

Placed on first reading & referred  
to Housing 6/3/19; second reading  
6/17/19

Anderson, Bullock, George, Litten,

BY: O'Leary, O'Malley, Rader

ORDINANCE NO. 19-19

AN ORDINANCE amending Section 541.04, Criminal Mischief, of the Codified Ordinances of the City of Lakewood to include residential light nuisances.

WHEREAS, it is necessary to amend Section 541.04 of the Code in order to ensure Lakewood residents' peaceful enjoyment of their own property; and

WHEREAS, this Council has determined that the amendment of Section 541.04 is a matter of local self-government and/or a matter of local police powers; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 541.04, Criminal Mischief, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

**541.04 CRIMINAL MISCHIEF.**

(a) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator or other device releasing a substance which is harmful or offensive to persons exposed, or which tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or

any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus or equipment intended for protecting or preserving the safety of persons or property.

(c) Whoever violates this section is guilty of criminal mischief, a misdemeanor of the third degree. If violation of this section creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. If the property involved in a violation of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid or any other equipment, implement or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, and if the violation creates a risk of physical harm to any person, or if the property involved in a violation of this section is an occupied aircraft, criminal mischief is a felony and shall be prosecuted under Ohio R.C. 2909.07.

is hereby repealed, and new Section 541.04, Criminal Mischief, of the Codified Ordinances of the City of Lakewood is hereby enacted to read as follows:

**541.04 CRIMINAL MISCHIEF.**

(a) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator or other device releasing a substance which is harmful or offensive to persons exposed, or which tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.

(6) With purpose to interfere with the use or enjoyment of the property of another, maintain a light nuisance originating from a residential property by causing light to unreasonably shine, glare, reflect or direct onto the property of another.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus or equipment intended for protecting or preserving the safety of persons or property.

(c) Whoever violates subsection (a)(6) of this section is guilty of a minor misdemeanor.


(d) Whoever violates any remaining subsections of this section is guilty of criminal mischief, a misdemeanor of the third degree. If violation of this section creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. If the property involved in a violation of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid or any other equipment, implement or material used or intended to be

used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, and if the violation creates a risk of physical harm to any person, or if the property involved in a violation of this section is an occupied aircraft, criminal mischief is a felony and shall be prosecuted under Ohio R.C. 2909.07.


Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Adopted: 9/3/19

  
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President of Council

  
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Marnie M. Bach  
Clerk of Council

Approved: Sept 4 2019

  
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Mayor