

1486.01 UNSAFE STRUCTURE DEFINED; ABATEMENT REQUIRED.

(a) All buildings or structures which are structurally unsafe, unsanitary or not provided with adequate safe egress, which constitute a fire hazard or are otherwise dangerous to human life or which, in relation to existing use, constitute a hazard to safety of health by reason of inadequate maintenance, dilapidation, obsolescence, *vacancy* or abandonment are hereby declared to be **a nuisance and** unsafe structures. All such unsafe structures are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedure set forth in this chapter.

(b) If the Building Commissioner finds that a nuisance condition exists as defined in the City's Codified Ordinances, or otherwise by ordinance passed by Council, on any property, the Building Commissioner may issue a notice declaring the existence of such nuisance, and may order the abatement of the nuisance or proceed to abate the nuisance.

(c) In addition to the authority granted in subsection (a) of this Section, if a Building Commissioner finds that a property or a structure, by reason of deterioration of materials, lack of repair or maintenance, is a hazard to the health, safety or welfare of its occupants or the public or is a blighting or deteriorating factor in the neighborhood, or impairs or adversely affects the value of neighboring property, the Building Commissioner may declare such property or structure to be a nuisance, issue a notice declaring the existence of such nuisance, and order the abatement of the nuisance or proceed to abate the nuisance.

1486.105 DEFINITIONS

(a) "Abandoned": An "abandoned" structure is a structure that is not occupied for any period of time during which the City has not been able to communicate with or locate an owner or party with the legal authority to be in control of the property, and after the City has made reasonable attempts to communicate with or locate the owner or a party in control.

(b) "Abate" or "abatement" means the removal or correction of any conditions that constitute a nuisance and the making of any other improvements that are needed to effect a rehabilitation of the building, structure, or property that is consistent with maintaining safe and habitable conditions over its remaining useful life. "Abatement" does not include the closing or boarding up of any building or structure that is found to be a public nuisance.

(c) "Accessory structure" means a structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

(d) *"Building" means a combination of materials to form a construction adapted to permanent or continuous occupancy or use for public, institutional, residence, business or storage purposes.*

(e) *"Deterioration" means the condition or appearance characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use.*

(f) *"Dwelling" means any structure designed for use by human occupants for sleeping and living purposes, whether occupied or vacant.*

(g) *"Dwelling unit" means any room or group of rooms located within a dwelling forming a single habitable unit which includes facilities for living, sleeping, cooking, eating, bathing and toilet purposes.*

(h) *"Exterior of the premises" means those portions of a building which are exposed to the elements and the open space of any premises outside of any building erected thereon.*

(i) *"Fire Chief" means the Chief of the Fire Department of the City.*

(j) *"Fire hazard" means anything or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fires; or which may obstruct, delay or hinder, or may become the cause of an obstruction, delay, hazard or hindrance to, the prevention, suppression or extinguishing of fires.*

(k) *"Garbage" means putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.*

(l) *"Nuisance" means:*

(1) *Any public nuisance known at common law or in equity jurisprudence, or as provided by the statutes of the State or the ordinances of the City;*

(2) *Physical conditions of a property or structure by reason of deterioration of materials, lack of repair or maintenance which is dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist; is otherwise no longer fit and habitable; or is a blighting or deteriorating factor on the neighborhood.*

(3) *Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this chapter; or*

(4) *Fire hazards.*

(m) *"Occupied": The term "occupied" shall mean the presence of a person or persons either:*

(1) *Living in a structure and using some portion of such structure as a dwelling unit, or*

(2) *Working in a structure and using some portion of the structure for the operation of a business.*

(n) *"Operator" means any person who has charge, care or control of a dwelling or premises, or a part thereof, whether with or without the knowledge and consent of the owner.*

(o) *"Owner" means any person who, alone or jointly or severally with others, has legal or equitable title to any premises with or without accompanying actual possession thereof; or who has charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as fiduciary, including, but not limited to, executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate, or as a mortgagee in possession regardless of how such possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by the lessee.*

(p) *"Premises" means a lot, plot or parcel of land, including the buildings or structures thereon.*

