

CHAPTER 510
Nuisance Abatement

510.01 Declaration of nuisances.
510.02 (Reserved).
510.03 (Reserved).

**510.04 Board of Nuisance
Abatement Appeals.**

510.01 DECLARATION OF NUISANCES.

(a) Definition of Nuisance Activity. The following activities occurring either on residential or commercial property, or within one thousand (1,000) feet of the property line of said residential or commercial property, and engaged in by an owner, or the owner's agent, or the owner's lessee, occupant, invitee or the person or entity in charge of said residential or commercial property (including individual apartment and condominium units) are hereby declared to be public nuisances:

- (1) Any animal violations under Sections 505.02 (dogs running at large), 505.13, 505.15 and 505.20 (animal noise, excrement and biting), 505.18 or Chapter 506 (dangerous or vicious animals), 505.07 (killing or injuring animals), 505.09 (cruelty to animals) of the Codified Ordinances;
- (2) Any disorderly conduct disturbance of the peace or other violation of Chapter 509 of the Codified Ordinances;
- (3) Any drug abuse violation under Chapter 513 of the Codified Ordinances;
- (4) Any noise violation under Chapter 515 of the Codified Ordinances;
- (5) Any gambling violation under Chapter 517 of the Codified Ordinances;
- (6) Any health, safety, or sanitation violation under Chapter 521, 1775 or 1779 of the Codified Ordinances;
- (7) Any littering or deposition of waste under Section 521.08 of the Codified Ordinances;
- (8) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances;
- (9) Any alcohol violations under Chapter 529 of the Codified Ordinances or under Chapter 4301 of the Ohio Revised Code;
- (10) Any sex offenses under Sections 533.07 (public indecency), 533.08 (procuring), 533.09 (soliciting) or 533.10 (prostitution) of the Codified Ordinances;

- (11) Any offenses against persons under Chapter 537 of the Codified Ordinances;
- (12) Any offenses against property under Sections 541.03 (criminal damaging or endangering) or 541.04 (criminal mischief) of the Codified Ordinances;
- (13) Any theft violation under Sections 545.05 (petty theft), 545.08 (unauthorized use of property), of the Codified Ordinances;
- (14) Any weapons, explosives, firearm or handgun violation under Chapters 549 of the Codified Ordinances;
- (15) Any fireworks violation under Section 549.10 of the Codified Ordinances;
- (16) Any offense that is a felony under the Ohio Revised Code.

(b) For purposes of subsection (a), the occurrence of a nuisance activity means either a citation has been issued, or an arrest has been made, or a conviction has been obtained, or a City Department, including, but not limited to, Police, Fire, Animal Control, or Building, has documented the activity in lieu of arrest or citation.

(c) Initiation of Nuisance Declaration Process. The Director of Public Safety or his or her designee, upon finding that two or more nuisance activities or any one felony as outlined in subsection (a) have occurred within a twelve-month period, may cause a written notice and order to be served on the owner of the property. The notice shall declare that if a third nuisance activity, or any additional felony as outlined in subsection (a) hereof occurs within a twelve-month period of the first nuisance activity, such property shall be declared a nuisance property. The notice and order shall set forth the nature of the nuisances and the estimated costs to abate any future nuisance and shall state that the owner may avoid being charged the costs of abatement by taking steps to prevent any further nuisance activity as set forth in this section. The notice shall further state that the City may abate the nuisance by responding to the activities using administrative and law enforcement actions and the costs of such abatement shall be assessed on the nuisance property as set forth in subsection (g). Notice shall be served pursuant to the Ohio Rules of Civil Procedure.

(d) Nuisance Declaration. If a third nuisance activity as declared in this section, or any additional felony, occurs within twelve months after the first of the two nuisance activities referred to in subsection (c), the Director of Public Safety or his or her designee may declare the property to be a nuisance under this chapter. Once a property has been declared a nuisance then any subsequent occurrence of any activity listed in subsection (a) may cause another nuisance declaration. The cost of responding to the nuisance activity shall be assessed on the nuisance property. The nuisance declaration may come before or after the City has incurred the response costs. The costs shall be calculated as set forth in subsection (g) hereof. The City shall provide notice to the owner of the nuisance property to pay the costs of abatement at least thirty (30) days before such costs are certified to the County Auditor for assessment against the property, and such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. If the same is not paid within thirty (30) days of the mailing of the notice, such amount may be certified to the County Auditor for collection as other taxes and assessments are collected, or the City may seek recovery of such costs by civil action. Notice shall be served pursuant to the Ohio Rules of Civil Procedure.

