such activities and violations is detrimental to the health, safety and welfare of the people of the City of Willoughby and to the hotel and motel businesses and visitors thereof. It is the purpose of this Chapter to authorize abatement relief and other remedies to abate any public nuisance as defined herein.

535.02 DECLARATION OF NUISANCES.

The following activities occurring on hotel and motel properties classified and included within the General Business (G-B) District of the City, and engaged in by an owner, occupant or invitee of the owner, occupant or person in charge of such hotel or motel and the premises related thereto are hereby declared to be nuisances.

(a) Any drug abuse violation under Chapter 513 of the Codified Ordinances or the related provisions of Chapter 2925 of the Ohio Revised Code;

(b) Any sex offenses under the following Sections in Chapter 533 of the Codified Ordinances or the related provisions of Chapter 2907 of the Ohio Revised Code:

- (1)** 533.07 (public indecency),
- (2)** 533.08 (procuring),
- (3)** 533.09 (soliciting),
- (4)** 533.091 (loitering to engage in solicitation), or
- (5)** 533.10 (prostitution).

535.03 FINDING AND NOTICE OF PUBLIC NUISANCE.

- (a) The Chief of Police, or his designee, upon finding that three or more nuisance activities declared in this Chapter have occurred within any twelve-month period, may cause a written notice and order to be served on the owner of the hotel or motel property declaring that such property is a public nuisance property.
- (b) The notice and order shall set forth the name of the nuisances, the estimated costs to abate any future nuisance, and state that the hotel or motel property 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 fourth or subsequent nuisance activity as declared in this Chapter occurs within twelve (12) months of the dates of the first three activities, the City may abate the nuisances by responding to the activities using administrative and law enforcement actions and the costs of such abatement shall be assessed on the public nuisance property.
- (c) Notice shall be served on the owner(s) that are listed on the records of the Lake County Auditor by delivering it personally to the owner or leaving it at the owner's usual place of hotel or motel business, or by posting it in a conspicuous place on the hotel or motel real estate involved, or by mailing it to the owner by regular and certified mail, or by publishing it once in a newspaper of general circulation within the City if it cannot be served in any of the other ways above mentioned.

535.04 ABATEMENT OF NUISANCE AND COLLECTION OF COSTS.

- (a) If, within twelve months after the first of the three nuisances referred to in Section 534.02 has occurred, a fourth nuisance activity as declared in this Chapter 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 public nuisance property in the same manner as in Ohio R.C. 715.261, and the costs shall be calculated as set forth in subsection (d) of this section.
- (b) The City shall provide notice to the owner of the public nuisance hotel or motel 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.
- (c) Notice shall be served as set forth in the above Section.
- (d) Costs of abatement shall be assessed based upon the hourly wage of the police officer or officers involved in the abatement of the nuisance activity, plus 75%, multiplied by the number of hours required to abate the nuisance.
- (e) Nuisance Abatement Plan. The owner of a public nuisance hotel or motel property may avoid being charged the cost of abating future nuisances if the owner meets with the Chief of Police; presents a plan to prevent further nuisance activity and that plan is approved by the Chief of Police; and the owner implements the plan.

535.05 RIGHT OF APPEAL.

- (a) The owner of a public nuisance hotel or motel property who receives a notice from the Chief of Police or his designee pursuant to this Chapter may appeal such notice by submitting a written request for reconsideration to the Chief of Police within thirty (30) days of the date of notice.
- (b) If the Chief of Police finds that the facts presented do not support the declaration of a criminal activity nuisance, the Chief shall rescind the notice. Otherwise, the Chief shall deny the request and advise the appellant in writing of the denial and of the appellant's right to file an appeal to the Zoning Board of Appeals.
- (c) The hotel or motel owner may appeal the denial of the request for reconsideration by submitting a written appeal letter to the Zoning Board of Appeals within thirty (30) days of the date of the Chief's denial.
- (d) 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 hotel or motel property as a public nuisance property or of the intent of the City to assess the hotel or motel property for abatement costs, whichever is applicable, is justified. The City shall be deemed to have failed to meet 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 the Ohio R.C. 5321.17(C) and 5321.04(A)(9), if relevant; or
 - (3) He or she had no 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 public 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), if relevant.

535.06 EFFECT ON CITY AUTHORITY.

The declaration of a public nuisance property, an order to abate a nuisance, or the assessment of costs by the City on a property, does 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.

Passed:

June 14, 2022


President of Council

Attest:

Alisa Nash
Clerk of Council

Date:

06 16 22

Approved:


Mayor

Submitted to the Mayor for his approval on this

15th

day of

June

, 2022.


Clerk of Council