



Legislation Text

File #: O-641-22, Version: 1

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Department of Law

Amending Toledo Municipal Code Chapter 1726 Section 1726.04, Appeal procedure, hearing; and declaring an emergency.

SUMMARY & BACKGROUND:

The City of Toledo now brings forward this ordinance amending and repealing the current section 1726.04 of Toledo Municipal Code, Ch. 1726, Appeal procedure; hearing, and enacting a new Section 1726.04(d).

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 1726, Section 1726.04 Appeal procedure; hearing as provided on Exhibit A hereto, is hereby repealed to add a new paragraph (d).

SECTION 2. That Toledo Municipal Code Chapter 1726, Section 1726.04 Appeal procedure; hearing is hereby enacted and shall read as follows:

1726.04. Appeal procedure; hearing.

(a) An owner, as defined in Section 1726.01(b), of a property, location or structure declared a public nuisance by the Director or his/her designated representative, ordered to abate the nuisance within seventy-two (72) hours or issued a Notice of Liability pursuant to Section 1726.08, may appeal the notice or order in writing, and request a hearing with the Nuisance Abatement Housing Appeals Board (Appeal Board) within three business days from the date on the notice-order or no later than twenty-four (24) hours from the date of receipt (excluding weekends and/or holidays). The written request shall be made to the Director of the Department of Neighborhoods. The written request must be accompanied by a cash bond in the amount of fifty dollars (\$50.00). The appeal request does not stay the order to abate the nuisance.

(1) A summary abatement appeal hearing, if properly requested, shall be held at the first regularly scheduled Appeals Board meeting following the request.

(b) An owner, as defined in Section 1726.01(b), of a property, location or structure declared a public nuisance by the Director [or his/her designated representative], ordered to abate the nuisance within (30) thirty days, may appeal the notice-order by requesting a hearing with either the Nuisance Abatement Housing Appeals Board within ten calendar days from the date on the notice-order or no later than twenty-four (24) hours from the date of receipt (excluding weekends and/or holidays). The written request shall be made to the Director of the Department of Neighborhoods. The request for an appeal hearing must be accompanied by a cash bond in the amount of fifty dollars (\$50.00). The appeal request does not stay the order to abate the nuisance.

(1) A regular abatement appeal hearing, if properly made, shall be held at the first regularly scheduled meeting of the appropriate appeals board meeting following the in-person request.

(c) The hearing shall be conducted by the Nuisance Abatement Housing Appeals Board comprised of the

Director of Law, the Commissioner of Health, the Chief Building Official, the Director of Public Service and the Director of Public Safety, or their respective designated representatives. Three members shall constitute a quorum.

(1) The Appeal Board, after hearing the matter, may amend, modify, revoke or uphold the notice or order, and may extend the time for compliance with the order by the owner by such date as the majority of the board may determine.

(2) The Appeal Board, at the conclusion of the hearing and after deliberations, may render a decision immediately or take the matter under advisement. The Appeal Board, however, shall render a written decision on the matter within seven business days after the hearing.

(3) The Appeal Board shall order the cash bond returned to the appellant if the departmental order is revoked or overruled; or shall retain the deposit if the departmental order is upheld and pending completion of the order by appellant within the time allotted. A departmental order is deemed upheld even if modified or amended by the Appeal Board. The Appeal Board shall order the cash bond deposit paid to the City if proper documentation is presented to the Appeal Board that the City abated the nuisance. The cash bond shall be applied to defray the abatement expense incurred by the City.

(4) The ruling or decision of the Appeal Board is a final appealable order; but appeal to a court of competent jurisdiction will not act as a stay of the abatement order.

(d) Any person acting in the capacity of an issuer of a Lead-Safe Report who is adversely affected by a fine, order, or ruling issued pursuant to Section 1760.07 may appeal such fine, order or ruling by requesting a hearing before the Nuisance Abatement Housing Appeals Board pursuant to the procedure set herein.

SECTION 3. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that it is necessary for the immediate preservation of the public peace, health, safety, and property, and to ensure prompt implementation of the code.

Vote on emergency clause: yeas 12, nays 0.

Passed: January 24, 2023 as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

January 24, 2023
Wade Kapszukiewicz
Mayor