(q) *"Property": The term "property" shall mean all portions of the real estate of a parcel in the City, including lands and structures of every type.*

(r) *"Refuse" means all putrescible and nonputrescible solid wastes, except body wastes, including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes.*

(s) *"Registered mail" means registered or certified mail.*

(t) *"Structure" means a combination of any materials, whether fixed or portable, forming a construction. "Structure" includes radio and television antennas, satellite dishes and receiving stations.*

(u) *"Vacant": A structure shall be considered "vacant" for the purposes of this Chapter if it has not been occupied for a period of six (6) consecutive months or more, except a structure shall not be considered vacant if it is only seasonally not occupied and such period is less than twelve (12) months. A structure shall be considered "vacant" for the purpose of this Chapter even if it is being maintained on the exterior, and even if the owner of the property is actively attempting to sell or rent the property.*

1486.02 EXAMINATIONS.

The Building Commissioner shall examine or cause to be examined every building or other structure reported to be unsafe or damaged and shall make a written record of such examination.

The Building Commissioner may take any action necessary to inspect a vacant or abandoned property, and to abate a vacant or abandoned property nuisance, as authorized in this Chapter. Upon inspection of a vacant or abandoned structure, the Building Commissioner may take any action authorized by law to ensure that the property, including the structure, is maintained according to the requirements of all applicable ordinances.

1486.03 NOTICE TO OWNERS.

(a) Whenever the Building Commissioner finds any building or structure or portion thereof to be an unsafe structure, he or she shall, ***issue a notice declaring the existence of such nuisance, and order the abatement of the nuisance or proceed to abate the nuisance***, in accordance with established procedure, have written legal notices given to the owner, agent or person in control of such building or structure stating the defects thereof. This notice shall require the owner, within a stated time, either to complete specified repairs or improvements ***and abate the nuisance*** or to demolish and remove the building or structure or portion thereof.

(b) ***In addition to or in lieu of the procedure in subsection (a) of this Section, the Building Commissioner may cause a written notice and order to be served on the owner or the agent of the owner of the property setting forth the nature of the nuisance, the estimate of the cost of abating the same if done by the City, directly or indirectly, a reasonable time determined by the Building Commissioner within which the owner shall abate the nuisance or pay the estimated cost to the City, and the statement that unless the nuisance is abated within the stated time it may be abated by the City and the cost of abatement assessed upon the real estate involved.***

(c) ~~(b)~~ If the person to whom such notice and order is addressed cannot be found within the City after diligent search, then such notice and order shall be sent by registered mail to the last known address of such person and a copy of such notice shall be posted in a conspicuous place on the premises to which it relates. Such mailings and posting shall be deemed legal service of such notice.

1486.04 CONDEMNATION; VACATION OR DEMOLITION.

If necessary, the notice set forth in Section 1486.03 shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied or used until the specified repairs or improvements are completed, inspected and approved by the Building Commissioner who shall cause to be posted at each entrance to such building or structure a notice as follows:

"THIS STRUCTURE IS IN A DANGEROUS CONDITION
AND HAS BEEN CONDEMNED
AND ITS USE HAS BEEN PROHIBITED BY THE
BUILDING COMMISSIONER."

Such notice shall remain posted until the required repairs are made or demolition is completed. No person shall remove such notice without legal written permission from the Building Commissioner, nor shall any person use or enter the building or structure except for the purpose of making the required repairs or demolishing the building or structure.

1486.045 ABATEMENT OF NUISANCE; COLLECTION OF COSTS; ASSESSMENT

(a) If the nuisance is not abated within the required time, as determined by the Building Commissioner, the Building Commissioner may cause its abatement. The abatement of a nuisance may be conducted utilizing labor and materials provided by the Service Department, other departments of the City, or by entering into a contract for the provision of abatement services in accordance with the ordinances and Charter of the City.

(b) If the Building Commissioner determines to take action to abate the nuisances the Building Commissioner shall furnish the owner of the real estate whereon the nuisance exists with a statement of the estimated cost of abating the same prior to the abatement, and a statement of the final cost as soon as the cost can be ascertained, and shall order the owner to pay the cost within such reasonable time as the Building Commissioner shall fix.

