



NORTH AVONDALE NEIGHBORHOOD ASSOCIATION

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January 20, 2009

Dear Councilmember,

At the City Council Meeting on **Thursday, January 22, 2009 at 6:00pm**, NANA will make a final stand in defending our neighborhood by opposing the proposed changes to the Chronic Nuisance Ordinance known as Chapter 761.

Over the past 2 and half years, NANA has been working diligently with the Cincinnati Police Department and City Law Department to address fundamental problem properties within our community. There have been 11 properties that have received notification letters under the guidelines of Chapter 761. However, there have been 351+ additional calls to service to those addresses, since notification letters have been sent by the Cincinnati Police Department. The bottom line is that crime and disorder has NOT changed at these particular buildings. North Avondale has had a 95% increase in violent crime in 2008 compared to 2007.

In order to clean up problem properties, negligent property owners must be held accountable under the written letter of the law to eliminate problem buildings.

The purpose of this city ordinance was to coerce landlords to eliminate crime and disorder from their properties. Why hasn't CPD escalated measures against property owners who have already received notification letters in over two years when this law went into effect? Why have there not been fines sent out to these property owners?

NANA is fed up with private interests being put above public interests. The law suit brought against the City by GCNKAA is not a good enough reason to revise the whole law to fit the interest of one party unless those changes are good for the entire community.

One of the tools to help us challenge crime in our neighborhood but also throughout the city is this ordinance. Please read the following Information Sheet and vote against the Modifying Provisions of Chapter 761, Chronic Nuisance Premises.

Sincerely,

Michelle Baxter
3rd Vice President and Landlord Accountability Chair

Charlene Morse
North Avondale Neighborhood Association Administrator.

CHRONIC NUISANCE INFORMATION SHEET

PURPOSE:

The four statements of purpose from the *Cincinnati Police Department Training Bulletin on Nuisance Premises* are:

- (1) To reduce excessive numbers of service calls to address criminal or other nuisance activity in and around a number of rental properties;
- (2) To protect residents and residential property owners within the city of Cincinnati by requiring owners of residential rental property to assist the police in resolving the conditions to abate the nuisance situation;
- (3) The need to reduce excessive number of calls for service to nuisance to nuisance properties by law enforcement personnel to increase availability of these resources to other residents;
- (4) Assist victims (inclusive of the community as a whole) of crime and penalize those who commit crimes and those who permit conditions to exist that give rise to crime or excessive service calls to police.

HISTORY:

City Municipal Code (CMC) Chapter 761 - also known as Chronic Nuisance Premises ordinance - went into effect on January 2007. Shortly thereafter, the Greater Cincinnati & Northern Kentucky Apartment Association (GCNKAA) filed a lawsuit against the city of Cincinnati asserting that this ordinance was unconstitutional to landlords. The rationale was that landlords should not be held liable or responsible for the behavior of their tenants or guests of tenants. In December of 2007, the GCNKAA and the city of Cincinnati opted to pursue mediation rather than go to trial. From January 2008 to present the two parties negotiated revisions to the Chronic Nuisance Premises Ordinance that the City Manager, Milton Dohoney, signed off on and is seeking City Council approval.

WHY NANA OPPOSES THE SUGGESTED MODIFICATIONS TO CMC 761

The teeth of this ordinance have been removed because of four main reasons:

1. The criminal penalties have been eliminated. *The following has been removed*
Sec. **761-7**. Citations For Multiple Nuisance Activities; Criminal And Civil Penalties.
(a) Whoever violates this chapter or fails to obey any lawful order issued by the police chief or his or her designee to abate a chronic nuisance is guilty of a misdemeanor of the fourth degree on the first offense and guilty of a misdemeanor of the third degree on the second and subsequent offense. Each day's continuation of a violation or failure to comply is a separate offense.
(b) As an alternative to criminal prosecution, the police chief or his or her designee may cite a person who violates any provision of this chapter or fails to obey any order to abate a chronic nuisance.
2. Removes the authority of the Police chief to issue a nuisance abatement order within 30 days of receipt of notice.

Modified:

Sec. 761-5. Determination That Premises is a Chronic Nuisance.

(a) ~~**21** If the police chief or his or her designee determines that~~
~~**22** an owner has failed to timely submit an acceptable plan and/or to~~
~~use reasonable efforts to implement an acceptable plan, then the police~~
~~chief or his or her designee may declare the building a chronic nuisance.~~

Current:

(a) Whenever the police chief or his or her designee determines that an **additional nuisance activity** has occurred at a premises for which a notice has been issued pursuant to Section 761-3, and this **nuisance activity** occurs more than 13 days after the notice has been issued, the police chief or his or her designee 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 notice.

3. Unlike the current ordinance, the changes give a *free pass* to negligent landlords for an additional two years for any subsequent nuisance activities. Instead there need to be provisions to require changes in the plan if it is not effective.

