

EMERGENCY

City of Cincinnati

MRM

An Ordinance No. 142

- 2020

MODIFYING Cincinnati Municipal Code Chapter 1601, "Neighborhood Quality of Life Uniform Code," by **ORDAINING** new Sections 1601-57, "Enforcement of Emergency Orders," and 1601-59, "Enforcement of Health Orders"; **AMENDING** Section 1501-8, "Class C1 Civil Offenses,"; and **AMENDING** Section 1501-9, "Class D Civil Offenses," for the purpose of expanding the enforcement options and penalties for failing to comply with orders related to public health and safety.

WHEREAS, on March 9, 2020, the Ohio Department of Health confirmed that three patients in the State of Ohio were positive for COVID-19, confirming the presence of a potentially dangerous condition which may affect the health, safety, and welfare of the residents of Cincinnati; and

WHEREAS, on March 9, 2020, the Governor of the State of Ohio declared a State of Emergency in Executive Order 2020-01D; and

WHEREAS, on March 11, 2020, the head of the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, on March 11, 2020, Mayor of the City of Cincinnati, John Cranley, declared a state of emergency in response to the spread of COVID-19; and

WHEREAS, on March 15, 2020, the Ohio Department of Health issued a Director's Order to limit the sale of food and beverages, liquor, beer, and wine to carry-out and delivery only; and

WHEREAS, on March 17, 2020, the Ohio Department of Health issued an Amended Director's Order to limit and/or prohibit mass gatherings and the closure of venues in the State of Ohio; and

WHEREAS, on March 22, 2020, the Ohio Department of Health issued a Director's Order prohibiting gatherings of more than 10 individuals, closing non-essential businesses and ordering all persons to stay in their residences unless on essential business after multiple instances of community spread of the virus that causes COVID-19; and

WHEREAS, on April 2, 2020, the Ohio Department of Health issued a Director's Order to extend the March 22, 2020 order due to the rapid spread of COVID-19; and

WHEREAS, on April 30, 2020, the Ohio Department of Health issued a Director's Order allowing limited businesses to reopen subject to compliance with social distancing and safety

measures and otherwise extending the March 22, 2020 order's prohibition on social gathering and stay-at-home requirements; and

WHEREAS, as of May 11, 2020, seven-hundred-and-seventy residents of the City of Cincinnati had tested positive for COVID-19; and

WHEREAS, since the March 22, 2020 Director's Order, there have been numerous instances of non-compliance with the order in Cincinnati, creating the potential to exacerbate the spread of COVID-19; and

WHEREAS, existing law only provides for the ability to bring criminal charges against individuals or businesses engaged in activity that violates public health and emergency orders, such as the Ohio Department of Health's COVID-19 orders;

WHEREAS, the City desires to collaborate with and engage individuals and businesses in undertaking necessary enforcement actions related to existing public health orders, and to only escalate enforcement after engagement efforts fail and pursuant to written notice; and

WHEREAS, the absence of interim enforcement measures, such as civil citations, frustrates the City's desire to collaborate and problem-solve with individuals and businesses struggling to comply with the many requirements of existing Ohio Department of Health COVID-19 orders; and

WHEREAS, the creation of interim civil enforcement measures that escalate with the severity of the risk posed by non-compliance with public health or emergency orders will provide the flexibility necessary for the City's front-line enforcement agencies to enforce orders related to the COVID-19 pandemic, which orders are necessary to slow down the spread of COVID-19 and to "flatten the curve" and thereby lower the chances that Cincinnati's health care providers will become overwhelmed by the pandemic; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That new Sections 1601-57, "Enforcement of Emergency Orders," and 1601-59, "Enforcement of Health Orders," of Chapter 1601, "Neighborhood Quality of Life Uniform Code," of Chapter 1601, "Neighborhood Quality of Life Uniform Code," of the Cincinnati Municipal Code are hereby enacted to read as follows:

Sec. 1601-57. – Enforcement of Emergency Orders.

No person shall fail to comply with a lawful order issued on the basis of a declaration of public emergency by the governor of the state of Ohio or by the mayor pursuant to Article III, Section 2, of the Charter.

