

CHAPTER 1739 – VIOLATIONS AND ABATEMENT

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SECTION 1739.01 NOTICE OF ADMINISTRATIVE WARNING

(a) Whenever the code official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, the code official may issue a Notice of Administrative Warning to the property owner, occupant, or agent having charge of the property. The code official is authorized to issue a single Notice of Administrative Warning for a particular property to the property owner, occupant, or agent having charge of the property in order to address multiple violations of this Code.

(b) Such notice shall be in writing and shall include all of the following:

- (1) The address or real property description reasonably sufficient to identify the property in question;
- (2) A brief statement of the violation or violations of this Code;
- (3) A brief statement of what must be corrected to bring the property into compliance with the provisions of this Code and a correction order allowing a reasonable time to take such action and/or make the repairs and improvements required to bring the property into compliance with the provisions of this Code;
- (4) Notification of the penalties which may result from non-compliance, including a statement of the City’s right to file a lien against the property;
- (5) Notification of the opportunity to enter into a corrective action plan with the City to abate the violations; and

- (6) Notification of the right to appeal the determination that the property is not in compliance with this Code to the Property Maintenance Review Board.

(c) In addition to the Notice of Administrative Warning for violations of Section 1705.07, the Director of Administration shall publish in one newspaper of local circulation on or about the first day of April each year notice of the City's determination that noxious weeds and rank vegetation are public nuisances. The notice shall further demand that all owners of improved property within the City remove all noxious weeds and regularly cut rank vegetation to a height of less than eight inches on improved property and twelve inches on unimproved property.

(Ord. 03-2022 eff. 03/09/2022)

SECTION 1739.02 FINDING OF NON-COMPLIANCE; NOTICE

(a) At any time after the expiration of the time period for the correction of violations as specified in a Notice of Administrative Warning, a property shall be deemed to be non-compliant with this Code and the owner, occupant, or agent having control of the property may be issued a Notice of Non-Compliance if either of the following apply:

- (1) Said property is not brought into compliance with the contents and provisions of any Notice of Administrative Warning and no request for a hearing before the Property Maintenance Review Board has been filed nor has a corrective action plan been entered into under Section 1739.04; or
- (2) Said property owner, occupant, or agent having control of the property fails to bring the property into compliance with the decision of the Property Maintenance Review Board rendered as the result of a hearing before the Board within fourteen (14) days of issuance of the decision of the property Maintenance Review Board or within the time frame set by the Board and no judicial review is sought.

(b) Such notice shall be in writing and shall include all of the following:

- (1) The address or real property description reasonably sufficient to identify the property in question;
- (2) A brief statement of the violation or violations of this Code;
- (3) A brief statement of what must be corrected to bring the property into compliance with the provisions of this Code and a correction order to take such action and/or make the repairs and improvements required to bring the property into compliance with the provisions of this Code;
- (4) Notification that an Affidavit of Non-Compliance shall be filed with the Stark County Recorder's Office;
- (5) Notification of the penalties which may result from non-compliance, including a statement of the City's right to file a lien against the property;
- (6) Notification of the opportunity to enter into a corrective action plan with the City to abate the violations; and
- (7) Notification of the right to appeal the determination that the property is not in compliance with this Code to the Property Maintenance Review Board.

(c) Once a property has been deemed to be non-compliant, such determination shall attach to the owner, occupant, or agent having control of the property for a period of seven (7) years for purposes of Section 1739.13 of this Code.

(d) When a property is found to be non-compliant with this Code, the code official shall file an Affidavit of Non-Compliance with the Stark County Recorder's Office.

- (1) The Affidavit of Non-Compliance shall contain all of the following:
 - (A) The legal description of said property.
 - (B) Notification that the property is deemed to be non-compliant for and that such determination shall attach to the owner, occupant or agent having charge of the property for a period of seven (7) years for purposes of Section 1739.13 of this Code.
 - (C) The name of the owner(s) of the record of the property at the time of said non-compliance.
 - (D) An address at which the owner, occupant or agent having control of the property may obtain copies of the file concerning the property.
 - (E) A statement that costs have been incurred by the City and how all information regarding such costs can be obtained by the owner, occupant or agent having control of the property.
- (2) Upon completion of the corrective actions, repairs and improvements required to bring the property into compliance with the provisions of this Code and payment of the established fees, the code official shall file an Affidavit of Compliance with the Stark Country Recorder stating that prior concerns raised by the Affidavit of Non-Compliance have been corrected.

