RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. _____ *Passed* _____, *20* _____

ORDINANCE F-24

An Ordinance amending City of Orrville, Ohio Codified Ordinance §521.13 Criminal Activity Nuisance and repealing any legislation inconsistent herewith.

WHEREAS, the current City of Orrville, Ohio Codified Ordinance §521.13 Criminal Activity Nuisance contains certain definitions which are no longer applicable due to the update of the Orrville Zoning Code, referenced in certain portions of Ordinance §521.13; and

WHEREAS, the effective enforcement of Criminal Activity Nuisance Ordinances require certain considerations and clearly defined residence space.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Orrville, State of Ohio:

Section 1. §521.13 Criminal Activity Nuisance of the Codified Ordinances of the City of Orrville, Ohio shall be amended as set forth in attached Exhibit A.

Section 2: That this Ordinance shall be in full force and effect at the earliest period provided by law and after its passage by Council of the City of Orrville, Ohio, and approval by the Mayor.

Passed this 4th day of November, 2024.

Paul Yauch
President of Council

Attest:

Jeanne Gault
Clerk of Council

Approved:

Matthew R. Bash
Mayor, City of Orrville

11-04-2024
Date

I, Jeanne Gault, Clerk of Council of the City of Orrville do hereby certify this legislation _____ adopted on _____ was duly posted on _____ within 10 days as required by the Charter of said City.

CRIMINAL ACTIVITY NUISANCES.

(a) The following activities occurring at a residential property, and engaged in by an owner, occupant or invitee of the owner or occupant of the residential property are hereby declared to be public nuisances:

(1) Any animal violations under Sections 505.05 (running at large), 505.21 (barking or howling dogs), 505.16 (killing or injuring animals), and 505.18 (cruelty to animals) of the Codified Ordinances and similar statutes of the State of Ohio;

(2) Any disorderly conduct, disturbance of the peace, noise or other violation of Chapter 509 of the Codified Ordinances and similar statutes of the State of Ohio;

(3) Any drug abuse violation under Chapter 513 of the Codified Ordinances and similar statutes of the State of Ohio and any felony violation under R.C. Chapter 2925;

(4) Any gambling violation under Chapter 517 of the Codified Ordinances and similar statutes of the State of Ohio;

(5) Any health, safety, or sanitation violation under Chapter 521 of the Codified Ordinances, or Property Maintenance Code violations under Chapter 1327 and similar statutes of the State of Ohio;

(6) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances and similar statutes of the State of Ohio;

(7) Any alcohol violation under Chapter 529 of the Codified Ordinances and similar statutes of the State of Ohio;

(8) Any obscenity or sex offense under Chapter 533 of the Codified Ordinances and similar statutes of the State of Ohio;

(9) Any offense against another person under Chapter 537 of the Codified Ordinances and similar statutes of the State of Ohio, excluding domestic violence.

(10) Any offense against property under Chapter 541 of the Codified Ordinances and similar statutes of the State of Ohio;

(11) Any theft violation under Chapter 545 of the Codified Ordinances and similar statutes of the State of Ohio;

(12) Any weapons, explosives, firearm or handgun violation under Chapter 549 of the Codified Ordinances and similar statutes of the State of Ohio;

(13) Any fireworks violation under Chapter 565 of the Codified Ordinances and similar statutes of the State of Ohio;

(14) Any open burning or recreational fires in violation of Chapter 511 of the Codified Ordinances and similar statutes of the State of Ohio;

(15) Any curfew violation under Section 509.12 of the Codified Ordinances and similar statutes of the State of Ohio;

(16) Any activity engaged in by a person less than eighteen years of age which would constitute a violation of an offense listed in this section if committed by an adult.

