

CHAPTER 1345
Nuisances

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CROSS REFERENCES

- Nuisances generally - see Ohio R.C. Ch. 3767
- Littering - see GEN. OFF. 521.08
- Weeds - see S.U. & P.S. Ch. 915
- Junk vehicles - see S.U. & P.S. Ch. 957

1345.01 DETERMINING CONDITIONS.

For the purposes of abating public nuisances and assessing for the cost thereof, and prescribing the conduct, whether of omission or commission, of any natural person or business operating as a proprietorship, partnership, unincorporated association, or corporation, as owner or occupier of any lot of land within corporate limits of the City or of any building, house or other structure on any such lot of land, a public nuisance shall exist when:

- (a) Any Structure that is in a state of any of, but not limited to, the following:
dilapidation, deterioration or decay; faulty construction; overcrowded; open,
vacant or abandoned; damaged by fire to the extent so as not to provide shelter;
in danger of collapse or failure; and, dangerous to anyone on or near the premises;
or
- (b) Any tree, stack of, or other object remains standing upon such lot of land in such
condition that it shall, if such condition is suffered to continue, endanger the life,
limb or property or cause hurt, unsightly, damage or injury to persons or property
on or near the premises; or

- (c) Any physical condition or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, unguarded excavations and unsafe or unsecured structures, trees, or vegetation; or
- (d) There is the accumulation on any premises or in any structure of earth, rubbish, junk, metal, motorized or non-motorized vehicles or equipment or any parts thereof, or other unsightly or unsanitary materials, or has an uncontrolled growth of weeds; or
- (e) Any premises or structure that is manifestly capable of being a fire hazard , or is manifestly unsafe or unsecure so as to endanger life, limb or property; or
- (f) Any premises or structure that has unsanitary sewage or plumbing facilities or has been designated as unsafe for human habitation; or
- (g) The conduct of any activity thereon or therein which by reason of noxious odors generated thereby, or of smoke, dust, dirt or water being cast or draining therefrom endangers or is harmful to the public health, welfare or safety, or materially interferes with the peaceful and lawful use, comfort and enjoyment of owners or occupants of nearby or adjacent lots of land or structures; or
- (h) Any structure becomes so out of repair and dilapidated that, due to lack of adequate maintenance or neglect, it endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment of owners or occupants of adjacent property; or
- (i) There is any loud, unnecessary or unusual noise, or any noise or lighting which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of owners or occupants of nearby or adjacent lots of land or structures; or
- (j) There is any placing, throwing or sweeping into any street, avenue, alley, park or public ground, any dirt, paper, nails, pieces of glass or board, fruit parings or skins, garbage, waste, leaves or clippings, ashes, cans, bottles, cartons, boxes, furniture, oil, parts of automobiles or any other matter of an unsightly or unsanitary nature, or the placing, throwing or sweeping of such matter upon any sidewalk, or street crossing, or on any driveway, or upon the floor, stairway or hallway of any public building, theater, railway depot, railway platform or property of another; or

- (k) There is an accumulation of any paper, fruit parings or skins, garbage, waste, ashes, cartons, boxes or any other matter of an unsightly or unsanitary nature in such manner that such matter could be blown onto any street, avenue, alley, park, public ground, sidewalk or property of another; or
- (l) Any physical condition or occupancy of any premises or structure which shall, if such condition continues to exist, attract and propagate rodents, vermin or insects; or
- (m) Any premises or structure from which the plumbing, heating or facilities required by this code or any other applicable code in the State of Ohio have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or if vacant or abandoned effective precautions against trespassers have not been provided; or
- (n) Any condition exists which, at common law, was classified as a public nuisance; or
- (o) Any condition exists which has been declared a public nuisance by the Ohio Revised Code.

1345.02 COMPLAINTS; INSPECTION OF PREMISES.

- (a) Whenever a complaint is made or visual inspection discloses to the Zoning Administrator of the existence of a public nuisance as defined in Section 1345.01, the Zoning Administrator shall promptly inspect or cause to be inspected the premises on which it is alleged such public nuisance exists. Should the Zoning Administrator, after such inspection, find that a public nuisance does exist, the Chief Building Official and, if the condition is within the prohibitions of Section 1345.01 (e), the Fire Chief shall be promptly notified, and such officials shall be requested to make inspection thereof.
- (b) Upon receipt of such notice, the Chief Building Official and the Fire Chief (if required) shall inspect the premises and make a written report of their findings, which together with the report of the Zoning Administrator shall be filed with the City Administrator.
- (c) Should the Zoning Administrator, the Chief Building Official, and the Fire Chief (if required) find that a public nuisance exists and that the nature thereof is such as to require its summary abatement , abatement of such nuisance shall proceed in accordance with the provisions of Sections 1345.03 and 1345.04.

