

**CHAPTER 1339**  
**Nuisances**

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**CROSS REFERENCES**

Nuisances - see Ohio R.C. Ch. 3767

General nuisance violations - see GEN. OFF. Ch. 521

**1339.01 DEFINITIONS.**

(a) As used in this chapter, "Public Nuisance" means any of the following activities, circumstances or conditions:

- (1) Open storage of building materials in a residential district in excess of one year; and
- (2) Any accumulation upon any lot of land of earth, rubbish, or other material which attracts rats, vermin, or insects in such a manner that it endangers the public health, safety, welfare or property; and
- (3) The suffering, permitting, allowing to remain or maintaining of rubbish, refuse or junk, which includes but is not limited to wire, chips, shavings, bottles, broken glass, crockery, tin, cast or wooden ware, boxes, rags, weeds, paper, circulars, handbills, boots, shoes or ashes, or discarded or abandoned iceboxes, refrigerators, washing machines or other airtight or semi-airtight containers or any other waste material upon public or private property contrary to these Codified Ordinances or regulations of the Board of Health; and
- (4) The maintenance or allowance of building materials upon public or private property constitutes a public nuisance if such building materials, which include all residue from building construction and new building materials, are not removed or utilized in construction within thirty days after such materials are placed upon a premises. However, if construction is initiated upon such premises and such building materials are to be used in the construction, then such building materials shall be allowed to remain upon such premises for a period of time not to exceed thirty days after the completion of the construction. For the purpose of the prevention of rodents and other unsanitary conditions, any storage of building materials or deposit of the same upon any property shall consist of building materials being placed at least six inches off the ground at any time; and

- (5) There is located upon any lot of land or in any building or structure located thereon rubbish, or other material in such an amount that it constitutes a fire hazard; and
  - (6) The storage of a motor vehicle in an inoperative or unlicensed condition upon public or private property for more than thirty days without being stored in an enclosed garage or other accessory building.
  - (7) The continued vacancy of a structure or building resulting in lack of reasonable or adequate maintenance of the building or structure and grounds.
  - (8) A vacant building or structure which is open and not secured against unauthorized entry; and
  - (9) A building or structure, or any portion, member, appurtenance or ornamentation thereof, which is likely to fail or become detached, dislodged or to collapse and thereby injure persons or damage property.
  - (10) Weeds which are spreading or maturing seeds, or about to do so, ragweed, goldenrod, poison ivy, poison oak or any other noxious or poisonous weeds or vines; or
  - (11) Grass in excess of ten inches; or
  - (12) Roots of trees which obstruct any portion of a sewer located on City property or within City easements; or
  - (13) Shrubs or bushes located within twenty feet of the intersection of two or more streets and abutting either the sidewalk or the normal sidewalk location if the shrubs or bushes exceed two feet in height above the surface of either the sidewalk or the normal sidewalk location; or
  - (14) A tree, plant, bush or shrub the branches or trunk of which obstruct or impede traffic on any street or public place. Branches overhanging within nine feet of the surface of any sidewalk or within thirteen and one-half feet of the surface of any street shall be deemed prima facie to obstruct or impede traffic thereon; or
  - (15) A tree or branch of any tree which is in danger of falling due to decay or rot or any other reason, or any tree which contains any disease or insects which can spread to other trees; or
  - (16) Any other condition, existing or which has been declared a Nuisance by the Ohio Revised Code.
- (b) "Owner" means any of the following:
- (1) Any person, corporation, partnership, limited partnership, limited liability partnership, or any shareholder, officer, trustee, partner, agent or employee of any of the above who has care, custody, control or charge of a premises or part thereof, has logical title to the premises, or has done any act to maintain or operate the premises.
    - A. "Maintaining or operating the premises" shall include without limitation, entering into a public utility contract, obtaining a building or demolition permit or obtaining any other permit or license relating to the premises.
  - (2) The vendor or vendee under a land installment contract who has care, custody, control or the right to enter on the premises or real property.
  - (3) "Premises" means a lot, plot or parcel of land, including the building or structures thereon.  
(Ord. 4119. Passed 11-28-00.)

**1339.02 PUBLIC NUISANCES PROHIBITED.**

(a) No owner, tenant or other person or legal entity in charge or possession of property shall create, permit or allow a public nuisance to exist upon such property.

(b) Whenever the Director of Administration determines a public nuisance exists he shall, in accordance with the procedures set forth herein, give or cause to be given, a notice to the owner, tenant or other person or legal entity in charge or possession of the property to abate the nuisance, or he may cause the nuisance to be abated if the person upon whom the notice to abate is served fails to do so. The Director may delegate his authority hereunder by administrative rule. (Ord. 4119. Passed 11-28-00.)

**1339.03 NOTICE TO ABATE.**

(a) The notice to abate shall describe the activity, circumstance or condition constituting the public nuisance, designate the subsection of Section 1339.01 being violated, describe the steps necessary to be taken to abate the nuisance, state the time limits within which abatement shall take place and advise the recipient of the right of appeal.

(b) The notice to abate may be served upon either the owner, tenant or other person or legal entity in charge or possession of the property.