SECTION 1739.03 METHODS OF ABATEMENT

(a) When a property is found to be non-compliant with this Code, the code official may take any or all of the following actions upon giving two (2) days prior written notice of abatement for violations of Section 1705.07 or for all other violations thirty (30) days prior written notice of abatement to the owner, occupant, or agent having control of the property, via notice of Administrative Warning, provided, however, no notice of abatement need be given by the code official if exigent circumstances necessitate the immediate or prompt abatement of a violation.

- (1) Cause the property to be brought into compliance with this Code, which shall include the right of the City to contract with third parties, through the completion of the necessary work and/or the supply the necessary materials to bring the property into compliance, including the demolition and removal of any structures located on the property.
 - (A) The property owner, occupant, or agent having charge of the property shall be invoiced by the City for all abatement costs incurred or to be incurred by the City, including all costs to third parties, in order to bring the property into compliance with this Code, and such invoice shall be paid by the owner, occupant, or agent having charge of the property within thirty (30) days of the date of the invoice.

- (B) If after such thirty (30) day period the invoice has not been paid, the costs therein shall be assessed as a lien against the property and certified to the County Auditor.
- (2) Issue a written citation to the owner, occupant, or agent having control of a property. The code official is further authorized to assess a fine as provided in Section 1739.11(b), in addition to any other fees, costs, or charges authorized by this Code or Ohio law.
- (3) Request the Law Director to institute appropriate action to restrain, correct, or abate a violation of this Code, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.
- (A) The property owner, occupant, or agent having control of the property shall be invoiced by the City for the costs of any such action taken by the Law Director, and such invoice shall be paid by the owner, occupant, or agent having control of the property within thirty (30) days of the date of the invoice.
- (B) If after such thirty (30) day period the invoice has not been paid, the costs therein shall be assessed as a lien against the property and certified to the County Auditor.

(b) The costs for taking any of the above actions may include, but are not limited to, any costs incurred due to the use of employees, materials, or equipment of the City of North Canton, any costs arising out of contracts for labor, materials, or equipment, costs of service of notice(s), filing of an affidavit(s), title searches, attorney's fees, or any other necessary costs in seeking remedies for violations of this Code.

(c) The City of North Canton may cause a civil action to be commenced to recover the total costs incurred pursuant to this Chapter from the owner, occupant or agent having control of the property. All attorney's fees and court costs incurred by the City shall be considered "costs" as provided for in Section 1739.03(b).

(d) Any contract entered into between the City and a third party to enforce this Code may contain a provision that some or all of the consideration to be paid by the City under said contract, may be deferred and shall only be payable upon the City's collection of same from the owner, occupant or agent having control of the property and/or other collection after being certified to the City treasurer and collected thereby. Any interest and/or penalties attributable to said deferred payments shall bear the same rates allowed by law for delinquent real property taxes and shall be added to said deferred payments, provided, however, that any such interest and/or penalties attributable to said deferred payments shall only be payable by the City to a third party upon the City's collection of same from the owner, occupant, or agent having control of the property.

(e) With respect to any action taken by the City relating to properties found to be in violation of this Code, the costs of which are assessed as a lien against the real estate, the City reserves the right to take such legal steps as may be necessary to subordinate all other mechanics liens, mortgages, or other liens assessed against the property.

- (f) Notice of abatement as provided for in Section 1739.03 shall include:
- (1) The address or real property description reasonably sufficient to identify the property in question;
 - (2) A brief statement of the violation or violations of this Code;
 - (3) A brief statement of what must be corrected to bring the property into compliance with the provisions of this Code and a correction order allowing thirty (30) days to take such action and/or make the repairs and improvements required to bring the property into compliance with the provisions of this Code;
 - (4) Notification of the penalties which will result from failure of compliance with the correction order, including a statement of the City's right to file a lien against the property;
 - (5) Notification of the right to appeal the determination that the property is not in compliance with this Code to the Property maintenance Review Board.

(g) For purposes of this Section, a Notice of Administrative Warning as described in Section 1739.01 will qualify as notice of abatement.

(Ord. 03-2022 eff. 03/09/2022)

SECTION 1739.04 CORRECTIVE ACTION PLANS

(a) Upon agreement of the owner, occupant, or agent having control of the property and the code official, a corrective action plan may be prepared to identify the specific steps which need to be taken to cure violations of this Code at the property, establish reasonable deadlines for the correction of issues at the property, establishment of a payment plan in which outstanding administrative fees will be remitted to the Division of Property Maintenance and any other criteria which is necessary for the correction of conditions at the property.

(b) Both the property owner, occupant, or agent having control of the property and the code official shall execute the corrective action plan for it to be valid.

- (1) Upon the corrective action plan becoming valid, any proceedings relevant to the property that is the subject matter of the corrective action plan shall be stayed.
- (2) If the property owner, occupant, or agent having charge of the property fails to adhere to the corrective action plan, the stay of any such proceedings shall be lifted and the code official may continue any proceedings permitted by this Code.

