

# **Current Provisions of the Cincinnati Municipal Code Authorizing Lawsuits on Behalf of the City of Cincinnati**

## **THE ADMINISTRATIVE CODE**

### **ARTICLE IX. - DEPARTMENT OF FINANCE**

#### **Sec. 13. - Collection of Moneys Due City.**

Whenever any person is indebted to the city in any manner, and the duty of collecting and receiving such debt is not specifically imposed upon some other officer by law or ordinance, the city treasurer shall demand and receive the same. When any claim is not collectible by other means the treasurer shall report the same to the city solicitor to be collected by suit or other appropriate action.

### **Chapter 313 - OUTDOOR ADVERTISING SIGN EXCISE TAX**

#### **Sec. 313-19. - Enforcement.**

- (a) Upon an assessment [by the treasurer of all deficiencies of tax, interest, and penalties due from any advertising host or responsible party charged with liability for such amounts under this chapter] becoming final and after the expiration of time for all proper appeals, the city solicitor shall, by request of the treasurer on behalf of the city, bring or cause to be brought an action to enforce the payment of the assessment in any court of competent jurisdiction against any party liable for payment.

### **Chapter 602 - UNSANITARY BUILDINGS AND NUISANCES**

#### **Sec. 602-17. - Court Actions.**

Whenever the board of health or the director of buildings and inspections certifies to the city solicitor any failure to comply with any such order or notice of vacation, with the request that the city solicitor institute civil proceedings for the enforcement thereof, the city solicitor is hereby authorized to and shall institute any and all proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of such order or notice and the abatement of the nuisance against which such order or notice was directed; such suits or proceedings to be brought in the name of the city of Cincinnati, and no such suits or proceedings shall be held to exclude any criminal or penal proceedings which may be authorized by this chapter or any of the laws or ordinances in force in this city, or to exempt anyone violating this or such laws or ordinances from any penalty which may be incurred.

## **Chapter 719 - WIRELESS COMMUNICATIONS FACILITIES IN THE RIGHT OF WAY**

### **Sec. 719-99. - Penalties.**

- (b) If any Wireless Communications Facility is erected, constructed, reconstructed, altered, repaired, converted, attached, or maintained in violation of this chapter or of any regulations made pursuant hereto, the proper officer of the city, in addition to other remedies, may institute in the name of the city any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, attachment, or use, to restrain, correct, or abate such violation, to prevent the use of such facility, and/or to prevent any illegal act, conduct, business, or use in or about such facility.

## **Chapter 729 - WASTE DISPOSAL**

### **Sec. 729-30. - Dumping Prohibited.**

(d) Notwithstanding any other penalty authorized by this section, if the city manager, the city manager's designee or the director of public services ascertains that a person has violated this section, the director of public services may remove the waste and the city solicitor may take any legal action necessary to collect the cost of the removal from the violator.

## **Chapter 828 - RENTAL AGENCIES**

### **Sec. 828-7. - Action by the Solicitor.**

The city solicitor may bring an action to obtain a declaratory judgment that an act or practice violates Section 828-3 of the Cincinnati Municipal Code or to enjoin a rental agency which is violating the section.

## **Chapter 899 - SEXUALLY ORIENTED BUSINESSES AND EMPLOYEES**

### **Sec. 899-29. - Penalties and Enforcement.**

A person who violates any provision of this Chapter 899 is guilty of a Misdemeanor of the First Degree.

The City Solicitor is hereby authorized to institute civil proceedings necessary for the enforcement of this Chapter 899 to restrain or correct violations hereof. Such civil proceedings, including injunction, shall be brought in the name of the city, provided, however, that nothing in this section and no action taken thereunder, shall be held to exclude such criminal proceedings as may be authorized by this code, or any of the laws or ordinances in force in the city or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

## **Chapter 914 - UNLAWFUL DISCRIMINATORY PRACTICES**

### **Sec. 914-11. - Enforcement.**

If after 30 calendar days following service of an order to cease and desist the respondent has not eliminated or corrected the unlawful discriminatory practice, the Complaint Officer is authorized to impose a fine of \$100 per day for each day of substantial non-compliance with the provisions of this chapter, but not to exceed a total of \$1,000.

The city manager is authorized to institute through the city solicitor in the name of the City of Cincinnati any appropriate civil enforcement proceedings.

