

## **Proposed Title 45 – Housing Code Amendments**

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### **Chapter 4501 – Definition**

4501.205 “Multi-Unit Residential Pond” means an artificial pond constructed upon private property used for multi-unit residential purposes that is designed to retain a Permanent Pool of Water and is greater than twenty (20) feet across at its widest point and is accessible by the residents of the multi-unit residential complex. “Multi-Unit Residential Pond” includes a retention facility, as defined in section 1149.02, and a wet extended detention basin, as outlined in the Department of Public Utilities’ Stormwater Drainage Manual.

4501.245 “Permanent Pool of Water” means an artificial water body designed to hold more than eighteen inches of water that remains standing and impounded for longer than twenty-four (24) hours.

#### **4501.275 Public nuisance.**

(A) “Public nuisance” means any structure, ~~or vehicle, building, or premise including, but not limited to, ponds, playgrounds, parking lots, or other appurtenances,~~ which is permitted to be or remain in any of the following conditions:

- (A1) ~~In a~~ A dilapidated, decayed, unsafe or unsanitary condition detrimental to the public health, safety, and welfare, or well being of the surrounding area; or
- (B2) A fire hazard; or
- (C3) Any vacant building that is not secured and maintained in compliance with Chapter 4513; or
- (D) ~~Land, real estate, houses, buildings, residences, apartments, or premises of any kind which are used in violation of any division of Section 2925.13, Ohio Revised Code.~~

“Public nuisance” also means any structure, vehicle, or real property which is not in compliance with any building, housing, zoning, fire, safety, air pollution, health or sanitation ordinance of the Columbus City Code or Columbus City Health Code, or any real property upon which its real property taxes have remained unpaid in excess of one (1) year from date of assessment.

“Public nuisance” means any of the following:

- 1(4) ~~Any building, premises, or real estate, including vacant land, or any appurtenance thereto which is not~~ Not in compliance with any building, housing, nuisance abatement, air pollution, sanitation, health, fire, zoning, or safety code of the City of Columbus or RC Chapter 3767; or
- 2.(5) ~~Any building, premises, or real estate, including vacant land, or any appurtenance thereto upon~~ Upon which its real property taxes have remained unpaid in excess of one (1) year from date of assessment; or
- 3.(6) ~~Any building, premises, or real estate, including vacant land, or any appurtenance thereto on,~~ Upon which a felony violation of ~~Ohio Revised Code~~ RC Chapters 2925 or 3719 has occurred; or
- 4. ~~Any building, premises, or real estate, including vacant land, or any appurtenance thereto as defined as a nuisance or public nuisance in Ohio Revised Code Chapter 3767.~~
- 5.(7) ~~Any building, premises, or real estate, including vacant land, or any appurtenance thereto that is used~~ Used or occupied by a criminal gang (as defined in RC 2923.41) on more than two (2) occasions within a one (1)-year period to engage in a pattern of criminal gang activity (as defined in RC 2923.41); or
- 6.(8) ~~Any building, premises, or real estate, including vacant land, or any appurtenance thereto used~~ Used in violation of RC ~~Ohio Revised Code~~ Chapter 2915; or

(9) On which a felony offense of violence as defined by Ohio Revised Code Section 2901.01 has occurred, except that it does not include any violation of sections 2919.25 or 2919.27 of the Revised Code.

(B) "Public Nuisance" also includes any Multi-Unit Residential Pond wherein a person has drowned or suffered a near-drowning or that poses a significant risk of serious injury or death due to its lack of safety features as provided for in Section 4525.17.

#### **4509.90 Procedures for finding a public nuisance.**

A. Whenever the director determines that there exists a public nuisance, as defined in Section 4501.275, ~~or when notices issued pursuant to Sections 4509.02 or 4513.07 do not alleviate such determination,~~ the director shall issue a notice of violation to the owner ~~of the structure~~ setting forth the conditions ~~constituting that cause the structure to be a public nuisance~~ and advising the owner that the public nuisance must be abated. ~~If the conditions that cause the structure to be a public nuisance include violations of the Housing Code, then prior to declaring a public nuisance under this section the Director shall confirm that appropriate notices have been issued in accordance with Sections 4509.02 or 4513.07 and shall document non-compliance with said notices.~~

Such notice of violation shall:

