

Frequently Asked Questions on Nuisance Point Programs

1. What is a Nuisance Point Program?

A Nuisance Point Program is a tool that cities can use to combat a variety of problems within the community. In a Nuisance Point Program, a city can assess points to properties on which there are frequent and recurring violations of law. When enough points are assessed to a given property, the property is declared a nuisance that requires abatement. This effectively prevents the establishment from operating in a manner harmful to public safety and that fails to prevent nuisance.

2. Why is a Nuisance Point Program right for Toledo?

The City of Toledo has a problem in that some commercial enterprises operate in a manner that repeatedly disturbs the peace. Owners and operators of these establishments fail to conduct business as such that would prevent nuisance and criminal activity. In many cases, the criminal activity occurring is a direct threat to public safety, such as the discharge of firearms and sale of illegal substances. The City must take action to deal with these properties more efficiently and promote public safety.

Furthermore, when criminal and nuisance activity on these properties routinely requires emergency services, these properties consume an inordinate and copious amount of City resources. This hampers the City's ability to provide emergency services to other Toledoans in need.

3. Do other cities use Nuisance Point Programs?

Yes. Nuisance Point Programs are used in many cities across the country with some of the earliest examples coming from Troy, NY, and York, PA. More recently, cities in the Midwest have started to adopt them, including Cincinnati and Fort Wayne.

4. What is a "Commercial Property" and what is a "Chronic Commercial Property Nuisance"?

For the purposes of this ordinance, a "Commercial Property" is any property used for commercial business except residential rental properties, whether or not such property is zoned commercial, industrial, residential, or retail. A "Chronic Commercial Property Nuisance" is when a Commercial Property accumulates enough points to be deemed a public nuisance.

5. How are points assessed in a Nuisance Point Program?

Points are assessed when criminal or nuisance activity is verified to have taken place at a property. In the Toledo ordinance, a criminal conviction is NOT required to assess points. The City instead must prove a specified violation of law by a preponderance of the evidence.

Points are assessed against the Owner or Operator of the property. An “Operator” is anyone who has charge, care of, or control of the property with or without the knowledge of the Owner.

6. Are points permanently attached to a Commercial Property?

No. Points are calculated through either the parameter of 12 points accumulated within a period of 24 months or 18 points accumulated of 24 months. Owners or Operators are also given the opportunity to work with City officials to take steps towards ameliorating their operation; doing so can result in the City forgiving the Owner or Operator points.

7. How many points are assessed per violation of law?

The point schedule is based on the severity of violation that occurs on the property. The breakdown is below:

-A Felony→ eight (8) points

-A Misdemeanor→ six (6) points

-A violation of Toledo’s General Offenses Code→ three (3) points

-A violation of Toledo’s Health Code→ three (3) points

8. What happens when a Commercial Property accumulates enough points to be considered a “Chronic Commercial Property Nuisance”?

When the Owner or Operator of a Commercial Property is assessed 12 or more points within a period of 12 months or 18 or more points within a period of 24 months, the Commercial property is deemed a Chronic Commercial Property Nuisance.

In order to abate a Chronic Commercial Property Nuisance, the Director of the Department of Neighborhoods, the Director of Economic and Business Development, the Commissioner of Building Inspection, the Commissioner of Code Enforcement, the Chief Building Official, the Director of Health or their designated official shall order a cease and desist to prohibit any event, social gathering, party, or business activity on the property.

9. Do Owners or Operators receive notice of accumulating points before they cross the threshold?

Yes. Owners or Operators are notified when they have either been assessed 6 points within a period of 12 months or 9 or more points within a period of 24 points. This notification, therefore, occurs when exactly 50% of the threshold is reached.

At this time, City officials shall in good faith and effort work with the Owner and/or Operator to take steps towards preventing further violations. If adequate steps are taken, City officials may remove points assessed.

10. Who oversees this program?

The program utilizes existing City employees. The Director of the Department of Neighborhoods, the Director of Economic and Business Development, the Commissioner of Building Inspection, the Commissioner of Code Enforcement, the Chief Building Official, the Director of Health or their designated officials will oversee the program.

11. Can an Owner or Operator of a Commercial Property appeal the Chronic Commercial Nuisance Property order?

Yes. An appeals process is built into the Toledo ordinance. It utilizes the already existing Nuisance Abatement Housing Appeals Board, but changes the process slightly to accommodate the differences between a typical public nuisance and a Chronic Commercial Nuisance Property.

12. Could an Owner simply transfer ownership of a Chronic Commercial Nuisance Property or hire a new Operator to reset the points?

No. The Chronic Commercial Property Nuisance runs with the property notwithstanding any change in the titled ownership of the property. Exceptions can be made if the Owner can show compelling evidence that the transfer of ownership is an “arms-length” transaction.