## **TITLE X - ENVIRONMENTAL CODE**

### **CHAPTER 1001 - AIR QUALITY**

#### **Sec. 1001-29. - Citizen Action.**

If the city manager, or his or her designee, including HCDES, fails upon written complaint by a Cincinnati resident of violations of Section 1001-5, Air Pollution Nuisances Prohibited, or Section 1001-7, Exceeding Federal or Ohio Air Emission Limitations Prohibited, or any order issued under Section 1001-23, Administrative Order hereof, or 1001-31, Emergency Powers and Injunction, to diligently investigate, and prosecute in accordance with the provisions of Sections 1001-19 through 1001-25 of this chapter, within 60 days of receipt of the complaint, the citizen may commence a civil action in a court of competent jurisdiction against any person who violates, or has violated any provisions of this chapter or order issued hereunder to compel compliance herewith, including injunctive procedures where permitted by law. The citizen shall mail a copy of the complaint to the alleged violator by certified mail, return receipt requested, at the time the complaint is filed. The city shall not be responsible for any of the citizen's costs of litigation including attorney's fees unless the court so orders, where the city is the violator of Section 1001-5 or 1001-7 of this chapter. The solicitor shall have the right to intervene in the name of the city in any such proceedings instituted by a citizen. The court, in issuing any final order in an action brought pursuant to this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any substantially prevailing party, whenever the court determines such award is appropriate.

#### **Sec. 1001-31. - Emergency Powers and Injunction.**

Upon receipt of information that a violation or threatened violation of this chapter may imminently and substantially endanger the health, safety or welfare of the residents of Cincinnati or the environment, the city solicitor is hereby authorized and empowered to institute civil proceedings at any time in the name of the city to enjoin any person from causing or contributing to any such violation or threatened violation without first exhausting any other remedy.

The city solicitor is authorized to institute civil proceedings at any time in the name of the city to enjoin air pollution nuisances or emissions in violation of Section 1001-5 or 1001-7 hereof.

## **Chapter 1021 - JUNK FACILITY**

### **Sec. 1021-31. - Emergency Powers and Injunction.**

Upon receipt of information that a violation or threatened violation of this chapter may imminently and substantially endanger the health, safety or welfare for the residents of Cincinnati or the environment, the city solicitor is hereby authorized and empowered to institute civil proceedings at any time in the name of the city to enjoin any person from causing or contributing to any such violation or threatened violation without first exhausting any other remedy.

Upon request of the health commissioner, the city solicitor is authorized to institute civil proceedings at any time in the name of the city to enjoin public nuisances or violations of this chapter

## **Chapter 1101 - ADMINISTRATION**

### **Sec. 1101-64. - Recovering Total Cost of Correcting Hazardous Condition of Building and/or Abating Nuisance.**

(a)(3) The city solicitor may commence a civil action to recover the total costs, including from the owner or person in control of the benefitted property at the time the costs were incurred.

## **TITLE XI - CINCINNATI BUILDING CODE**

### **Chapter 1107 - ELEVATOR AND CONVEYER EQUIPMENT**

#### **Sec. 1107-13. - Enforcement.**

(a) The director is authorized to issue civil and criminal orders and citations to enforce the regulations of this Chapter in addition to any other enforcement authority granted to the director under this Chapter and the CBC. The director may also petition the City Solicitor to commence an appropriate legal action against any person found to be in violation of the provisions of this Chapter.

## **TITLE XII - CINCINNATI FIRE PREVENTION CODE**

### **Chapter 1201 - ADMINISTRATION**

#### **Sec. 1201-41. - Civil Proceedings.**

(A) Whenever the fire chief is satisfied that any provision the fire chief is charged to enforce, or any law in force in the city applicable to the same subject matter, has been violated or is about to be violated in any respect, or that any order or direction made in pursuance of the enforcement of this code has not been complied with, or is being disregarded, and whenever the fire chief is satisfied that civil proceedings are necessary for the enforcement of this code or laws, to restrain or correct the violations thereof, or to prevent the occupancy or use of any building or other structure that is being constructed, altered or maintained in violation of this code, the fire chief shall apply to the city solicitor, who is hereby authorized

to institute civil proceedings. Such civil proceedings shall be brought in the name of the city, provided, however, that nothing in this section and no action taken thereunder, shall be held to exclude such criminal proceedings as may be authorized by this code, or any of the laws or ordinances in force in the city or to exempt anyone violating this code or any part of the laws from any penalty which may be incurred.

(B) Nothing in this code shall be construed to affect any act done or committed in violation of any former ordinance relating to the same subject, or any suit or proceeding now pending in court for the violation of the provisions of any former ordinance, or any cause or causes of action accrued or existing under such ordinance, but all proceedings or prosecutions now pending shall be conducted to final determination irrespective of this code.