(c) Service of the notice to abate shall be by one of the following methods:

- (1) By delivering a copy of the notice to the person or legal entity to be served; or
- (2) By posting the notice in a conspicuous place upon such property in a form approved by the Director of Administration upon such property for a period for five days.
- (3) By certified mail, addressed to such person at his/her usual place of residence or legal entity at its usual place of business with instruction to forward, return receipt requested, provided that the certified envelope is not returned with an endorsement showing failure of delivery; or
- (4) By ordinary mail addressed as in subsection (c)(3) hereof after a certified mail envelope is returned with an endorsement showing either that the certified mail envelope was refused or unclaimed and the ordinary mail envelope is not returned with an endorsement showing failure of delivery; or
- (5) By publication once each week for three consecutive weeks in a newspaper of general circulation in Champaign County when the name, usual place of residence or business or existence of such person or legal entity is unknown and cannot with reasonable diligence be ascertained or in the event all of the other methods in subsections (c)(1) through (4) hereof fail to effect delivery of the notice.

(Ord. 4119. Passed 11-28-00.)

**1339.04 TIME FOR ABATEMENT.**

Within ten days after receipt of the service of the notice to abate as provided for in Section 1339.03, the person served shall complete abatement. Upon written application to the Director of Administration, he may extend the time for completion up to an additional thirty days. (Ord. 4119. Passed 11-28-00.)

**1339.05 APPEALS.**

(a) The decision of the Director of Administration determining that a public nuisance exists may be appealed, administratively, to the Board of Nuisance Appeals.

(b) The appeal shall be filed within ten days after the service of the notice to abate provided for in Section 1339.03 and shall be perfected by filing a written notice of appeal with the Director specifying the grounds of appeal. The Director shall within three days transmit to the Board the notice of appeal and notice to abate and all other paper in his possession upon which his decision was made.

(c) Within seven days after receiving the notices and papers from the Director, the Board shall fix a time for a hearing of the appeal and shall give the appellant ten days prior written notice of the time and place of the hearing.

(d) The appellant shall be entitled to appear at the hearing on appeal in person and may be represented by counsel. Similarly, the Director shall be entitled to appear in his own behalf and be represented by counsel.

(e) The procedure on appeal shall be as the Board shall determine and it may accept the testimony of witnesses and receive documentary evidence.

(f) On appeal, the Board shall consider the matter de novo and shall either affirm the decision of the Director or enter the decision the Director should have made. A majority of the Board shall be required for a decision.

(g) The Board shall decide all appeals within thirty days after the hearing, in writing, which written decision shall be transmitted to the appellant and the Director.  
(Ord. 4119. Passed 11-28-00.)

**1339.06 BOARD OF NUISANCE APPEALS.**

(a) A Board of Nuisance Appeals is hereby created and shall consist of three members appointed by the Mayor, each for a term of three years. The Mayor may also fill vacancies for the unexpired term of the member affected. In the case of the initial appointments to the Board, one member shall be appointed for one year, one for two years and one for three years.

(b) The Board shall elect a chairman and shall adopt rules necessary to the conduct of its affairs. Two members shall constitute a quorum. The Board shall also keep written records of its proceedings and hearings before it, which shall be kept on file with the Clerk of Council.  
(Ord. 4119. Passed 11-28-00.)

**1339.07 SUMMARY ABATEMENT.**

(a) Should the Director of Administration find that because of a public nuisance, the public safety, health or welfare is in immediate danger and is of sufficient severity to require summary abatement, he may give notice as provided for in Section 1339.03 and require that the nuisance be abated within twenty-four hours, and that if not abated within that time, it shall be abated by the City and the cost thereof assessed and collected as provided for in Section 1339.08. The notice, however, in this instance, shall be served only upon the owner of record of the property affected, and any legal and equitable lienholders of record.

(b) The appellate procedure provided for in Section 1339.05 shall also apply in the case of summary abatement, except that:

- (1) The time for filing an appeal shall be within twenty-four hours from the time of service of the notice to abate;
- (2) The transmission of the notice and papers by the Director shall be within twenty-four hours from the time he received the notice of appeal;
- (3) The hearing by the Board shall be held within seventy-two hours after it receives the notice and papers from the Director and a decision shall be rendered within forty-eight hours of the hearing.

(Ord. 4119. Passed 11-28-00.)

#### **1339.08 ABATEMENT BY CITY; COLLECTION OF COSTS.**

(a) If the recipient of the notice to abate provided for in Section 1339.03 fails to comply with the notice to abate and not file a timely appeal, or, having filed a timely appeal which is decided adversely to him, continues to fail to abate the nuisance, the Director of Administration shall take whatever action is reasonably necessary to abate the public nuisance and may collect the actual costs and expenses thereof as well as all incidental and consequential administrative costs and expenses incurred by the City. However, prior to abating the nuisance, the Director shall give fifteen days' prior written notice of his intention, describing the steps to be taken, to the owner of record of the property affected, and also to any legal and equitable lienholders of record. The written notice shall be served in accordance with the provision of Section 1339.03 (c).

(b) The costs of abatement may be collected any of the following ways:

- (1) By commencing a civil suit; or
- (2) By the Clerk of Council certifying to the County Auditor the total costs to be placed upon the County tax duplicate as a lien upon the property affected and collected as other taxes and remitted to the City. The costs so certified shall become a lien upon the property affected as of the date they are entered on the tax duplicate.

(Ord. 4119. Passed 11-28-00.)

#### **1339.99 PENALTY.**

(a) Whoever violates Section 1339.02 (a) shall be guilty of a minor misdemeanor and shall be fined not more than fifty dollars (\$50.00).

(b) Each day a violation exists shall constitute a separate offense.

(c) If, within three years of the offense, the offender has been convicted of and plead guilty to a violation of Section 1339.02 (a), the offender shall be guilty of a misdemeanor of the fourth degree.

(Ord. 4119. Passed 11-28-00.)