



Legislation Text

File #: 1547-2019, **Version:** 1

BACKGROUND:

In an effort to improve the enforcement of nuisance abatement codes against the blighting and destructive influence of properties that become public nuisances, this code change creates a mechanism for allowing Civil Penalties of up to a \$1,000 per day for the most severe public nuisance properties.

This process is designed to continue to ensure the due process for the property owner while also protecting neighborhoods from the debilitating impact that a blighting, public nuisance property creates. This new code will likely provide for quicker resolution than either the current civil or criminal complaint process allows for, while also being able to address nuisance properties held by corporate entities in a more effective manner. Funds collected through these prescribed fines would be directed into the Land Management Fund to help maintain, stabilize, and acquire blighting properties throughout the city.

While this code change would apply to all properties, both commercial and residential, it would be most effective when commercial properties are involved, or with multi-family apartments, hotels/motels, and landlords that own multiple properties that do not meet code requirements. This process would also serve as a deterrent, and encourage other property owners and landlords to maintain their properties in a code complaint manner and thus prevent other properties from reaching the point of having a blighting influence on their surrounding neighborhood.

FISCAL IMPACT: No funding is required for this legislation.

To enact and repeal various sections of the Columbus Nuisance Abatement Code in order to create and administer civil penalties for owners of properties who fail to comply with notices of violation and correct code violations that create public nuisances.

WHEREAS, in an effort to improve the enforcement of nuisance abatement codes against the blighting and destructive influence of properties that become public nuisances, this code change creates a mechanism for allowing Civil Penalties of up to a \$1,000 per day for the most severe public nuisance properties; and

WHEREAS, this process is designed to continue to ensure the due process for the property owner while also protecting neighborhoods from the debilitating impact that a blighting, public nuisance property creates; and

WHEREAS, this new code will likely provide for quicker resolution than either the current civil or criminal complaint process allows for, while also being able to target properties held by corporate entities in a more effective manner; and

WHEREAS, funds collected through these prescribed fines would be directed into the Land Management Fund to help maintain, stabilize, and acquire blighting properties throughout the city; and

WHEREAS, while this code change would apply to all properties, both commercial and residential, it would be most effective when commercial properties are involved, or with multi-family apartments, hotels/motels, and landlords that own multiple properties that do not meet code requirements; and

WHEREAS, this process would also serve as a deterrent, and encourage other property owners and landlords to maintain their properties in a code complaint manner and thus prevent other properties from reaching the point of having a blighting influence on their surrounding neighborhood; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Columbus City Codes are hereby supplemented by the enactment of new section 4701.90, reading as follows:

4701.90 Procedures for finding a public nuisance.

A. Whenever the director determines that there exists a public nuisance, as defined in section 4703.01(F), or when notices issued pursuant to sections 4701.09, 4701.11 or 4709.05 do not alleviate such determination, he or she shall issue a notice of violation to the owner of the structure setting forth the conditions 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 Nuisance Abatement 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 4701.09, 4701.11 or 4709.05 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 public nuisance;
3. Identify the sections of the Ohio Revised Code or the Nuisance Abatement Code of which the structure is in violation and specific conditions which are the basis for the determination that the structure is 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;
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, 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, including but not limited to correction by demolition of the structure.
 - c. Assess a civil penalty against the owner pursuant to section 4709.995 of \$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 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 on the structure, except that if the structure is vacant, then the notice shall be posted on the structure and one 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 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 Nuisance Abatement 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.

SECTION 2. That the Columbus City Codes are hereby supplemented by the enactment of new section 4709.995, reading as follows:

4701.995 Civil penalty; effect of appeal.

A. In addition to any other remedy or penalty provided in this Nuisance Abatement Code or the Ohio Revised Code, an owner who fails to comply with a notice of violation issued pursuant to sections 4701.09, 4701.11 or 4709.05 by the date specified in the notice may incur a civil penalty of \$1,000.00 for each calendar day thereafter that the owner fails to comply with the order to abate the public nuisance as required in the notice of violation. The director shall provide notice to the owner prior to the assessment of a civil penalty as provided herein. Such notice shall state the date on which the assessment of a civil penalty will commence and shall be served on the owner as provided in section 4709.90(B). The director must document non-compliance with the notice of violation and abatement order for each day for which a civil penalty is to be assessed against the owner under this section. The director shall also document that prior to the issuance of the notice of civil penalty he or she has personally conferred or attempted to confer with the owner in an effort to establish a reasonable period of time for the owner to comply and abate the hazard and the owner either did not comply or refused to meet or was unavailable.

B. In addition to any other remedy available by law, the director may file a civil action in the environmental division of the Franklin County Municipal Court seeking a court order to recover any accumulated civil penalties.

C. Upon the owner appealing a notice of violation to the property maintenance appeals board pursuant to section 4701.13, any enforcement action seeking compliance with the ordered abatement, including the collection of civil penalties pursuant to this section, shall be stayed until the property maintenance appeals board issues its decision on the appeal. Civil penalties incurred pursuant to this section shall continue to be assessed during the pendency of any appeal to the property maintenance appeals board and any subsequent court appeals, and shall be subject to collection upon a final judgment on the appeal.

SECTION 3. That existing section 4701.17 of the Columbus City Codes is hereby repealed in its entirety.

SECTION 4. That this ordinance shall take effect and be in force from and after the earliest period provided by law.