- (a) An initial violation of such a lawful order that persists 72 hours after the issuance of notice is a Class A Civil Offense. Any subsequent violation of this section is a Class B Civil Offense.
- (b) Following the issuance of notice, where a violation presents a significant health or safety threat, an initial violation of this section is a Class C1 Civil Offense. Where a violation presents a significant health or safety threat, any subsequent violation of this section is a Class D Civil Offense. Alternatively, whoever violates this section two or more times during the effective periods of such lawful orders is guilty of a first degree misdemeanor where such violations present a significant health or safety threat.
- (c) All fine penalties collected under this Section shall be deposited in Fund 416.

Sec. 1601-59. – Enforcement of Health Orders.

No person shall fail to comply with a lawful order issued by the director of the Ohio department of health, Cincinnati board of health, health commissioner of the City of Cincinnati, or any authorized representative on their behalf.

- (a) An initial violation of such a lawful order that persists 72 hours after the issuance of notice is a Class A Civil Offense. Any subsequent violation of this section is a Class B Civil Offense.
- (b) Following the issuance of notice, where a violation presents a significant health or safety threat, an initial violation of this section is a Class C1 Civil Offense. Where a violation presents a significant health or safety threat, any subsequent violation of this section is a Class D Civil Offense. Alternatively, whoever violates this section two or more times during the effective periods of such lawful orders is guilty of a first degree misdemeanor where such violations present a significant health or safety threat.
- (c) All fine penalties collected under this Section shall be deposited in Fund 416.

Section 2. That Section 1501-3, “Class A Civil Offenses,” is hereby amended as follows:

Sec. 1501-3. - Class A Civil Offenses.

A person who violates a standard of conduct set forth in a section or chapter of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class A Civil Offense. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine specified in § 1501-99 for the first violation of a Class B Civil Offense.

a.	§ 511-1	Advertising on Vehicles.
b.	§ 511-33	Front Yard Parking.
c.	§ 514-11	Parking Restrictions.
d.	§ 604-17	Unapproved Bird, Fowl or Animal Feeding.
e.	§ 701-19	Order to Muzzle Dogs.
f.	§ 701-27	Loud Dog.
g.	§ 701-30	Dog Excrement Removal.
h.	§ 721-63	Gutter Crossings.
i.	§ 721-65	Obstructing Gutters.
j.	§ 721-93	Temporary Driveway Permits.
k.	§ 723-5	Encumbering Sidewalks.
l.	§ 723-9	Regulations for Wholesale Produce Areas.
m.	§ 723-11	Retail Sidewalk Display.
n.	§ 723-12	Free Standing Business or Identification Signs (Sandwich Boards) on Sidewalk.
o.	§ 723-13	Temporary Encumbrances.
p.	§ 723-17	U.S. Mail Boxes.
q.	§ 723-23	Ground and Debris on Street or Sidewalk.
r.	§ 723-29	Sprinkling Roadways in Congested District.
s.	§ 723-31	Sprinkling Before Sweeping.
t.	§ 723-37	Unloading Heavy Material on Streets or Sidewalks.
u.	§ 723-39	Inscribing Names or Advertising Matter on Sidewalks Unlawful.
v.	§ 723-57	Removal of Snow.
w.	§ 723-59	Ice on Sidewalks.
x.	§ 723-65	Displaying House Numbers.
y.	§ 723-69	Removing House Numbers.
z.	§ 723-79	Fire Kettle Permit.
aa.	§ 729-7	Setting Out Containers.
bb.	§ 729-15	Containers to be Removed from Collection Points.
cc.	§ 729-37	Street Waste Receptacles.
dd.	§ 729-87(a)	Recyclable Materials - Taking Recyclables.
ee.	§ 729-87(b)	Recyclable Materials - Destruction of Container.

