

ORDINANCE NO. 12-2022

AN ORDINANCE BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO TO AMEND CHAPTER 510 OF THE NEW PHILADELPHIA CODIFIED ORDINANCES REGARDING THE BOARD OF NUISANCE ABATEMENT APPEALS, AND DECLARING AN EMERGENCY.

WHEREAS, The Council of the City of New Philadelphia has determined it is in the best interests of the City to have the already established Housing Appeals Board, rather than creating an all new Board of Nuisance Abatement, to hear appeals under Chapter 510 of the New Philadelphia Codified Ordinances and legislation is required to amend Chapter 510 for the same.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO, THAT:

SECTION 1. Chapter 510 of the New Philadelphia Codified Ordinances are amended to read as follows:

Section 510.01(e) Reconsideration Request. is amended to read as follows:

- (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 within thirty (30) days of the date of the nuisance declaration notice. 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 Housing Appeals Board, created in Chapter 1334.62-68.

Section 510.01(f) Appeal to the Board of Nuisance Abatement Appeals is amended to read as follows:

- (f) Appeal to the Housing Appeals Board. The owner may appeal the denial of the request for reconsideration by submitting a written appeal letter to the Housing Appeals Board created under Section 1334.62 of the New Philadelphia Codified Ordinances, within thirty (30) days of the date of the denial. The Housing Appeals Board shall interpret the intent of this Nuisance Abatement Code and any rules or regulations adopted pursuant thereto. 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).

Section 510.04 shall be removed from the New Philadelphia Codified Ordinances in its entirety.

SECTION 2. This Ordinance is hereby declared to be an emergency measure and its immediate passage is necessary in order to preserve, protect and maintain the health, safety and welfare of the citizens of the City of New Philadelphia, Ohio.

SECTION 3. This Ordinance shall take effect and be in force immediately upon its passage.

PASSED: July 11, 2022

  
DONALD C. KEMP  
PRESIDENT OF COUNCIL

ATTEST:  
  
JULIE COURTRIGHT  
CLERK OF COUNCIL

APPROVED:  
  
MAYOR JOEL B. DAY

SPONSORED BY: SPECIAL AND CONTACT COMMITTEE