

CHAPTER 1323
Abatement of Nuisances

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CROSS REFERENCES

Nuisances - see Ohio R.C. Ch. 3767
Weeds - see S.U. & P.S. Ch. 909

1323.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Public nuisance" means any fence, wall, garage, shed, house, building, structure, lot, tree, pole, smoke stack or any excavation, basement, cellar, well, cistern or sidewalk subspace or part thereof, which shall be deemed a public nuisance if by reason of the condition in which the same is permitted to be or remain, shall or may endanger the health, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more persons in the City in any one or more of the following particulars:
- (1) By reason of being detrimental to the general health of the community;
 - (2) By reason of being a fire hazard;
 - (3) By reason of being unsafe for occupancy, or use on, in, upon, about or around the above premises; or
 - (4) By reason of continued vacancy thereby resulting in lack of reasonable or adequate maintenance of structures and grounds and causing deterioration and blighting influence on nearby properties and thereby depreciating the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the neighborhood in which such structure is situated.
- (b) "Owner" means the owner of record of the premises in fee or lesser estate therein, a mortgagee or vendee in possession, land contract purchaser, assignee of the rents, receiver, executor, administrator, trustee, lessee or other person, firm or corporation in control of a building, or their duly authorized agents. Any such person thus representing the owner shall be bound to comply with the provisions of this chapter to the same extent as if he were the owner.

- (c) "Nuisance property" means any property on which, or in connection to which, there have been two or more public nuisances as defined in this section within any twelve month period. The Zoning Inspector must serve a written notice to the owner declaring that such property is a nuisance property. The notice shall include a description of prior public nuisances and warn that additional public nuisances, or the continuance or recurrence of prior public nuisances, may result in the costs of responding to and abating such activities being imposed on the owner.
(Ord. 7-06. Passed 3-7-06.)

1323.02 ABATEMENT OF PUBLIC NUISANCE.

(a) Whenever the Zoning Inspector suspects the existence in the City of a public nuisance as defined in this chapter, he shall promptly cause to be inspected the premises on which he suspects such public nuisance exists. Should the aforesaid Zoning Inspector find that a public nuisance does exist, he shall promptly notify the Mayor and the Fire Chief or their duly authorized agents. The Fire Chief and the Mayor shall cause to be inspected the premises on which it is suspected such public nuisance exists.

(b) Written reports of the inspection and of the findings of the Fire Chief and the Mayor, with respect to the existence of the public nuisance shall be filed with the Zoning Inspector.

(c) Should all of the aforesaid officers or their duly authorized agents concur that a public nuisance exists, it shall be the duty of the Zoning Inspector to cause photographs of such nuisance to be made and to file and keep in his office the written reports of the findings of the aforesaid officials or their agents. The Zoning Inspector shall cause a written notice to be served on the owner stating the findings with respect to the existence of a public nuisance and stating that unless the owner or owners thereof shall cause the abatement of the public nuisance by rehabilitation or by removal of the building or structure, the same shall be abated by the City at the expense of the owner. Such abatement shall be complete within thirty days or such additional time as the Zoning Inspector may deem necessary to complete the abatement.

(d) Should all of the aforesaid officers concur not only that a public nuisance exists but that it is an emergency that poses an imminent threat to the public, the procedures and timelines of this chapter may be modified as reasonably necessary, up to and including the immediate abatement by the City of exceptionally dangerous public nuisances. Except for exceptional situations, notice shall be served on the owner or owners prior to City action.
(Ord. 7-06. Passed 3-7-06.)

1323.03 SERVICE OF NOTICE.

The notice shall be served either personally or by leaving a copy at the usual place of residence of the owner, or by mailing a copy to such owner at his usual place of residence by United States certified mail with return receipt requested. If service of the written notice is not perfected by any of hereinbefore described methods, then the Zoning Inspector shall cause such notice to be published in a newspaper of general circulation in the City, once each week for two consecutive weeks and shall further cause a copy of the notice to be left with the person, if any, in possession of the premises on which it is alleged such public nuisance exists or if there be no person in possession thereof, he shall cause a copy of the notice to be posted on the premises. The Zoning Inspector shall cause a return of service in the form of an affidavit to be made by the person who served it, which affidavit shall set forth the name and address of the person served, the manner of service and the date thereof.

(Ord. 2-2003. Passed 1-7-03.)

1323.04 RIGHT TO MAKE IMMEDIATE REPAIRS.

(a) Upon being served notice, the owner may make immediate application in writing or in person to the Zoning Inspector for a special building permit to undertake the repairs or replacement of items found to constitute a public nuisance.

(b) Adequate plans and specifications as required by the Zoning Inspector, covering the repairs or replacements shall be furnished by the owner to the Zoning Inspector within fifteen days after receipt of notice or such additional time as the Zoning Inspector may deem necessary to complete plans and specifications not to exceed ninety days. The Zoning Inspector shall upon approval of the plans and specifications cause a special building permit to be issued to the owner. The special building permit to be issued by the Zoning Inspector shall be for a period of thirty days and within the thirty days the owner shall effect and complete the repairs or replacements, or the Zoning Inspector may grant an extension to the special building permit if the owner shows reason or cause for the request extension and which extension shall more readily effect the repairs or replacement with respect to the existence of a public nuisance, and stating that unless the owner thereof shall cause the abatement of a public nuisance by rehabilitation or by removal of the building or structure the same shall be abated by the City at the expense of the owner. Such abatement shall start within fifteen days after service of the notice and shall be complete within forty-five days or such additional time as the Zoning Inspector may deem necessary to complete the abatement. (Ord. 2-2003. Passed 1-7-03.)