ff.	§ 729-87(c)	Recyclable Materials - Relocation of Container.
gg.	§ 729-87(d)	Recyclable Materials - Failure to Remove Container from Collection Point.
hh.	§ 729-88	Yard Waste Materials.
ii.	§ 729-89(c)	Disposal of Unacceptable Waste.
jj.	§ 911-17	Posting Bills on Streets.
kk.	§ 1123-11(b)	Vacant Foreclosed Property Registration - Failure to maintain accurate information.
ll.	§ 1123-11(c)	Vacant Foreclosed Property Registration - Failure to maintain the property in accordance with the maintenance provisions.
mm.	§ 701-2(B)(1)	Leash Required; Responsibility for Injury (<i>Leash</i>).
nn.	§ 874.07(b)	Failure to Maintain Accurate Residential Rental Property Registration.
oo.	<u>§ 1601-57</u>	<u>Enforcement of Emergency Orders</u>
pp.	<u>§ 1601-59</u>	<u>Enforcement of Health Orders</u>

Section 3. That existing Section 1501-3, "Class A Civil Offenses," is hereby repealed.

Section 4. That Section 1501-5, "Class B Civil Offenses," is hereby amended as follows:

Sec. 1501-5. - Class B Civil Offenses.

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class B Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

- (a) Class B Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 511-31	Storage of Unlicensed Vehicles	Class B
(2)	§ 720-15	Public [Stormwater] Facilities	Class C
(3)	§ 720-29	[Stormwater] Permits and Plan Review	Class B
(4)	§ 721-83	Street Contractor's License	Class C
(5)	§ 723-3	Unauthorized Wires, etc., in Streets	Class C
(6)	§ 1219-3	Material Subject to Spontaneous Ignition	Class B
(7)	§ 1219-7	Baled Material	Class B
(8)	§ 1219-9	Combustible Containers	Class B
(9)	§ 1219-15	Fire Doors, Shutters and Windows	Class B
(10)	§ 1219-29	Drip Pans	Class B
(11)	§ 1219-41	Exhaust Fans	Class B
(12)	§ 1219-45	Gas Shutoff Valves	Class B
(13)	Chapter 1225	Smoking and the Use of Open Flame	Class B
(14)	§ 1231-11	Obstructing Fire Hydrants	Class B
(15)	§ 718-9	Advertising in the Public Right-of-Way	Class C
(16)	Chapter 765	Special Event Permits	Class B
(17)	§ 1601-7	Early Fire Warning System	Class C
(18)	§ 1127-07.99	Rental Property Inspection Pilot Program	Class C

(b) Class B Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 413-25	Sidewalk or Street Parking	Class C
(2)	§ 503-25	Damaging Street Surface	Class C
(3)	§ 506-63	Driving on Sidewalk Area	Class C
(4)	§ 506-64	Driving Over New Pavement	Class C

(5)	§ 721-25	Sale of Land on Private or Undedicated Streets	Class D
(6)	§ 721-41	Street Opening Without Permit Unlawful	Class D
(7)	§ 721-61	Warning Lights; Barriers	Class D
(8)	§ 721-109	Sidewalk Covering Over Sub-space; Prohibited Materials	Class D
(9)	§ 721-111	Support for Sidewalk Covering Over Sub-space	Class D
(10)	§ 723-1	Street Obstructions	Class C
(11)	§ 723-33	Sweeping Onto Sidewalk or Roadway	Class C
(12)	§ 729-5	Waste Containers; Requirements.	Class D
(13)	§ 729-9	Setting Out Containers on Property Abutting Alleys	Class B
(14)	§ 729-27	Removal of Dead Animals	Class B
(15)	§ 729-41	Disposal of Combustible Garbage	Class B
(16)	§ 729-53	Transporting Putrescible Commercial By-Products	Class B
(17)	§ 729-60	Commercial Establishments to Maintain Commercial Waste Collection Contract	Class C
(18)	§ 729-69	Unloading Waste on Sidewalks	Class B
(19)	§ 729-71(c)(1)	Personal Property Left Abandoned on Streets and Sidewalks- 3 or fewer items	Class B
(20)	§ 729-75	Escaping Hot Water or Steam	Class B
(21)	§ 1219-5	Accumulated Waste and Waste Receptacles	Class B
(22)	§ 1219-13	Trap Doors	Class B
(23)	§ 1221-7	Smoking and Use of Open Flame	
<u>(24)</u>	<u>§ 1601-57</u>	<u>Enforcement of Emergency Orders</u>	<u>Class B</u>
<u>(25)</u>	<u>§ 1601-59</u>	<u>Enforcement of Health Orders</u>	<u>Class B</u>

Section 5. That existing Section 1501-5, "Class B Civil Offenses," is hereby repealed.