Modified:

(c) If after submitting an acceptable plan, an owner uses reasonable effort to implement the plan and continues to implement the plan, then the owner shall not be subject to fines for the same nuisance activities at the same street address that occur within two years after the date of the notice to the owner required by Section 761-3.

4. It does not define an acceptable nuisance abatement plan and limits the types of steps that can be included in a plan. The changes provide no method for measuring the effectiveness of the plan in abating the nuisances that were the subject of the complaint, nor provide a means for requiring changes to an existing plan so it can become effective where it has otherwise failed.

The goal should be to eliminate the nuisance activity with measurable results, yet in the modified plan it states:

(b) The plan shall be limited to remedying building code violations, fire code violations, evicting problem tenants identified as responsible for the nuisance activities, and implementing CPTED (Crime Prevention Through Environmental Design) principles as set forth in the Cincinnati Police Department's informational brochure entitled "Tactics to Reduce Crime through CPTED."

The plan may include reasonable measures to abate nuisance activities that occur on streets, alleys and/or sidewalks that are contiguous to or abut the owner's premises.

(c)... An owner's efforts are "reasonable" for purposes of this Chapter when an acceptable plan is completely and timely implemented and when the owner makes repairs or performs the maintenance necessary to continue to comply with the plan within 10 business days after the owner or the operator of the premises becomes aware or should have become aware of the need for repair or maintenance.

Sec. 761-4. Owner's Proposal and Implementation of Acceptable Plan.

(a) If within 10 business days after an owner receives a notice under Section 761-3 the owner submits in good faith a proposed plan, or, in the event of ambiguity as to what the plan should include, the owner attempts to arrange a meeting with the Police Department for more information regarding the nuisance activities at the owner's property to enable the owner to develop an acceptable plan, then the owner shall not be subject to fines for the same nuisance activities at the same street address that occur prior to the owner's timely implementation of an acceptable plan.

In conclusion, the focus of the modified ordinance is on developing a plan without regard to its effectiveness, rather than abating the nuisance.

Modified:

Sec. 761-3. Notification That Premises May Be a Chronic Nuisance.

(4) A statement that ****20**** fines as a result of additional police runs to the premises may be imposed on the premises owner for failure to present a plan and/or use reasonable efforts to implement a plan and could become a lien against the property if not paid.

Current:

(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 property if not paid.

HAS THE ORDINANCE BEEN USED THROUGHOUT THE CITY DURING 2008?

A property with too many (as defined in the ordinance) arrests and calls for service is considered a public nuisance and receives a letter from the Police. Within 30 days the landlord is required to present a written plan

- **0 nuisance letters** went out from **District 2 & District 3**
- **1 letter** went out from **District 1**
- **6 letters** went out from **District 5**
- **Letters** went out to **30 properties in District 4** with North Avondale receiving the most letters involving 12 properties. The balance of the letters went to *Avondale, Mt. Auburn and Walnut Hills*.
 - Of the 12 properties receiving letters in North Avondale, 7 have responded with nuisance abatement plans
 - 3 of those plans are from one landlord with 3 different nuisance properties. Those 3 plans are almost identical with even the same typos.
 - These twelve properties have proceeded to accumulate 351+ additional nuisance calls after receiving their nuisance notification letters. **Therefore, it is very important that these abatement plans be periodically reviewed for effectiveness and progress.**

***District 1** (*Downtown, Over-the-Rhine, Mount Adams, Pendleton Queensgate, West End*) **District 2** (*California, Columbia Tusculum, Evanston, East End, East Walnut Hills, Hyde Park, Linwood, O'bryonville, Oakley, Pleasant Ridge, Madisonville, Mount Lookout, Mount Washington, Kennedy Heights*) **District 3** (*East Westwood, Westwood, Price Hill, English Woods, Fay Apartments, North & South Fairmount, Millvale, Riverside, Saylor Park, Sedamsville and South Cumminsville*) **District 5** (*Camp Washington, Clifton, College Hill, Fairview, Findlater Gardens, Mount Airy, Northside, Silver Oak Estates, Spring Grove Village, University Heights, Winton Terrace*)

IS CINCINNATI THE ONLY CITY WHO USES THIS TYPE OF ORDINANCE?

This Ordinance is used in other cities in the United States and has not yet been successfully challenged in court. The City of Milwaukee's use of the ordinance has been very successful. The fines are collected through the taxes. To learn more: [Milwaukee's Chronic Nuisance](#)

FOR MORE INFORMATION:

- For more information reread the December January NANA NEWS <http://www.northavondalecincinnati.com/newsletter.htm>
- To view the ordinance go to <http://www.municode.com/resources/gateway.asp?pid=19996&sid=35>
- To view the proposed changes go to http://city-egov.cincinnati-oh.gov/Webtop/ws/council/public/child/ResultSet?w=doc_no%3D%27200900032%27&rpp=-10 (underline text represents changes to the ordinance)