1323.05 APPEAL.

The owner may within ten days after completion of service of the notice, make a demand in writing to the Zoning Inspector for a hearing on the question of whether in fact a public nuisance exists. The hearing, shall be held within ten days following receipt of the written demand and at least two days' notice in writing of the hearing shall be given to the owner. The hearing shall be conducted by a Hearing Board composed of the Mayor, the Fire Chief, the Zoning Inspector, Building Inspector and the Law Director or in the event any of the officers are unable to attend, by someone from their respective department delegated by them to act in their behalf. All members of the Hearing Board shall concur that a public nuisance exists before enforcement of the abatement is carried out. A copy of the decision of the hearing officers shall be promptly served upon the owner in the manner provided for in Section 1323.03. (Ord. 2-2003. Passed 1-7-03.)

1323.06 ABATEMENT BY ZONING INSPECTOR.

(a) Should the nuisance not be abated at the expiration time stated in the notice or expiration of the time stated in the special building permit issued by the Zoning Inspector or such additional time as the Hearing Board may grant, the Zoning Inspector shall be authorized, at any time thereafter to enter upon the premises and the owner shall permit him entry to abate the nuisance by demolition and removal of the structure or by taking any other such action as may be required.

(b) In abating such nuisance, the Zoning Inspector may call upon any department, division or bureau of the City for whatever assistance may be necessary; or may, by private contract, obtain the abatement thereof and the cost of such private contract shall be paid from City funds specifically authorized by Council in order to abate such public nuisance.

(c) In abating such nuisance, the Zoning Inspector may go to whatever extent necessary to complete the abatement of the same and the cost of the abatement action shall be recovered from the owner in the following procedure:

- (1) The owner or owners shall be billed directly by certified mail for the cost of the abatement. The bill for the cost of the abatement shall be paid within sixty days after receipt of the bill.
- (2) If costs are not so recovered then the City shall cause the cost of the abatement to be levied as an assessment and recovered in accordance with Ohio R.C. 715.261.
(Ord. 2-2003. Passed 1-7-03.)

1323.07 REPEAT OFFENDERS.

(a) It is the intent of the City Council, in adopting this section, to impose on and collect from the owner of a nuisance property the cost for law enforcement and other services, which are over and above the cost of providing normal law enforcement and other services City-wide, if the said excess costs are spent to respond to and/or abate a public nuisance which has occurred, or is maintained and permitted, on the nuisance property.

(b) If a premises has been declared a nuisance property within the past twelve months, and pursuant to this chapter a new, continuing, or recurring public nuisance is found to exist, notice shall be served on the owner indicating the intent of the Zoning Inspector to certify the costs of responding to and abating the public nuisance. However, if the owner was previously put on notice of the public nuisance at issue, notice of intent to certify costs will not be served until the thirty day time period, or other time period as determined by the City, to abate the public nuisance has expired. Notice of intent to certify costs shall be served at least thirty days before such certification occurs.

(c) The owner of a nuisance property who receives a notice of intent to certify costs may within ten days after completion of service of such notice ask the Zoning Inspector in writing for reconsideration of the intended certification of costs. If the Zoning Inspector finds that the facts presented do not support the finding of a nuisance, the Inspector shall rescind the notice. Otherwise, the Inspector shall refer the appeal for hearing by a Hearing Board composed of the Mayor, the Fire Chief, the Zoning Inspector, Building Inspector and the Law Director or in the event any of the officers are unable to attend, by someone from their respective department delegated by them to act in their behalf. Action by the city to abate the nuisance shall not be stayed by such appeal. If on appeal any of the following situations is proven by a preponderance of the evidence, the costs of abatement shall not be certified and imposed on the owner:

- (1) The present owner was not the owner at the time of either of the public nuisances that prompted the declaration of the property as a nuisance property.
- (2) The present owner was not the owner at the time of the public nuisance that prompted the current declaration of a nuisance.
- (3) The owner had no knowledge of the public nuisance, and could not, with reasonable care and diligence, have known of the public nuisance; and upon receipt of the notice of the declaration of the property as a nuisance property, the owner promptly took all actions necessary and reasonable to abate the public nuisance.

(d) The costs for responding to and abating a public nuisance shall include, but are not limited to, the gross salaries and benefits paid by the City to persons responding to and/or abating the public nuisance; pro rata costs for all equipment, including vehicles, used to respond to and/or abate the public nuisance; the costs of any administrative services used to assist in responding to and/or abating the public nuisance; the costs of repairs to any equipment or property damaged in responding to and/or abating the public nuisance; and the cost of any medical treatment of persons employed by the City who were injured while responding to and/or abating the public nuisance.

(e) The costs for responding to and abating a public nuisance at or related to a nuisance property shall be recovered from the owner in the following procedure:

- (1) The owner or owners shall be billed directly by certified mail. The bill shall be paid within sixty days after the receipt of the bill.
- (2) If costs are not so recovered then the City shall cause the costs to be levied as an assessment and recovered in accordance with Ohio R.C. 715.261.

The City reserves its right to seek reimbursement for costs and damages not recovered by assessment against the property through other legal remedies or procedures.

(Ord. 7-06. Passed 3-7-06.)

1323.08 PROVISIONS NOT EXCLUSIVE.

This chapter shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the City, but shall be deemed as an enlargement of any authority existing by virtue of the State statutes, or any ordinance heretofore enacted by Council. (Ord. 2-2003. Passed 1-7-03.)