Section 6. That Section 1501-8, "Class C1 Civil Offenses," is hereby amended as follows:

Sec. 1501-8. – Class C1 Civil Offenses.

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in Section 1501-99 for a Class C1 Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with Section 1501-15 that the violation has been corrected. Except that, for occupied property that is in violation of Section 731-3(a), the otherwise applicable civil fine is reduced by 100% if the owner charged shows in accordance with Section 1501-15 that the violation has been corrected and that the owner has not previously received notice of a violation under Section 731-3 at the occupied property. If the provision is listed under paragraphs (a), (b), or (c) below, and if a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year, that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in Section 1501-99 and is not subject to reduction for correction of the violation. If the provision is listed under paragraph (d) below, and if a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within two years, that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in Section 1501-99 and is not subject to reduction for correction of the violation. If the provision is listed under paragraph (e) below, the otherwise applicable civil fine is reduced by 100% if the person charged shows in accordance with Section 1501-15 and the rules and regulations of the board of health that the violation has been corrected and that the owner has not previously received notice of a violation under Section 609-9. If the provision is listed under paragraph (e) below, and if a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within two years, that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in Section 1501-99 and is not subject to reduction for correction of the violation.

(a) Class C1 Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 714-11	Duty to Keep Sidewalks Free of Litter	Class D
(2)	§ 714-35	Litter on Occupied or Unoccupied Private Property	Class C1
(3)	§ 714-37	Owner or Person in Control to Maintain Premises Free of Litter	Class C1
(4)	§ 714-39	Litter on Vacant Lots	Class C1
(5)	§ 731-3	Height Restrictions on Unoccupied Private Property (grass and weed control)	Class C1

(6)	Chapter 313	Outdoor Advertising Sign Excise Tax	Class C1
(7)	Chapter 315	Short Term Rental Excise Tax	Class C1

(b) Class C1 Civil Offenses With Civil Fines Subject to 100% Reduction for Correction of Violation and a One-Year Period for a Subsequent Offense:

			Civil Fine for Subsequent Offense
(1)	§ 731-3	Height Restrictions on Occupied Private Property (grass and weed control; reduction for first-time offenders only)	Class C1

(c) Class C1 Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation and a One-Year Period for a Subsequent Offense:

			Civil Fine for Subsequent Offense
(1)	§ 714-15	Truck and Vehicle Loads Causing Litter or Scattering Debris	Class D

(d) Class C1 Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation, and a Two-Year Period for a Subsequent Offense:

			Civil Fine for Subsequent Offense
(1)	§ 609-3	Sale of Tobacco Products to Those Under Twenty-One Years of Age Prohibited	Class E
(2)	§ 1601-57	<u>Enforcement of Emergency Orders</u>	<u>Class D</u>
(3)	§ 1601-59	<u>Enforcement of Health Orders</u>	<u>Class D</u>

(e) Class C1 Civil Offenses With Civil Fines Subject to 100% Reduction for Correction of Violation, and a Two-Year Period for a Subsequent Offense:

			Civil Fine for Subsequent Offense
(1)	§ 609-9	Tobacco Retailer Licensing (reduction for first-time offenders only)	Class E

Section 7. That existing Section 1501-8, "Class C1 Civil Offenses," is hereby repealed.

Section 8. That Section 1501-9, "Class D Civil Offenses," is hereby amended as follows:

Sec. 1501-9. - Class D Civil Offenses.