1345.03 SUMMARY ABATEMENT.

- (a) Should the Zoning Administrator, the Chief Building Official, and the Fire Chief (if required) find that a public nuisance exists and that the nature thereof is such as to require its summary abatement, the Zoning Administrator shall cause photographs to be made of such nuisance and shall keep on file such photographs along with the reports of the Chief Building Official and the Fire Chief (if required) pertaining to the public nuisance. The Zoning Administrator (or designee) shall then determine from the records in the Auditor's Office of Lucas County, any owner, mortgagee, lienholder, tenant, or person that possesses an interest of record in the property and immediately cause a written notice to be served on the owner or owners of such property. Notice of the existence of a nuisance shall be served personally or by certified mail (with a return receipt requested) on each owner. If service of such written notice is unable to be perfected on any owner by the aforesaid methods, then the Zoning Administrator (or designee) shall cause a copy of the aforesaid notice to be left with the individual, if any, in possession of the premises on which the public nuisance exists, or if there is no individual in possession of the premises, a copy of the notice shall be posted on the premises. If the abatement required to correct the nuisance involves demolition of any structure or portion of any structure, then a copy of such notice shall also be served personally or by U.S. mail with delivery confirmation to any known mortgagee, lienholder, tenant, or person that possesses an interest of record in the property.

- (b) The notice required by subsection (a) hereof shall state, in brief, the findings with respect to the existence of the public nuisance by the Zoning Administrator, the Chief Building Official, and the Fire Chief (if required). The notice shall further state that unless the nuisance is abated within seventy-two (72) hours after service is made, the City at the expense of the owner, shall thereafter, without further notice, take such action as is necessary to abate such nuisance at the expense of the owner of the premises.

1345.04 NON-SUMMARY ABATEMENT.

- (a) In the event that the Zoning Administrator, the Chief Building Official and the Fire Chief (if required) find that a public nuisance as defined in Section 1345.01 exists but that the nature thereof is not such as to require the summary abatement thereof, the Zoning Administrator shall cause photographs of such nuisance to be made and filed with the reports of the offices aforesaid. The Zoning administrator (or designee) shall then determine from the records in the Auditor's Office of Lucas County, any owner, mortgagee, lien holder, tenant, or person that possesses an interest of record in the property and immediately cause a written notice to be served on the owner or owners of such property. Notice shall be served personally

or by certified mail (with a return receipt requested) on each owner. If service of such written notice is unable to be perfected on any owner by the aforesaid methods, then the Zoning Administrator (or designee) shall cause a copy of the aforesaid notice to be left with the individual, if any, in possession of the premises on which the public nuisance exists, or if there is no individual in possession of the premises, a copy of the notice shall be posted on the premises. If the abatement required to correct the nuisance involves demolition of any structure or portion of any structure, then a copy of such notice shall also be served personally or by U.S. mail with delivery confirmation to any known mortgagee, lien holder, tenant, or person that possesses an interest of record in the property.

- (b) The notice required by subsection (a) hereof shall state, in brief, the findings with respect to the existence of the public nuisance by the Zoning Administrator, the Chief Building Official, and the Fire Chief (if required). The notice shall further state that unless the nuisance is abated within 30 days after service is made, the City at the expense of the owner, shall thereafter, without further notice, take such action as is necessary to abate such nuisance at the expense of the owner of the premises. If a period less than thirty days is allowed to abate such nuisance, the time to be specified shall be determined by the Zoning Administrator, the Chief Building Official, and the Fire Chief (if required).

1345.05 APPEAL PROCEDURE.

- (a) The owner of the premises, or a designated representative of the owner, upon which a public nuisance is located and who has been served with a notice, pursuant to Section 1345.03, that a public nuisance exists and that it must be abated within seventy-two (72) hours may, within that seventy-two hour period, appear in person before the Zoning Administrator and request a hearing on the question of whether a public nuisance exists, as defined in Section 1345.01, and merits summary abatement.
- (b) A hearing held pursuant to subsection (a) hereof shall be held no later than three business days from the date of the in-person request for a hearing by the owner of the premises upon which the public nuisance is located. The Zoning Administrator shall provide to the owner the hearing date, time and place at the time the in-person request for a hearing is made.
- (c) The owner of the premises, or a designated representative of the owner, upon which a public nuisance exists and who has been served with a notice, pursuant to Section 1345.04, that a public nuisance exists and that it must be abated within thirty (30) days, may, within seven (7) days after receipt of such notice, make a valid written demand to the Zoning Administrator for a hearing on the question of whether a public nuisance exists as defined in Section 1345.01. To be considered

valid, a written demand for a hearing must contain all of the following information: The full legal name, current address, working phone number, and type of interest in the property of the individual making written demand for a hearing; the full legal name, current address, working phone number and type of interest in the property of any other owner, tenant, or person that possesses an interest of record in the property; the name, address and working phone number of every mortgagee or lien holder of record on the property; the basis for the appeal. Written demand may be delivered by hand, mail or email to the Zoning Administrator.