## **Chapter 1247 - TOXIC AND HAZARDOUS SUBSTANCES - RIGHT TO KNOW**

### **Sec. 1247-23. - Remedies Available to City Solicitor.**

The city solicitor, or his or her designee, may institute appropriate legal action, either civil or criminal as authorized herein, or as may be otherwise available and appropriate either at law or in equity, which may, in the judgment of the city solicitor or his or her designee, be necessary for the enforcement of any order or orders issued pursuant to this chapter or the abatement of any nuisance or hazard against which such order was directed. Any such suits or proceedings are to be brought in the name of the city of Cincinnati and no such suits or proceedings shall be held to exclude any criminal or penal remedies which may be authorized by this chapter or any of the laws or ordinances in force or effect in the city of Cincinnati, or to exempt any violators of this or any other laws or ordinances from any penalty or penalties as may be prescribed. This section shall not be construed to eliminate, abridge or detract from any remedies either at law or in equity which any employee or other individual may have arising out of any breach of violation of the provisions of this chapter.

## **TITLE XIV - ZONING CODE OF THE CITY OF CINCINNATI**

### **Chapter 1451 - ENFORCEMENT**

#### **§ 1451-07. - Remedies.**

Whenever the Director of Buildings and Inspections or any other officer charged with the enforcement of the Cincinnati Zoning Code is satisfied that any provision of this Code has been violated or is about to be violated in any respect, or that any order or direction made for enforcement of this Code has not been complied with, the Director shall act as follows:

(a) If the director is satisfied that civil proceedings are necessary for the enforcement of the code, the director shall apply to the City Solicitor, who is authorized to institute civil proceedings.

(b) In case any building or structure is or is intended to be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is or is intended to be used, in violation of this Code, the City Solicitor, in addition to the remedies herein provided for, shall institute any

appropriate action in law or equity to prevent such unlawful act, or to restrain, correct or abate such violation.

The actions authorized by this section are in addition to those authorized by § 1451-05 and § 1451-09.

**§ 1451-13. - Enforcement of Historic Conservation Regulations.**

The City Solicitor is empowered to bring such civil action, whether equitable or legal, as may be necessary to enforce the provisions of Chapter 1435, Historic Conservation, and § 1451-11, Historic Conservation Prohibitions.

A person who causes, whether by neglect or willful action or inaction, an alteration of or environmental change or demolition affecting a historic landmark or a historic site within a Historic District in violation of this chapter shall be required to restore the structure or property to its appearance as the Historic Conservation Board may approve. The City Solicitor has the duty to bring actions to enforce this section. This civil remedy is in addition to and not in lieu of a criminal prosecution and penalty or civil prosecution and penalty pursuant to Title XV, Code Compliance and Hearings, of the Cincinnati Municipal Code.

Whoever violates any provision of Chapter 1435, Historic Conservation, § 1451-11, Historic Conservation Prohibitions, and § 1451-13, Enforcement of Historic Conservation Regulations, or fails to conform to any provision thereof or fails to obey any lawful order of the Director of City Planning and Buildings issued in pursuance thereof, is guilty of a misdemeanor of the first degree . Each day's continuation of a violation or failure to comply is a separate offense. As an alternative to criminal prosecution, the Director may cite a person who violates any provision of Chapter 1435, Historic Conservation, § 1451-11, Historic Conservation Prohibitions, or § 1451-13, Enforcement of Historic Conservation Regulations, or fails to conform to any provision thereof or fails to obey any lawful order of the Director issued in pursuance thereof, for a civil offense pursuant to Title XV, Code Compliance and Hearings, of the Cincinnati Municipal Code.

## **TITLE XV - CODE COMPLIANCE AND HEARINGS**

**Sec. 1501-27. - Civil Proceedings.**

Whenever an officer charged with the enforcement of the Cincinnati Municipal Code is satisfied that a provision that officer is charged to enforce, or a law in force in the city applicable to the same subject matter, has been violated or is about to be violated, or that an order or direction made in pursuance of the enforcement of this Code has not been complied with, or is being disregarded, and whenever that officer is satisfied that civil proceedings are necessary for the enforcement of the Cincinnati Municipal Code or laws, to restrain or correct the violations thereof, that officer may apply to the city solicitor, who is authorized to institute civil proceedings. Civil proceedings may be brought in the name of the city, and may include claims for injunction, mandatory relief, restraining orders, damages, the appointment of a receiver, and such other relief as may be allowed in law or equity. Institution of civil proceedings does not exclude criminal proceedings as may be authorized by the Cincinnati Municipal Code or charging a person with a civil offense as authorized by this Title.