(e) Reconsideration Request. The owner of a nuisance property who receives a nuisance declaration notice from the Director of Public Safety or his or her designee pursuant to subsection (d) may appeal such notice by submitting a written request for reconsideration to the Director of Public Safety. If the Director of Public Safety or his or her designee finds that the facts presented do not constitute a public nuisance then the Director of Public Safety or his or her designee shall rescind the notice. Otherwise the Director of Public Safety or his or her designee shall deny the request and advise the appellant in writing of the denial and of the appellant's right to file an appeal to the Board of Nuisance Abatement Appeals.

(f) Appeal to the Board of Nuisance Abatement Appeals. The owner may appeal the denial of the request for reconsideration by submitting a written appeal letter to the Board of Nuisance Abatement Appeals within thirty (30) days of the date of the denial. Any such appeal shall not stay any actions by the City to abate the first or any subsequent nuisance activity. In any such appeal, the City must show by a preponderance of the evidence that each nuisance activity stated in the notice being appealed, or if the activities stated in the notice number more than three, each nuisance activity for which the City seeks compensation, has occurred, and that the declaration of the property as a nuisance property or of the intent of the City to assess the property for abatement costs, whichever is applicable, is justified. If a nuisance activity has been evidenced by a criminal conviction then it shall be per se proof that the activity has occurred.

The City shall be deemed to have failed to meet this standard if the owner demonstrates by a preponderance of evidence that:

- (1) He or she was not the owner at the time of any of the nuisance activity that is the basis of the notice; or
- (2) He or 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 R.C. 5321.17(C) and 5321.04(A)(9); or
- (3) He or 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 nuisance property, he or she promptly took all actions necessary to abate the nuisance including without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 5321.04(A)(9).

(g) Costs of abatement shall be a combination of a defined minimum cost and the actual cost based upon the hourly wage of any safety, animal control officer, building department personnel or any other personnel involved in the response to the nuisance activity defined in subsection (d). The minimum defined costs are: two hundred dollars (\$200.00) upon the first declaration of nuisance under this chapter; three hundred and fifty dollars (\$350.00) on the second nuisance declaration; and five hundred dollars (\$500.00) on each subsequent nuisance declaration.

(h) The declaration of a nuisance property, an order to abate a nuisance, or the assessment of costs by the City on a property, does 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. (Ord. 23-08. Passed 12-15-08.)

510.02 (RESERVED).

510.03 (RESERVED).

510.04 BOARD OF NUISANCE ABATEMENT APPEALS.

(a) Establishment; Purpose. The Board of Nuisance Abatement Appeals is hereby established to hear appeals pursuant to Section 510.01. The Board of Nuisance Abatement Appeals shall be the final administrative appeal in determining whether the declaration of nuisance as outlined in Section 510.01 is upheld.

(b) Membership. The Board of Nuisance Abatement Appeals shall be composed of five members. The Mayor shall appoint three members and City Council shall appoint two members. All members thereof shall be residents of the City of Lakewood. In no event shall any member be an employee of the City.

(c) Terms. Board members shall serve a term of three years and receive no compensation for service. The Mayor shall initially appoint two members to a four-year term and one member to a three-year term. Council shall initially appoint one member to a four-year term and one member to a three-year term. Vacancies shall be filled by the initial appointing authority.

(d) Chairperson. The Mayor shall appoint the chairperson and co-chairperson of the Board annually. The chairperson or co-chairperson shall preside over all of the meetings.

(e) Quorum. The Board shall consist of a minimum of three members for a valid and binding decision.

(f) Rules of Procedure. The Board is authorized to adopt its own bylaws and general rules of operation. Such bylaws and rules shall be consistent with this Chapter. The Board shall meet annually and at other times as determined necessary by the Board, but shall meet at a minimum within 15 days of receipt of an Appeal pursuant to Section 510.01(f).

(g) Secretary. The Director of Law shall appoint a person to serve as the Secretary to the Board for the purpose of receiving appeals, sending notice of hearings and decisions, maintaining notes, recordings and any other record of hearings and preparing the record of hearing for filing in the Court of Common Pleas in any appeal from a decision of the Board.
(Ord. 23-08. Passed 12-15-08.)