- (d) A hearing held pursuant to subsection (c) hereof shall be held no later than ten (10) days following receipt of a valid written demand to the Zoning Administrator and at least three (3) days notice, by phone to the number provided in the valid written notice, of the hearing shall be given to the individual who made the written demand for the hearing.
- (e) A mortgagee, lien holder, tenant, or person that possesses an interest of record in the property may initiate an appeal pursuant to this section only if the abatement required to correct the nuisance involves demolition of a structure or portion of a structure located on the premises.

1345.06 HEARING PROCEDURE.

- (a) All hearings requested pursuant to the provisions of Section 1345.05 shall be conducted before a Hearing Board (which shall be known as the Nuisance Abatement Board) comprised of the City Administrator (or designee) and the current Chairpersons (or designee) of the Municipal Planning Commission, and the Design Review Board. The Board may affirm, reverse, or modify the finding of a public nuisance and the issuance of the abatement order by the Zoning Administrator by a majority vote. The attendance of all three members, or their designee, is required to constitute a quorum.
- (b) A decision shall be rendered at the conclusion of the hearing and signed by the members of the board. The appellant will be provided a copy of the signed decision. The decision of the Nuisance Abatement Board shall be final and conclusive, unless an appeal is filed in a court of competent jurisdiction within seven days of the date of the delivery of the decision.
- (c) All hearings held by the Nuisance Abatement Board shall be administrative in nature. At all hearings conducted pursuant to this section, any party may be represented by legal counsel. The rules of evidence utilized by the courts shall not be applicable in hearings before the Board.

1345.07 FAILURE TO ABATE NUISANCE; ACTION BY CITY; ASSESSMENT.

- (a) Should the nuisance referred to in Section 1345.04 not be abated within the time stated in the notice given pursuant to such section, the Zoning Administrator or his authorized representative(s) shall have the right to enter upon the premises and to abate such nuisance. In abating any nuisance the Zoning Administrator may take such action as is necessary to complete the abatement of the same and should it be practicable to sell or salvage any material resulting from such abatement, he may cause the same to be sold at a public or private sale at the best price obtainable and keep an account of the proceeds thereof. Such proceeds shall be deposited in the General Fund of the City and if any difference in the amount so received is less than the cost of the abatement, it shall be reported to Council, which shall levy an assessment against the premises upon which such nuisance was abated and cause such assessment to be certified and collected as other assessments by the City.
- (b) Should the proceeds of the sale of any material salvaged in the course of such abatement exceed the cost thereof, the amount of such excess shall be paid to the owner of the premises upon filing a claim thereof and proof of title and right to such surplus.
- (c) The Zoning Administrator, in conjunction with the City Administrator, may utilize any labor or equipment of the City in making such abatement or may contract for the abatement thereof with a qualified private contractor.

1345.08 EMERGENCY ABATEMENT.

- (a) Whenever a public nuisance exists as defined in Section 1345.01 and the nature thereof constitutes an emergency as defined in subsection (b) hereof, the City may take immediate action to abate the nuisance and such abatement may take place without prior notice as defined in Section 1345.03 (a). Upon completion, notice of the emergency abatement action shall immediately be sent as defined in Section 1345.03 (a).
- (b) As used in this section, "emergency" means an unforeseen combination of circumstances that calls for immediate action in order to preserve the public health, safety, welfare or property against an imminent risk of physical harm.
- (c) In any proceeding pursuant to this section, the determination that a public nuisance exists and that the nature thereof constitutes an emergency as defined in subsection (b) hereof shall be made by the Zoning Administrator or the Chief Building Official.

1345.09 AUTHORITY OF CITY.

This chapter shall be deemed to be an enlargement and not a limitation or restriction on the power or authority of the City or any officer thereof to take any action or bring any suit or proceeding in respect to public nuisances otherwise provided for by law or ordinance of the City.

1345.10 UNLAWFUL INTERFERENCE PROHIBITED.

No person shall interfere with any municipal officer, assistant, subordinate, employee or agent while he or she is engaged in or about the carrying out of any of the duties set forth in this chapter.

1345.99 PENALTY.

- (a) Any owner, tenant, or person in control of property who neglects or refuses to obey a proper order issued by the Zoning Administrator or a duly authorized representative, pursuant to this chapter, shall be guilty of a misdemeanor of the third degree. Each and every day's violation after the time specified in any notice provided for herein that such nuisance is permitted to exist shall be deemed a separate and distinct offense hereunder.
- (b) It shall be an affirmative defense to the refusal or neglect to obey a proper order issued pursuant to this chapter that the person was willing to comply with the order but was financially unable to do so.
- (c) Whoever violates the provisions of Section 1345.10 shall be guilty of a misdemeanor of the second degree.
- (d) No proceeding under this section may be maintained unless the Zoning administrator, the Chief Building Official and the Fire Chief (if required) shall unanimously find that a public nuisance as defined in this chapter exists and should be abated.