

NUISANCE ABATEMENT CODE

A regulation establishing standards of hygiene and sanitation governing the condition and maintenance of occupied or vacant dwellings, accessory structures, improved or unimproved property; establishing standards governing supplies, utilities, and facilities and other physical things; and conditions essential to make dwellings safe, sanitary, and fit for occupants of dwellings; authorizing the inspection of dwellings when necessary, and the declaration of dwellings as a public nuisance, unfit for human habitation.

Whereas, in the Mahoning County General Health District, there are, or may in the future be, dwelling structures which are so dilapidated, unsafe, dangerous, unhygienic, or unsanitary as to constitute a menace to the health and safety of the occupants thereof and of the people of the Mahoning County General Health District.

By authority of Section 3709.21, Ohio Revised Code, be it therefore resolved by the Board of Health of the Mahoning County General Health District as follows:

References

- (1) Ohio Revised Code 3707.01 Powers of Board; Abatement of Nuisances
- (2) Ohio Revised Code 3707.02 Proceedings When Order of Board is Neglected or Disregarded
- (3) Ohio Revised Code 3709.99 Health Districts Penalties
- (4) Ohio Revised Code 505.86 Removal, Repair or Securance of Certain Buildings or Structures; Recovery of Costs
- (5) Ohio Administrative Code 3701-31 Department of Health, Swimming Pools and Spas
- (6) Ohio Administrative Code 4101:1.13 Board of Building Standards: Ohio Plumbing Code
- (7) International Code Council, International Property Maintenance Code, 2003

- (8) Healthy Housing Reference Manual Centers for Disease Control and Prevention and U.S. Department of Housing and Urban Development. Atlanta: US Department of Health and Human Services 2006
www.cdc.gov/healthyplaces/healthyhomes.htm
- (9) Reference Guide for Inspection of Textile Floorcoverings. Institute for Inspection Cleaning and Restoration. Vancouver, WA. 1996.
- (10) Standard and Reference Guide for Professional Water Damage Restoration. Institute for Inspection Cleaning and Restoration. Vancouver, WA. 2006.

Section 1.0 Definitions

- 1.1 **Accessory Structure** means a detached structure which is not used or not intended to be used for living or sleeping by human occupants and which is located on or partially on any premises, including but not limited to barns, garages, sheds, privies.
- 1.2 **Board of Health** means the Board of Health of the Mahoning County General Health District.
- 1.3 **Clean** means free from dirt, impurities, food, soil, human wastes, and/or mismanaged waste streams.
- 1.4 **Construction and demolition debris** means materials defined in the Ohio Revised Code 3714.01 and Ohio Administrative Code 3745-400-01 or their successor.
- 1.5 **Disease Vector** means a living organism such as a rodent or mosquito that is capable of transmitting a pathogen to a human being.
- 1.6 **Dwelling** means any building or structure which is wholly or partly used or intended to be used for living, sleeping, cooking and or eating by human occupants, provided that temporary housing as hereinafter defined shall be exempted from the provisions of these regulations.
- 1.7 **Dwelling Unit** means any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and/or eating.
- 1.8 **Habitable Rooms** means a room or enclosed floor space used or intended to be used for living, sleeping, cooking and/or eating.

- 1.9 **Health Commissioner** means the Health Commissioner of the Mahoning County General Health District or the Health Commissioner's authorized representative.
- 1.10 **Hygiene** means the science of health and its maintenance.
- 1.11 **Infestation** means the troublesome spreading or swarming presence of disease vectors.
- 1.12 **Meaning of Certain Words** Whenever the words "accessory structure", "dwelling", "dwelling unit", or "premise", are used in this regulation, they shall be construed as though they were followed by the words "or any part thereof."
- 1.13 **Multiple Dwelling** means any dwelling containing two or more dwelling units.
- 1.14 **Nuisance** means Public Nuisance.
- 1.15 **Occupant** means any person living, sleeping, cooking, eating in, or occupying a dwelling unit.
- 1.16 **Operator** means any person who has charge, care, or control of building, or part thereof, in which dwelling units or rooming units are let.
- 1.17 **Owner** means any person who, alone or jointly or severally with others;
- (a) shall have legal title to any dwelling, dwelling unit, accessory structure or premise with or without accompanying actual possession thereof.
 - (b) shall have charge, care or control of any dwelling, dwelling unit, accessory structure or premise as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provision of this regulation.
- 1.18 **Person** means an individual, partnership, association, syndicate, limited liability company, firm, trust, corporation, department, bureau, agency or any entity, public or private, recognized by law.
- 1.19 **Plumbing** means and includes all of the following supplied facilities and equipment; gas, pipes, gas burning equipment, water pipes, garbage disposal

