

MODIFYING the provisions of Chapter 1117, “Housing Code,” of the Cincinnati Municipal Code by **AMENDING** Section 1117-53, “Vacant Lots,” of the Cincinnati Municipal Code to provide those City officials charged with enforcement of the health code, building and housing codes, and quality of life regulations with additional tools to address nuisance conditions associated with illegal dumping and protect the public health, safety, and welfare.

WHEREAS, vacant lots and unoccupied, unproductive spaces that are accessible to the public are more likely to be the source of illegal dumping and nuisance activity that is harmful to communities; and

WHEREAS, visibly designating control of and limiting access to these locations is an effective tool to prevent chronic dumping and other illegal activity; and

WHEREAS, erecting and maintaining fencing to limit access to unproductive spaces effectively prevents against the use of those spaces for illegal dumping and otherwise provides for the public welfare by reducing access to unmaintained property; and

WHEREAS, the use of fencing to prevent nuisance activity at unmaintained spaces can be more efficient and affordable than repeatedly incurring the cost of abating chronic dump sites and nuisance conditions; and

WHEREAS, the costs incurred by the City in abating nuisance conditions and illegal dump sites along Beekman Street was more than twice the expense of installing fencing; and

WHEREAS, Council finds that authorizing the use of fencing to protect against nuisance activity on vacant lots is necessary and in the interest of the public health, safety, and general welfare; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 1117-53, “Vacant Lots,” of Title XI, “Cincinnati Building Code,” of the Cincinnati Municipal Code is hereby amended as follows:

~~Sec. 1117-53. Vacant Lots.~~

~~1117-53.1 General: Whenever the maintenance of any vacant lot or lots without enclosing fences shall, in the opinion of the director of buildings and inspections, constitute a nuisance, he shall be authorized to compel the owner, person in control, or agent in charge of any such lot or lots to enclose the same with a fence. Notice of the order of the director of buildings and inspections declaring a vacant or unenclosed lot or lots to be a nuisance shall be served upon the owner, person in control, or any agent. If there is no resident owner, person in control, or agent,~~

~~the notice shall be served by mail addressed to the last known place of residence of the owner, person in control, or agent. Any owner, person in control, or agent failing to comply with such notice within 20 days from the date of serving, shall be subject to the penalty prescribed by the COBBC. In a situation of immediate danger, the director of buildings and inspections shall be authorized to cause such protective construction to be erected as he may consider necessary, and to charge the cost thereof to the owner or person in control.~~

Sec. 1117-53. – Fencing Vacant Premises.

1117-53.1 Abatement of nuisance conditions on vacant premises: The director of buildings and inspections shall be authorized to order the owner or person in control of a premises to take necessary measures, including, but not limited to, erecting fencing or posting signage on the premises, to prevent their premises from being used as an illegal dump site or for similar nuisance activity if any of the following conditions exist:

- (a) The premises is unsafe or unsanitary;
- (b) The premises has been abated at least once pursuant to Cincinnati Municipal Code Chapter 714, “Littering,” or Chapter 731, “Weed Control,”; or
- (c) The premises has been used as a dump site in violation of Section 729-30, “Dumping Prohibited,” of the Cincinnati Municipal Code.

This section shall apply only to vacant lots or lots with vacant structures.

1117-53.3 Abatement measures: The abatement measures taken by the owner or person in control in response to an order issued pursuant to Section 1117-53.1 must be approved by the director and shall be maintained until the director of buildings and inspections approves of the owner or person in control’s plan to prevent or timely abate nuisance conditions.

1117-53.5 Failure to take abatement measures: If, after service of an order issued under Section 1117-53.1, the owner or person in control fails to take abatement measures within the time provided, the director of buildings and inspections may enter the premises and undertake abatement measures, including installing fencing to protect against the creation of future nuisance conditions.

1117-53.7 Administrative procedures: Whenever premises is subject to abatement measures pursuant to Section 1117-53.1, the director of buildings and inspections shall:

- (a) Serve the owner, as determined from the official land records of Hamilton County, or person in control by personal delivery or by certified mail with a notice of intent to undertake abatement measures. If there is a vacant and unoccupied structure, the director shall also post a copy of the notice on the structure.
- (b) The notice shall set forth the street address of the premises, the date of intended entry on the premises, the right of an owner or person in control to a public hearing before the director on the necessity of the abatement measures by the director prior to the measures being taken, and the time limit for requesting a public hearing, which shall be no less than seven days after the date of the notice of intent being issued and before the date of intended entry.

- (c) If the owner or person in control requests in writing a public hearing within the time set forth in the notice of intent, the director shall refrain from fencing the premises until after the director has held a public hearing.

1117-53.9 Hearings: Whenever an owner or person in control requests a public hearing pursuant to this section, the director of buildings and inspections shall fix the time for the hearing and send notice of the hearing to the owner or person in control. The director of buildings and inspections shall conduct the hearing and receive testimony and other evidence as to whether good cause exists for the director to take abatement measures. The director shall announce the decision made at the conclusion of the hearing.

1117-53.11 Liability of Owners or Persons in Control: Any owner or person in control shall be jointly and severally liable for the costs incurred pursuant to this section.

1117-53.13 Costs as a Lien on the Land and Personal Judgment Against Owners and Persons in Control: When abatement measures have been taken in accordance with this section, the cost thereof shall be a lien on such lot or land from the date such expenses are reported to council. The clerk of council shall certify such cost to the county auditor to be placed upon the tax list and collected as other taxes are collected and returned to the City of Cincinnati in accordance with Section 715.26, Section 715.261, or Section 731.54 of the Ohio Revised Code. The cost of abatement may also be recovered by means of a judgment against the owner or person in control.

1117-53.13 Nonconformity of Order to Take Abatement Measures: Fencing may be erected pursuant to this section notwithstanding any contrary provision related to zoning or land use within the Cincinnati Municipal Code.

Section 2. That existing Section 1117-53, “Vacant Lots,” of Title XI, “Cincinnati Building Code,” is hereby repealed.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk