

ABATEMENT OF PUBLIC NUISANCE

§ 150.080 DEFINITIONS.

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

OWNER. The owner of record of the premises in fee or lesser estate therein, a mortgagee or vendee in possession, assignee of the rents, receiver, executor, administrator, trustee, lessee or other person, firm or corporation in control of a building or his authorized agent.

PUBLIC NUISANCE. Any fence, wall, garage, shed, house, building, dwelling, structure, tree, pole, smokestack or any excavation, basement, cellar, well, cistern or sidewalk subspace, or part thereof, if the condition in which the same is permitted to be or remain, endangers the health, life, limb or property or causes 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.
- (4) By reason of continued vacancy thereby resulting in a lack of reasonable or adequate maintenance of structures and grounds, and causing deterioration and a 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 community in which the structure is situated. ('73 Code, § 1329.01) (Ord. 20-87, passed 7-22-87; Am. Ord. 9-2008, passed 7-9-08)

§ 150.081 STRUCTURE DISREPAIR PROHIBITED.

No owner of a building, dwelling or other structure within the boundaries of the city shall permit the same to remain in such an advanced state of disrepair as to endanger the health, safety and welfare of the residents of the community or so as to be a public nuisance by reason of its condition. ('73 Code, § 1329.02) (Ord. 20-87, passed 7-22-87; Am. Ord. 9-2008, passed 7-9-08) Penalty, see § 150.999

§ 150.082 INSPECTION BY BUILDING INSPECTOR.

The Building Inspector shall have free access at any reasonable hour, upon obtaining a search warrant when a building is occupied, to make inspection, including the right to photograph the premises, examinations and survey any building, dwelling, structure or location located within the city where he has probable cause to believe the building, dwelling, structure or location is unsafe or insecure and thereby dangerous to the residents of the city.

('73 Code, § 1329.03) (Ord. 20-87, passed 7-22-87; Am. Ord. 9-2008, passed 7-9-08)

§ 150.083 ACTION BY BUILDING INSPECTOR FOR REPAIR.

(A) Upon determination by the Building Inspector that any building, dwelling or structure is in such a state of disrepair by reason of defective or inadequate plumbing or sanitary facilities; faulty or defective electric wiring; internal accumulation of debris, filth, rubbish or garbage; general deterioration in the structure by reason of age, neglect, exposure to the elements or vandalism; failure of the exterior enclosure causing exposure to the elements; general deterioration of the structure; partial damage to the structure by reason of fire, windstorm or other calamity; or by reason of deterioration or damage to the foundation, so as to endanger the health, safety and welfare of the residents and public and is therefore, a public nuisance, he shall notify in writing the City Law Director of his determination that a building, dwelling or structure is in an advance state of disrepair pursuant to § 150.081. The Building Inspector shall provide the street address of the property to the Law Director. The Law Director shall cause a title search to be accomplished on the property located at the street address provided him by the Building Inspector. The Law Director may, if he deems necessary, cause a title insurance commitment to be issued by a licensed title insurance agent in the name of the city. The Law Director, upon receipt of the title opinion or layer's opinion, shall notify the Building Inspector of all owners of record as defined in § 150.080.

(B) Upon receipt of the Law Director's opinion of title, the Building Inspector shall direct the owner of such building, dwelling or other structure, in writing by certified mail at the last known address of the owner, to effect the repairs necessary to correct the violation, or, if the owner is unknown or cannot be located, by publishing a notice to effect such repairs as are necessary to correct the violation, in a newspaper of general circulation in the community for a period of no less than two consecutive weeks. The Building Inspector shall prepare an affidavit for each owner of such building, dwelling or structure stating the date and manner of notification that the building, dwelling or structure is in an advanced state of disrepair. The affidavit shall be notarized and made part of the permanent file which the Building Inspector shall keep on each building, dwelling or other structure found in an advance state of disrepair. All communications with any owner shall be made part of the permanent file kept by the Building Inspector.

(C) No repairs shall be made until the Building Inspector is notified and requirements of the Ohio Building Code and/or Zoning Code of the city are complied with. All work shall be completed within 60 days or by written agreement with the City Building Inspector.