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class D Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

(a) Class D Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 720-13	Private Facilities	Class E
(2)	§ 720-45	Notice of Violations	Class E
(3)	§ 720-69	Notice to Correct Drainage	Class E
(4)	Chapter 855	Rooming Houses	Class D
(5)	Chapter 895	Outdoor Advertising Signs	Class D
(6)	Chapter 1101	Administration, Cincinnati Building Code	Class E
(7)	Chapter 1106	General and Specialty Contractors	Class E
(8)	Chapter 1107	Elevator and Conveyor Equipment	Class E
(9)	Chapter 1117	Housing Code	Class E
(10)	Chapter 1119	Building Hazard Abatement Code	Class E
(11)	Chapter 1127	General Inspection Programs Code	Class E
(12)	Title XIV	Zoning Code	Class E
(13)	§ 1201-21	Maintenance	Class D
(14)	§ 1201-33	Evacuation	Class D
(15)	§ 1201-35	Spills and Leaks	Class D
(16)	Chapter 1235	Detectors, Early Fire Warning Systems	Class D

(17)	§ 1123-11(a)	Vacant Foreclosed Property Registration - Failure to register a vacant, foreclosed property.	Class E
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(b) Class D Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

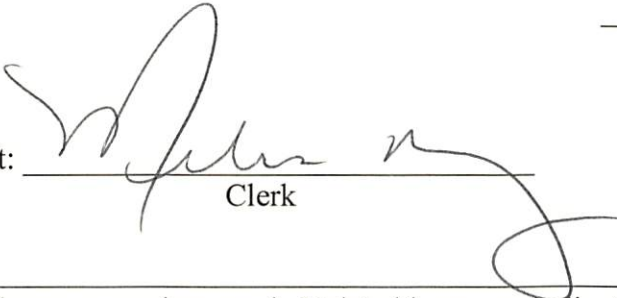
			Civil Fine for Subsequent Offense
(1)	§ 718-25	Secret Street Uses	Class E
(2)	§ 721-59	Taking Material from Streets	Class E
(3)	§ 729-71(c)(2)	Personal Property Left Abandoned on Streets and Sidewalks - 4 or more items	Class D
(4)	§ 761-14	Eviction or Retaliation by Landlord	Class E
(5)	Chapter 891	Home Improvement	Class E
(6)	§ 1201-47	Failure to Comply with Orders	Class D
(7)	§ 1219-21	Causing Fire Through Negligence	Class D
(8)	Chapter 1251	Fire Starting Apparatus	Class D
(9)	§ 759-4	Use of a Motor Vehicle to Facilitate a Drug Related Crime	Class D
(10)	Chapter 722	Management and Control of the Use of the City Right-of-Way	Class E
(11)	Chapter 730	Commercial Waste Franchises	
(12)	§ 856-25(c)	Violation of Limitations on Operators or Operation of Short Term Rentals	Class D
(13)	§ 1125-17(1)	Failure to Register a Vacant Building	Class E
(14)	<u>§ 1601-57</u>	<u>Enforcement of Emergency Orders</u>	<u>Class D</u>
(15)	<u>§ 1601-59</u>	<u>Enforcement of Health Orders</u>	<u>Class D</u>

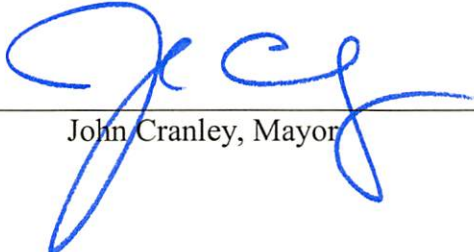
Section 9. That existing Section 1501-9, "Class D Civil Offenses," is hereby repealed.

Section 10. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the

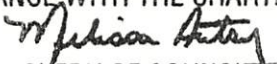
terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to enhance the City's ability to enforce state and local orders by means of interim enforcement measures, such as civil citations, in order to allow the City to collaborate and problem-solve with individuals and businesses seeking to comply with the existing COVID-19 orders, instead of immediately proceeding with criminal citations.

Passed: May 13, 2020

Attest: 
Clerk


John Cranley, Mayor

New language underscored. Deleted language indicated by strikethrough.

I HEREBY CERTIFY THAT ORDINANCE NO. 142-2020
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 5-26-2020

CLERK OF COUNCIL