1. Be in writing;
  2. ~~Describe the structure alleged to be a~~ Identify the premises containing the public nuisance;
  3. ~~Identify the any sections of the Ohio Revised Code or the Housing City Code of which the structure premises is in violation and/or specific conditions which are the basis for the determination that the structure is premises contains a public nuisance;~~
  4. Order the owner to abate the public nuisance and identify the specific conditions that must be corrected ~~in order to constitute abatement;~~
  5. Specify a reasonable time for compliance with the order to abate and/or to meet with the Director to discuss abatement requirements;
  6. Advise the owner of the right to appeal the notice of violation to the property maintenance appeals board;
  7. Advise the owner that if the order to abate the conditions indicated in the notice of violation is not complied with by the specified date of compliance or upon a revised date after meeting with the Director, the director may do any, or all of, the following:
    - a. Initiate a civil and/or criminal action against the owner to enforce the order.
    - b. Cause the conditions indicated in the notice of violation to be corrected by city personnel or private contractor and charge the costs of such correction as a lien upon the owner's ~~structure or land, premises,~~ including but not limited to correction by demolition ~~of the structure.~~
    - c. Assess a civil penalty against the owner pursuant to Section 4509.995 of one thousand dollars (\$1,000.00) for each calendar day that the owner fails to comply with the order to abate the public nuisance by the specified date as required in the notice of violation.
- B. When a notice of violation is served it shall be served upon the owner by any one (1) of the following methods:
1. Personal service;
  2. Certified mail, return receipt requested;

3. Residence service at the owner's address by leaving a copy of the notice of violation with a person of suitable age and discretion then residing therein;
  4. Publication in a newspaper of general circulation in Franklin County:
    - a. The notification shall be published a minimum of once per week for three (3) consecutive weeks, and
    - b. A copy of the newspaper with a copy of the notice marked, shall be mailed to the party at the last known address and the notice shall be deemed received as of the date of the last publication;
  5. Regular mail service to an address that is reasonably believed to be a place of residence of the owner or a location at which the owner is reasonably believed to receive mail regularly;
  6. Posting of the notice of violation at the premises on the structure, except that if ~~the structure is~~ vacant, then the notice shall be posted at the premises on the structure and one (1) of the above methods of service shall also be used.
- C. When the notice of violation has been served as provided herein, it shall be effective as to any person having any interest in the ~~structure-premises~~, whether recorded or not at the time the order was issued, and shall be effective against any subsequent owner as long as the conditions specified in the notice of violation remain and the public nuisance has not been abated as ordered.
- D. Written or oral acknowledgement by the owner of receipt of a notice of violation, or appeal of the notice by the owner to the property maintenance appeals board, shall be evidence that the owner received the notice.
- E. Right of appeal to the property maintenance appeals board.
1. A notice of violation issued pursuant to this section may be appealed to the property maintenance appeals board by the filing of a notice of appeal with the department within fifteen (15) days of service of the notice of violation.
  2. Upon the filing of a timely notice of appeal, the property maintenance appeals board shall conduct a hearing on the appeal within forty-five (45) days unless a continuance is requested by either party and granted by the chair of the board. At such hearing, the burden shall be on the director to prove by the preponderance of substantial, reliable, and probative evidence that the structure identified in the notice of violation is a public nuisance. The property maintenance appeals board shall render its decision in writing, including conclusions of fact and law, within five (5) days of the date of the hearing. The decision of the property maintenance appeals board may reverse, modify or affirm the order and action of the director.
  3. Decisions of the property maintenance appeals board issued pursuant to this section may be appealed to the environmental division of the Franklin County Municipal Court pursuant to Ohio Revised Code Chapter 2506.
- F. Nothing in this section shall be construed to prohibit the director from pursuing the enforcement of any provision of ~~this Housing City~~ Code or the Ohio Revised Code through any other remedy available by law, including but not limited to causing to be filed in the environmental division of the Franklin County Municipal Court a civil complaint for injunctive relief or a criminal misdemeanor complaint.

(A) The owner or operator of premises containing a Multi-Unit Residential Pond shall meet all of the following requirements:

1. Include signage in close proximity to the pond that warns the public of the possible dangers of drowning, as set forth in the rules and regulations;

2. Include US Coast Guard Approved life-saving rings, buoys or similar flotation devices, in close proximity to the pond as to allow for its stated use, as set forth in the rules and regulations.

3. Serve notice on an annual basis to residents of the premises warning of the possible dangers of drowning in the pond, as well as detailing safety features of the pond, as set forth in the rules and regulations.

4. Follow all rules and regulations pertaining to Multi-Unit Residential Ponds.

(B) In addition to the requirements provided for in division (A), the owner or operator of premises containing a Multi-Unit Residential pond constructed after the effective date of this section shall install a submerged bench (i.e., “safety shelf”) as set forth in the Department of Public Utilities Stormwater Drainage Manual.

(C) Upon receiving notice of any serious injury or drowning occurring within a Multi-Unit Residential Pond, Columbus Public Health, the Department of Neighborhoods, and the Department of Public Safety shall issue written notification to the Director within fourteen (14) calendar days. The Director shall review the circumstances giving rise to the notification and any prior serious injuries or drownings on the premises related to the Multi-Unit Residential Pond in order to determine if the pond meets the definition of a public nuisance under Section 4501.275.