units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

- 1.20 **Premise** means a lot, plot, parcel of land, or property including the buildings or structures thereon.
- 1.21 **Public Nuisance** means a building, erection, excavation, premises, business, pursuit, matter, or thing, or the sewage, drainage, plumbing, or ventilation thereof, that is, in the opinion of the board of health, in a condition dangerous to life or health; or means a building or structure that is occupied or rented for living or business purposes, and the plumbing, and sanitary facilities are feasible and necessary, but neglected or refused.
- 1.22 **Registered Letter** means a written notice sent via United States Postal Service following a certified mail process.
- 1.23 **Responsible Party (Parties)** means an owner, agent, assignee, occupant, tenant, operator or other person having control of a property or anyone responsible for the condition on a property.
- 1.24 **Sanitary** means conditions relating to health that are free from filth or pathogens.
- 1.25 **Sanitary Facilities** means an approved household or commercial waste water disposal system or sanitary sewer.
- 1.26 **Sanitation** means the science and practice of effecting healthful and hygienic conditions.
- 1.27 **“Serve” or “Service”**: “Serve” or “Service” shall mean providing notice by registered mail, personal service, resident service and/or posting at the subject premise.
- 1.28 **Solid Waste** means materials defined in the Ohio Revised Code 3734.01 and the Ohio Administrative Code Sections 3745-500-02 and 3745-27-01 or their successor
- 1.29 **Swimming Pool** means any outdoor structure, chamber, or tank containing a body of water for swimming, diving, or bathing.
- 1.30 **Supplied** means paid for, furnished or provided by or under the control of the owner.

1.31 Temporary Housing means:

- (a) A recreational vehicle as defined in Section 4501.01, Revised Code, when occupied for periods of less than thirty days.
- (b) A 'camp' as defined in section 3701-25-01, or "park or camp" as defined in section 3701-26-01 of the Ohio Administrative Code or subsequent citations referencing this code.
- (c) Any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty consecutive days.

Section 2.0 Inspection of Dwellings, Dwelling Units, Accessory Structures and Premises

- 2.1 Whenever the Health Commissioner determines that there is probable cause to believe that there has been a violation of any provision of this regulation, the Health Commissioner is hereby authorized to make inspections to determine the condition of dwellings, dwelling units, accessory structure, and/or premises located within the Mahoning County General Health District.
- 2.2 If the entry authorized by Section 2.1 of this section is refused or if the inspection or investigation so authorized is refused, hindered, or thwarted by intimidation or otherwise, the Health Commissioner may apply for and obtain a search warrant.

Section 3.0 Enforcement - Service of Notices and Orders

- 3.1 Whenever the Health Commissioner determines that there is probable cause to believe that there is a violation of any provision of this regulation, the Health Commissioner shall serve written notice of such violation on the owner, occupant, or responsible party and shall allow such time to correct the alleged violation in a manner as the Health Commissioner determines necessary, giving due consideration to the immediacy of the threat to health existing by reason of the alleged violation. The time allowed for the correction of such violation shall be stated in the notice. The notice provided herein shall be served on the owner/occupant or responsible party.

Section 4.0 Sanitation Standards

- 4.1 The following sanitation standards shall apply to all lots, buildings, erections, excavations, premises, businesses, pursuits, matters or things, unless otherwise indicated:
- 4.1.1 Every dwelling or dwelling unit shall have functioning sanitary facilities or other sewage facilities for receiving waste water as approved by the Health Commissioner.
 - 4.1.2 Every owner, occupant and/or responsible party shall control disease vectors on the premises.
 - 4.1.3 No person shall keep or harbor any animal, fowl, or their wastes so as to create a public nuisance.
 - 4.1.4 Every dwelling shall be reasonably weather-tight and rodent-proof.
 - 4.1.5 No building, erection, excavation, premises, business, pursuit, matter, thing, or structure shall be in a condition that is dangerous to life and/or health.
 - 4.1.6 Every owner of a multiple dwelling unit shall maintain the shared or public areas of the dwelling and premises thereof in a clean and sanitary condition.
 - 4.1.7 Exterior property areas and accessory structures shall be free from solid waste and other items attracting disease vectors.
 - 4.1.8 Every dwelling and dwelling unit shall have adequate solid waste storage and disposal facilities of a type and in a location acceptable to the Health Commissioner.
 - 4.1.9 Swimming pools shall be maintained so as not to breed mosquitos. All in-ground swimming pools shall be properly secured from unauthorized access. All above ground swimming pools with decks and/or ladders shall be properly locked.
 - 4.1.10 Sewage facilities shall be maintained and/or operated so as to not create a public health nuisance as defined in 3718.011 of the Revised Code.

