

**PART SEVENTEEN – PROPERTY MAINTENANCE CODE**

**CHAPTER 1707**

**BASIC STANDARDS FOR PROPERTY MAINTENANCE**

**1707.21 CHRONIC NUISANCE AT A RESIDENTIAL STRUCTURE AND/OR PREMISES**

(a) The following maintenance, health, safety or sanitation violation(s) occurring on a residential structure and/or its premises, that are engaged in by an owner, occupant or invitee of the owner or occupant of the residential structure and/or premises, are hereby declared to be public nuisances

(1) Any maintenance, health, safety or sanitation violation(s) set forth in either Chapter 1707 and/or Chapter 1709 and/or Chapter 1715 of the Codified Ordinances.

(b) The Building Commissioner or his/her designee, upon finding that two or more nuisance activities declared in this section have occurred within any twelve-month period, may cause a written notice and order to be served on the owner of the property declaring that such property is a housing nuisance property. The notice and order shall set forth the nature of the nuisance, the estimated costs to abate any future nuisance, and state that the owner may avoid being charged nuisance activity as set forth in this section. The notice shall further state that if a third or subsequent nuisance activity as declared in this section occurs within twelve months of the dates of the first two activities, and the costs of such abatement shall be assessed on the housing nuisance property. Notice shall be served as set forth in division (g) below.

(c) If within twelve months after the first of the two nuisances referred to in division (b) of this section has occurred, a third nuisance activity as declared in this section occurs, the City may abate the nuisance by responding to the nuisance activity using administrative and/or law enforcement actions, and the costs of such abatement shall be assessed on the housing nuisance property in the same manner as in division (h) of this section, and the costs shall be calculated as set forth in division (e) of this section. The City shall provide notice to the owner of the housing nuisance property of the City's intent to assess the costs of abatement against the owner's property at least thirty days before such costs are certified to the County for assessment against the property, and such notice shall contain a description of the housing nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be served as set forth in division (g) of this section.



(d) The owner of a housing nuisance property who receives a notice from the Building Commissioner or his/her designee pursuant to this section may appeal such notice by submitting a written request for reconsideration to the Building Commissioner within thirty days of the date of the notice. If the Building Commissioner finds that the facts presented do not support the declaration of a nuisance, the Building Commissioner shall rescind the notice. Otherwise the Building Commissioner shall deny the request and refer the appeal for hearing by the Board of Building Appeals. Any such appeal shall not stay any actions by the City to appeal, the City must show by a preponderance of the evidence that each violation stated in the notice being appealed has occurred, and that the declaration of the residential structure and/or premises as a housing nuisance property or of the intent of the City to assess the residential structure and/or premises for abatement costs, whichever is applicable, is justified. The City shall be deemed to have failed to have met this standard if the owner demonstrates by a preponderance of evidence that:

(1) He/she was not the owner at the time of any of the nuisance activity that is the basis of the notice; or

(2) He/she had knowledge of the nuisance activity, but has promptly and vigorously taken all actions necessary to abate each nuisance including, without limitation, compliance with the requirements of Ohio Revised Code Sections 5321.17(c) and/or 5321.04(a)(9); or

(3) He/she had no knowledge of the nuisance activity and could not, with reasonable care and diligence, have known of the nuisance activity; and upon receipt of the notice of the declaration of the property as a housing nuisance property, he or she promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of Ohio Revised Code Sections 5321.17(c) and/or 5321.04(a)(9).

(e) Costs of abatement shall be assessed based upon the hourly wage of the City employee(s) involved in the abatement of the housing nuisance activity, plus 75% multiplied by the number of hours required to abate the nuisance.

(f) The declaration of a housing nuisance property, an order to abate a nuisance, or the assessment of costs by the City on a residential structure and/or premises, do not affect or limit the City's right or authority to bring criminal prosecution or other legal action against any person for violation of the City's ordinances.

(g) The notice may be served by delivering it personally to the owner or leaving it at the owner's usual place of business or residence, or by posting it in a conspicuous place on the residential structure and/or premises involved, or by mailing it to the owner, or by publishing it once in a newspaper of general circulation within the City if the notice cannot be served in any other preceding manner.

(h) If the nuisance is not abated within the required time, the Safety Director may cause its abatement and report the costs to the City Auditor who shall certify the costs together with a 10% penalty to the County Fiscal Officer for placement on the tax duplicate to be collected as other taxes for return to the City. If the owner of the residential structure and/or premises is ordered to abate the nuisance or to pay to the City the estimated cost of the abatement and fails to comply with such order, such failure shall be considered a first-degree misdemeanor and, upon a plea of guilty or conviction thereof, shall be punished in accordance with Section 698.02 of the Codified Ordinances. Each day of violation shall be considered a separate offense.