('73 Code, § 1329.04) (Ord. 20-87, passed 7-22-87; Am. Ord. 18-95, passed 9-27-95; Am. Ord. 9-2008, passed 7-9-08)

§ 150.084 APPEAL BY OWNER.

Within 30 days after receipt of such notice or the last publication of the same in a newspaper, as provided in § 150.083, the owner may appeal a finding by the Building Inspector that any such

building, dwelling or structure is in such a state of disrepair as to endanger the health, safety and welfare of the public. Council shall act as the Appeal Board.

('73 Code, § 1329.05) (Ord. 20-87, passed 7-22-87; Am. Ord. 9-2008, passed 7-9-08)

§ 150.085 HEARING OF APPEAL BY COUNCIL.

Upon receipt of written appeal as provided in § 150.084, Council shall set the matter down for hearing at the next meeting of Council. After receiving notice of appeal, the owner shall have the opportunity to appear before Council and to present evidence that the building, dwelling or structure is not in a state of disrepair for any reason set forth in § 150.083 as to endanger the health, safety and welfare of the public and therefore is not a public nuisance. All testimony and evidence shall be recorded by a licensed court reporter/stenographer to make a record of the proceeding should the owner decide to appeal the decision of Council to the Court of Common Pleas.

('73 Code, § 1329.06) (Ord. 20-87, passed 7-22-87; Am. Ord. 9-2008, passed 7-9-08)

§ 150.086 ABATEMENT BY CITY; DEMOLITION OF STRUCTURE.

(A) If no appeal is filed from the finding of the Building Inspector within a 30-day period or Council affirms the findings of the Building Inspector and determines the building, dwelling or structure involved is a public nuisance, the Building Inspector shall request from the City Manager that an ordinance be prepared and presented to Council authorizing the City Manager or his designee, 60 days after earliest date permitted by law, to enter upon such 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.

(1) Within five days of the passage of the ordinance authorizing the City Manager or his designee to abate the nuisance, the Building Inspector shall send by certified mail a copy of the ordinance to all owners of record.

(2) Immediately before the entry to abate the nuisance by demolition and removal of the structure or by taking other such action as may be required, the Building Inspector shall request from the Law Director an updated title opinion. Upon receipt from the Law Director of the updated opinion of title, the Building Inspector shall certify by a written affidavit with a proper notary affirmation to the City Manager that all owners have been notified of the pending abatement. Further, the affidavit must state that the Building Inspector has sent all owners a copy of the ordinance authorizing the City Manager or his designee to abate the nuisance.

(3) Only after the City Manager has received the notarized affidavit of the Building Inspector, stating that all owners have been notified of the abatement, can the City Manager authorized the abatement proceed. The City Manager shall authorize the abatement nuisance in writing, containing an acknowledgment by the City Auditor that funds are available for the abatement of the nuisance. The City Manager or City Auditor may request from the Law Director that he obtain title insurance policy. The cost of the title insurance policy shall become part of the cost of the abatement.

(B) In abating such nuisance the City Manager or his designee may call upon any department of the city for whatever assistance may be necessary, or may, by private contract, obtain the abatement thereof. The cost of such private contract shall be paid for from city funds specifically authorized by Council in order to abate such public nuisances.

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(C) In abating such nuisance he 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 procedures:

(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 60 days after receipt of the bill.

(2) If not paid within the 60-day period, it may be certified to the County Auditor. The City Auditor or his designee may certify the total cost of such abatement, together with a proper description of the lands, to the County Auditor who shall place the cost upon the tax duplicate. The costs are a lien upon such lands from and after the date of entry. The cost shall be collected as other taxes and returned to the city or the city may recover the cost by any other legal means available to it.

('73 Code, § 1329.07) (Ord. 20-87, passed 7-22-87; Am. Ord. 9-2008, passed 7-9-08)

§ 150.087 APPEAL TO COURT.

In the event that the City Manager is apprised that the owner has appealed Council's decision to the Common Pleas Court or any other court having jurisdiction of such appeal the matter will be held in abeyance until further order of the court.

('73 Code, § 1329.08) (Ord. 20-87, passed 7-22-87; Am. Ord. 9-2008, passed 7-9-08)