(c) The code official is authorized to assess the fee specified in Section 1739.11 for the creation of the corrective action plan.

SECTION 1739.05 CONDEMED STRUCTURES

(a) When a structure or equipment is found by the code official to be unfit for human occupancy or service such structure or equipment shall be condemned pursuant to the provisions of this code.

(b) Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 1739.10. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 1739.01(a).

(c) Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

- (1) The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

(d) Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, owner's authorized agent or person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

(e) The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

(f) The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

SECTION 1739.06 EMERGENCY MEASURES

(a) When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be

unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

(b) Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

(c) When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

(d) For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(e) Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs.

(f) Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

(g) The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Chapter 1743 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner or owner's authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner, owner's authorized agent or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

SECTION 1739.07 DEMOLITION

(a) The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner or owner's authorized agent to demolish and

remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

(b) Notices and orders shall comply with Section 1739.10.

(c) If the owner of a premises or owner's authorized agent fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(d) Where any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 1739.08 STOP WORK ORDER

(a) Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

(b) A stop work order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

(c) Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

(d) Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$150.00 or more than \$1000.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

SECTION 1739.09 TAMPERING WITH POSTED SIGNS

Signs, tags, or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

SECTION 1739.10 METHOD OF SERVICE

(a) Service of any notice or other documentation as required by this Code shall be deemed to be effective if sent by regular or certified mail to the property, property owner, occupant, or agent having control of the property as may be reflected in the public records; however, a citation must be sent via certified mail or other means of signature verified delivery.

(b) In addition to sending any notice, citation, or other documentation via regular or certified mail, the code official shall hand deliver said documents to the property by posting such documents in a conspicuous location on the property or delivering such documents to the property owner, occupant, or agent having charge of the property.

(c) In the event that service is returned as undeliverable, refused or if any other unforeseen circumstances with respect to service arise, the Ohio Rules of Civil Procedure shall govern service for the purposes of this Code.

SECTION 1739.11 FEES AND FINES

(a) The fees related to the provisions of this Code, and for the activities and services performed by the Division of Property Maintenance in carrying out its responsibilities under this Code, shall be as indicated in the following schedule.

Event	Fee
File Appeal to Property Maintenance Review Board:	
5 or fewer violations	\$150.00
6 to 10 violations	\$200.00
11 to 15 violations	\$250.00
16 to 20 violations	\$350.00
21 or more violations	\$500.00
Corrective Action Plan Development	\$150.00
Affidavit of Compliance	\$150.00

(b) The fines for citations issued under this Code shall be as indicated in the following schedule.

Event	Fines
First Offense Citation	\$150.00
Second Offense Citation	\$250.00
Third and subsequent Offense Citation	\$500.00

(c) Unpaid fees and fines shall be an assessment on the property enforceable in the same manner as assessments for delinquent property taxes.

SECTION 1739.12 EXCEPTION TO ADMINISTRATIVE PROCESS

(a) If the violation is deemed such that the structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy or is found unlawful, nothing in this Code will be construed as to preclude the City of North Canton from

pursuing any additionally available remedies pursuant to Chapter 1733, Unsafe Structures and Equipment, or Ohio law.

(b) The provisions in this Code shall not be construed to abolish or impair existing procedures or remedies of the City or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe, and unsanitary.

(c) Whenever there are practical difficulties involved in carrying out the provisions of this Code, the code official shall have the authority to grant modifications for individual cases upon application of the owner, occupant or agent having control of the property, provided that the code official shall first find that a special individual reason or reasons makes the strict letter of this Code impractical, the modification is in compliance with the intent and purpose of this Code, and that such modification does not lessen health, life, and safety requirements. The details of any modifications granted, including the special individual reason or reasons, shall be recorded and entered in the Property Maintenance Enforcement Division files.

SECTION 1739.13 VIOLATIONS AS UNLAWFUL ACTS

(a) Any person failing to comply with a notice or order served in accordance with this Chapter shall be deemed to be in violation of this Code, which shall be a minor misdemeanor or civil infraction as determined by the City, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the property in violation of the provisions of this Code or of the order or direction made pursuant thereto.

(b) Any person who violates any provision of this Code and is found by the code official to be non-compliant on four (4) separate occasions within a seven (7) year period shall be deemed on the fourth occasion to be in violation of this Code, a misdemeanor of the first degree and the offense shall be deemed a strict liability offense. This does not preclude the issuance of fees on the fourth and subsequent violations. Each day that a violation continues after a Notice of Non-Compliance has been served shall be deemed a separate offense.