(c) Regardless of the estimated cost of abating a public nuisance by the City as determined herein, the owner shall be responsible for payment to the City of the actual costs incurred by the City in 1) preparing to abate the nuisance if the City does not proceed with the abatement or 2) in preparing to abate and abating the nuisance, and 3) the City's actual administrative costs, applied as a percentage of the total cost incurred by the City, as approved annually by the Director of Finance. Should the actual costs incurred in abating such nuisance be less than the estimate, and the owner has deposited with the City an amount equal to such estimated amount, the City shall refund to the owner the amount of the difference.

(d) The City may take such action as it deems necessary to collect the costs incurred by the City in preparing to abate and/or in abating the nuisance, including the assessment of such costs on the real estate on which the nuisance existed or the cause or source thereof was located.

1486.05 APPEALS.

The owner, agent or person in control of an unsafe building, structure or portion thereof shall have the right to appeal from a decision of the Building Commissioner under this chapter and to appear before the Board of Zoning Appeals at a specified time and place to show cause why he or she should not comply with the notice provided for in Section 1486.03.

1486.06 ~~NONCOMPLIANCE WITH NOTICE.~~ **RELATIONSHIP TO OTHER LAWS.**

~~If the owner, agent or person in control of an unsafe building, structure or portion thereof cannot be found within the stated time limit, or if such owner, agent or person in control fails, neglects or refuses to comply with the notice to repair, rehabilitate or demolish and remove the unsafe building or structure, or portion thereof, the Director of Law shall be advised of all the facts in the case and shall institute appropriate legal action to compel such compliance.~~

The authority to abate nuisances granted herein and the procedure set forth shall be in addition to and shall not limit the authority to abate nuisances granted in other ordinances, laws, or Constitution of the State of Ohio.

1486.07 EMERGENCIES.

In case of an emergency which, in the opinion of the Building Commissioner, involves immediate danger to human life or health, the Building Commissioner *may declare such condition a nuisance and shall promptly order and* cause an unsafe building, structure or portion thereof *or an immediate threat of substantial and/or irreparable physical or economic damage to a structure* to be made safe or removed. For this purpose, he or she may at once enter such structure with such assistants and at such cost as he or she may deem necessary, order adjacent structures and premises to be vacated and protect the public by an appropriate fence or other such means as may be necessary, and for this purpose may close a public or private way.

The Building Commissioner may take action necessary to immediately abate the violation constituting a nuisance without advance notice to the owner. Such action may include entering a property for the purposes of conducting an inspection, to the extent and in the manner allowed by law, ordering that the property be immediately vacated, ordering the cessation of utility service if necessary to protect life,

health or property, and/or abate the violation constituting the nuisance. If the Building Commissioner abates a nuisance pursuant to this Section, notice shall be provided to the owner within three (3) days after the start of the abatement work in the same manner as notice is required in this Section for non-emergency nuisance abatement.

1486.08 RECOVERY OF COSTS.

Costs incurred under Sections 1486.06 and 1486.07 by the use of employees, materials and equipment of the Municipality, or by contract for labor, materials and equipment **and administrative costs incurred**, ~~or both~~, for removing insecure, unsafe or structurally defective buildings or other structures, regardless of whether such removal is authorized under Ohio R.C. 715.26 or Section 3, Article XVIII, of the Ohio Constitution, including the cost of service or publication of notice, together with a proper description of the premises, shall be certified by the Clerk of Council to the County Auditor and placed by him or her upon the tax duplicate. Such costs shall be a lien upon such lands from and after the date of entry and shall be controlled and collected as other taxes and returned to the Municipality.

The remedy provided for in this section and in Sections 1486.06 and 1486.07 shall be in addition to the penalties provided in Section 1486.99.

1486.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree; for a second or subsequent offense, such person shall be guilty of a misdemeanor of the second degree. Whoever is convicted of or pleads guilty to a misdemeanor shall be sentenced in accordance with Section 698.02. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.