Section 5.0 Variances

- 5.1 The Board of Health may grant a hearing to a person and authorize in specific cases, such variance from the requirements of these regulations as will not be contrary to the public interest, where the person shows that because of practical difficulties or other special conditions their application will cause unusual or unnecessary hardship. However, no variance shall be granted that will defeat the spirit and general intent of these regulations, or otherwise not be in the public interest.
- 5.2 The application for variance provided in Section 5.1 hereof shall be in writing filed with the secretary of the Board of Health. Said application shall be heard by the Board of Health at the next regular or special meeting of the Board provided that the Board shall not consider such application sooner than the 5th day after the filing of the same with the secretary. Notice to the persons shall be given stating the time and place of the hearing on said application.

Section 6.0 Orders and Legal Procedures

- 6.1 Should any lots, buildings, erections, excavations, premises, businesses, pursuits, matters or things be found to be in violation of Section 4.0 Sanitation Standards such that its general condition or location is so unsanitary, vermin infested, or otherwise dangerous that it creates a serious hazard to the health or safety of the occupants or the public; or should an occupied building or structure which lacks sanitation facilities adequate to protect the health or safety of the occupants or the public;

The Board of health may declare such lots, buildings, erections, excavations, premises, businesses, pursuits, matters, or things, a Public Nuisance:

- 6.1.1 Whenever the Board of Health has made such a declaration, the Board of Health Shall:
 - A. order the same to be placarded and vacated.
 - B. serve the responsible party with notice of the declaration and the order.
 - C. If inhabited, order it vacated within the time stated in the order which shall not be sooner than five (5) days
 - D. remain vacant until abatement of the public nuisance is completed and written approval is secured from the Health Commissioner for its reoccupancy.
- 6.2 Should any lots, buildings, erections, excavations, premises, businesses, pursuits, matters, things or dwellings be found to be in violation of Section 4.0

Sanitation Standards such that its general condition or location is so unsanitary, vermin infested, or otherwise dangerous that it creates a serious hazard to the health or safety of the occupants or the public; or should an occupied building or structure which lacks sanitation facilities adequate to protect the health or safety of the occupants or the public; the Board of Health may also declare such to be unfit for human habitation and unsafe.

- 6.3 Upon such declaration, the township or municipal corporation may take any such action (removal, repair, securance of said structures and recovery of costs) as authorized by law. (ORC 505.86; ORC 505.87; ORC 715.261).

Section 7.0 Penalties

- 7.1 Any person who continues in violation of any provision of this regulation after the time allowed to him/her for the correction of an alleged violation in the notice provided in Section 3.1 shall be subject to the penalties provided by Section 3709.99 of the Ohio Revised Code.

Section 8.0 Repeal and Date of Effect

- 8.1 All regulations and parts of regulations in conflict with this regulation are hereby repealed and this regulation shall be in full force immediately upon its adoption, as provided by law.

Section 9.0 Effective or Partial Invalidity

- 9.1 Should any part of this regulation be declared unconstitutional for any reason, the remainder of this regulation shall not be affected thereby.

Section 10.0 Repeal and Date of Effect

These regulations shall be effective on or after the 17th day of February, 1975.

Passed on the 4th day of February, 1975, by the Board of Health of the Mahoning County General Health District.

(signed) Kevin O. Bean, D.D.S.

President
(signed) Douglas A. Walsh, D.O
Secretary ex-officio

Revised on the 29th day of March, 1990 by the Board of Health of the Mahoning County General Health District.

(signed) Leonard A. Perry
President

(signed) Matthew A. Stefanak, M.P.H.
Secretary ex-officio

Revised on the 25th day of August, 2006 by the Board of Health of the Mahoning County General Health District.

This Regulation shall be effective on and after the 9th day of September, 2006.

(signed) Dr. Stephanie Dewar
President

(signed) Matthew A. Stefanak, M.P.H.
Secretary Ex-officio

I, Matthew A. Stefanak, Clerk of the Board of Health of the Mahoning County General Health District, hereby certify that the above Regulation was published in the Vindicator on August 30, 2006 and on September 6, 2006.

(signed) Matthew Stefanak, M.P.H.
Clerk
Board of Health Mahoning County
General Health District

(signed) Lori A. Nestor

Notary Public

Revised on the 19th day of December, 2012 by the Board of Health of the Mahoning County General Health District.

This Regulation shall be effective on and after the 7th day of January, 2013.

(signed) Margot Baird

President

(signed) Patricia M. Sweeney, JD, MPH, RN
Secretary Ex-officio

I, Patricia Sweeney, Clerk of the Board of Health of the Mahoning County General Health District, hereby certify that the above Regulation was published in the Vindicator on December 26, 2012 and on January 2, 2013.

(signed) Patricia M. Sweeney, JD, MPH, RN
Clerk
Board of Health Mahoning County
General Health District

(signed) Darlene Sawyers

Notary Public

Language clarifications approved by the Board of Health on July 22, 2015.