

ORDINANCE NO. O2018-33

AN EMERGENCY ORDINANCE ESTABLISHING SECTION 1343.08 “RESIDENTIAL STRUCTURES EXHIBITING PERSISTENT CRIMINAL ACTIVITY” OF THE CODIFIED ORDINANCES OF THE CITY OF GALLIPOLIS

WHEREAS, the City of Gallipolis is desirous of promoting the health and welfare of the Citizenry by enforcement of the provisions adopted by these Codified Ordinances (as amended from time to time); and,

WHEREAS, an integral part of the enforcement of said code provisions is the safety and security of the Citizenry,

WHEREAS, the City of Gallipolis is desirous of instituting additional incentives and safeguards for the prohibition of residential structures exhibiting persistent criminal activity; and

WHEREAS, the City Manager has recommended in writing the passage of this Ordinance as an emergency measure as it is necessary for the immediate preservation of the public peace, health, safety and property and in order to provide for the usual operations of the municipal departments.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Gallipolis, Ohio:

SECTION 1: That Section 1343.08 is hereby established and shall read as follows:

“1343.08 Residential Structures Exhibiting Persistent Criminal Activity.

(A) Any premises used for prostitution, illegal gambling, illegal possession of, storage of, or delivery of or trafficking in controlled substances, or other illegal drug activity, or any offense of violence as that term is defined in the Ohio State Code is hereby declared to be a public nuisance; provided that no public nuisance or violation of this section shall be deemed to exist

unless:

- (1) Three or more such offenses or incidents occur on the nuisance property within any twelve month period; and
- (2) The offenses or incidents for which the nuisance property is used are punishable by imprisonment for six months or more per offense, and
- (3) The offenses described herein occur either on the nuisance property or by any person or combination of persons who reside at the nuisance property or any combination thereof.
- (4) For purposes of this section, nuisance property means any dwelling, house, apartment, or any subpart or section thereof if owned or rented in part or section, regardless of the number of parcel numbers assigned by the County Auditor.

(B) Any person who owns, manages or controls any such nuisance property and who:

- (1) Encourages or permits an illegal activity described in subsection (A) to occur or continue on such premises; or
- (2) Fails to implement reasonable and warranted abatement measures identified in the notice of abatement issued pursuant to section 1343.08(D), or subsequently agreed to, or other abatement measures which successfully abate the nuisance within the 30-day period following the notice, or within any other agreed upon period, shall be subject to a fine according to the schedule set forth in Section 1343.08(E).

(C) Notice of the first and second violations set forth in Sec. 1343.08(A) shall be provided by the Police Department, City Manager, or other authorized representative of the City, to the property owner by service of a written notice personally, or affixed to the front door of the nuisance property, or by service by certified mail at the address listed on tax records for the owner. The mailing of the certified letter shall be sufficient evidence of service on an owner located inside or outside of the City.

(D) Upon the third and every subsequent violation set forth in Sec. 1343.08(A) the City Manager, or other authorized representative of the City shall issue an order of abatement under this section.

- (1) The order of abatement shall require the property owner to take measures reasonably calculated to prevent the recurrence of the illegal activity.
- (2) The order of abatement may also authorize the issuance of search warrants reasonably calculated to determine whether the nuisance has been abated or whether the order has been obeyed.

(E) The Chief of Police, City Manager or his agent, or other authorized representative of the City shall bring an action to abate a public nuisance described by this section in the Gallipolis Municipal Court against any property owner described in either subsection (B)(1) or (B)(2), above.

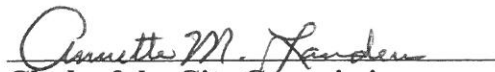
(F) Penalty.

- (1) Each day that a violation of this article continues shall be considered a separate and distinct offense.
- (2) No person shall be found in violation of Section 1343.08(B)(1) or (2) unless the city proves by a preponderance of the evidence that the property owner encouraged or permitted an illegal activity described in subsection (A) to occur or continue on such premises, or abatement measures were reasonable and warranted, and the property owner knowingly failed to implement them.
- (3) A person may be found in violation of subsection (B)(1) regardless of whether an order of abatement is issued under subsection (D).
- (4) Upon a finding of liability under this article, the defendant shall be fined not less than \$1000.00."

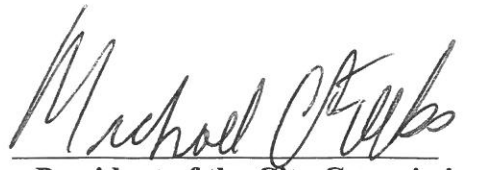
BE AND HEREBY IS ESTABLISHED, AND;

SECTION 2: This Ordinance shall be in full force and effect upon passage as an emergency measure.

PASSED: September 18, 2018
ATTEST:

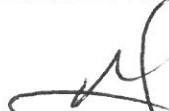


Clerk of the City Commission
Annette M. Landers



President of the City Commission
Michael C. Fulks

The foregoing Ordinance is hereby approved as to form.



Gallipolis City Solicitor
Adam R. Salisbury