(b) The Chief of Police or his designee, upon finding that two nuisance activities declared in subsection (a) of this section have occurred within any six-month period at a residential property shall, as a courtesy to the owner of such property, attempt to cause a written notice of said nuisance activities to be sent to the owner. However, failure to prove delivery of such notice shall in no way prevent enforcement of any provision under this Chapter. The Chief of Police or his designee, upon finding that three or more nuisance activities declared in subsection (a) of this section have occurred within any six-month period at a residential property~~,~~ shall cause a written notice to be served on the owner of the property declaring that such property is a nuisance property. The notice shall set forth the nature of the nuisances, the estimated costs to respond to and abate a similar future nuisance, and state that the owner may avoid being charged the costs of response and abatement by taking steps to prevent any further nuisance activities as set forth in this section. The notice shall further state that if a fourth or subsequent nuisance activity as declared in subsection (a) of this section occurs within six months of the date of the 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 on the owner personally or by certified mail and regular mail to the person's residence, regular place of business or last known address. If the certified or regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address, or the property affected.

(c) If within six months of the date of the notice referred to in subsection (b) of this section, a fourth or subsequent nuisance activity as declared in subsection (a) of this section occurs, the City may abate the nuisance by responding to the activities using administrative and law enforcement action, and the costs of such abatement shall be assessed on the nuisance property. The costs of such response and abatement shall be calculated as set forth in subsection (d) of this section. Any further nuisance activity that occurs within six months of a nuisance activity for which the owner has been given notice of assessment may be charged to the owner.

(d) Costs of abatement shall be calculated by multiplying the highest hourly wage of a patrol officer by the number of police officers involved in the response to abate the nuisance activity times the number of hours required by the police officers to abate the

nuisance in hourly increments, with a minimum of one hour and include an administrative charge of two hundred dollars or ten percent of the costs of abatement, whichever is greater.

(e) The Chief of Police shall provide notice to the owner of the nuisance property of the City's intent to assess the costs of responses and abatement against the owner's property. Such notice shall contain a description of the nuisance activity/activities 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 subsection (b) of this section.

(f) The owner of a nuisance property who receives a notice from the Chief of Police or his designee pursuant to subsection (e) of this section may request reconsideration of such notice by submitting a written request to the Chief of Police within thirty days of the date of the notice.

(1) If, after a timely request for reconsideration is submitted, the Chief of Police finds that the facts presented do not support the assessment of costs, the Chief shall grant the request and rescind the notice. Otherwise, the Chief shall deny the request.

(2) The property owner may appeal denial of the request by submitting a written request within thirty days to the Chief of Police for a hearing before the Board of Nuisance Abatement.

(3) A request for reconsideration or appeal shall not stay any actions by the City to abate any nuisance activity.

(g) Board of Nuisance Abatement.

(1) There is hereby created a Board of Nuisance Abatement which shall consist of the Director of Public Safety and Service or their designee, the Chairperson of the Public Safety Committee of City Council or their designee, and three members of the community at large, appointed by the Mayor and subject to approval of the Council. The members of the community at large shall serve for three years and until a successor is appointed and qualified. Members shall serve without compensation.

(2) The Board of Nuisance Abatement shall hear any appeals made in accordance with subsection (f) of this section.

(3) Hearing of appeal. 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 intent of the City to assess the property for abatement costs is justified. The City shall not have to show that there has been a conviction for a criminal offense to show the

existence of a nuisance. The City shall be deemed to have failed to have met this standard if the owner demonstrates by a preponderance of evidence that:

A. He/she was not the owner at the time of any of the nuisance activity that is the basis of the notice; or

B. He/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

C. He/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 nuisance property, he/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).

(4) Any appeal from a decision of the Board of Nuisance Abatement shall be made pursuant to Ohio R.C. Chapter 2506.

(h) After final decisions on any requests for reconsideration or further appeals have been issued and the costs to abate have not been paid within thirty days of the notice of such decision, the costs of abatement shall be reported to the Director of Finance, who shall mail a statement of the amount thereof to the owner of the property.

(1) If after thirty days such amount remains unpaid, the Director of Finance shall certify the total amount of the expenses, the name of the owner of the land and a sufficient description of the premises to the County Auditor, to be entered on the tax duplicate, to be a lien on the land from the date of entry and to be collected as other taxes and assessments and returned to the City pursuant to Ohio R.C. 731.54.

(i) 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, including nuisance abatement and assessment as provided by law.

(j) Any person knowingly providing false information would be in violation of Ohio R.C. 2921.13 and/or Orrville Codified Ordinance 525.02.