

THERE IS NO LEGAL OBJECTION TO THIS LEGISLATION IF AMENDED AS FOLLOWS:

1. In the title, line 8, after "new Sections" insert "201.04, 381.14,".
2. In Section 1, after the legislative history of "Section 203.03", insert the following:

"Section 209.01, as amended by Ordinance No. 1060-2017, passed October 9, 2017,"; in existing line 11, strike the period at the end and insert a comma; in existing line 13, at the end, add a comma; and in existing line 14 after "Sections" insert "365.01,".
3. In Section 1, at amended Section 203.02(b), line 1, strike "203.04" and insert "203.02".
4. In Section 1, following the text of amended Section 203.03, insert the following new amended Section 209.01 to read as follows:

"Section 209.01 Nuisance Plants, Refuse, and Surface Water

(a) The following conditions provide harborage and breeding grounds for pests or are otherwise conducive to the creation of human health problems, and are therefore declared to be nuisances which shall be removed or abated from any property on which they are found:

 - (1) Grass over eight (8) inches in height;
 - (2) ~~Noxious weeds including Russian, Canada or musk thistle, shatter-cane, Johnsongrass, wild parsnip, wild carrot, wild mustard, giant hogweed; wild plants capable of causing skin reaction upon contact or of producing or aggravating hay fever, asthma, allergic respiratory reaction, or similar conditions; and all other noxious weeds including those listed as prohibited noxious weeds in OAC 901:5-37-01, as it may be amended;~~

(2) Noxious weeds including Russian, Canadian, common, or musk thistle; shatter cane; Johnsongrass; wild lettuce; wild mustard; wild parsley; wild parsnip; wild carrot; giant hogweed; ragweed; wild plants that can cause skin reaction upon contact or produce or aggravate hay fever, asthma, allergic respiratory reaction, or similar conditions; and all other noxious weeds, including those listed as prohibited noxious weeds in OAC 901:5-37-01, as it may be amended;
 - (3) Refuse including trash, junk, garbage and food waste, offal, animal wastes, tires, and all other waste materials;
 - (4) Stagnant surface water.

(b) The owner, operator, or person in possession or control of the property shall remove or otherwise abate any nuisance described in this section.

(c) The Director of Public Health or Commissioner of Environment may post a seventy-two (72) hour notice to abate any nuisance under this section. If the nuisance is not abated within seventy-two (72) hours, the Director of Public Health or Commissioner of Environment may request that the Department of Public Works immediately abate the nuisance without further notice, and bill the owner for the costs of any abatement.

(d) If the nuisance for which the Director of Public Health or Commissioner of Environment has posted a notice to abate is for the nuisance of high grass, noxious weeds, or related overgrowth or brush, or if notice has been posted for the same under Section 3103.09(b)(3), the Director of Public Health or Commissioner of Environment may cause such nuisance to be abated or removed during the remainder of the growing season without further posting of notice. Such notice may be appealed during the remainder of the growing season under Section 209.06.

~~(c)~~(e) Noxious weeds shall be abated by removal, by turning under the soil, by destruction through the use of herbicides, or by any other means approved by the Commissioner of Environment."

5. In Section 1, following the text of amended Section 327.99, insert the following new Section 365.01 to read as follows:

"Section 365.01 Definitions

For purposes of this chapter:

(a) "Clearance examination" means an examination, performed by a clearance technician, lead inspector, or lead risk assessor, to determine whether lead hazards in a residential unit have been sufficiently controlled. A clearance examination includes a visual assessment, collection and analysis of environmental samples.

(b) "Clearance technician" means a person, other than a licensed lead inspector or lead risk assessor, who is licensed under RC Chapter 3742 to perform a clearance examination.

~~(c) "Lead safe certification" means that the owner of a residential rental unit built before January 1, 1978 has provided to the Director a clearance examination report or lead risk assessment that indicates that lead hazards are not identified in the unit. A lead safe certification is valid for two (2) years from the date of the certification.~~

~~(d)~~(c) "Director" means the Director of Building and Housing.

(d) "Governmental Entity" means the United States, or an agency thereof, the State of Ohio or a political subdivision thereof, or a county land reutilization corporation organized and existing under Chapter 1724 of the Revised Code or its wholly owned subsidiary.

(e) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health as set forth in Rule 3701-32-19 of the Ohio Administrative Code (OAC) as it may be hereafter amended.

(f) "Lead hazard" means material that is likely to cause lead exposure and endanger an individual's health as set forth in OAC Rule 3701-32-19. Lead hazard includes lead-based paint, lead-contaminated dust, lead-contaminated soil and lead-contaminated water pipes.

(g) "Lead inspector" means any individual licensed under RC Chapter 3742 who conducts a lead inspection, provides professional advice regarding a lead inspection, or prepares a report explaining the results of a lead inspection.

(h) "Lead risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of lead hazards in a residential unit including information gathering from the unit, current owner's knowledge regarding the age and painting history of the unit, and occupancy by children under six (6) years of age, visual inspection, limited wipe sampling or other environmental sampling techniques, and any other activity as may be appropriate.

(i) "Lead risk assessor" means a person licensed under RC Chapter 3742 who is responsible for developing a written inspection, risk assessment and analysis plan; conducting inspections for lead hazards in a residential unit; interpreting results of inspections or risk assessments; identifying hazard control strategies to reduce or eliminate lead exposures; and completing a risk assessment report.

(j) "Lead-safe certification" means that the owner of a residential rental unit built before January 1, 1978 has provided to the Director a clearance examination report or lead risk assessment that indicates that lead hazards are not identified in the unit. A lead-safe certification is valid for two (2) years from the date of the certification.

(k) "Local Agent in Charge" means a natural person who is of sound mind and at least eighteen (18) years of age and who is designated by the owner; who is authorized by the owner to receive service of a Notice of Violation on the owner's behalf; and who is responsible for the maintenance and management of the residential rental unit.

(1) If the owner is a natural person and a resident of Cuyahoga County or a contiguous county, then the Local Agent in Charge may be the owner. Otherwise, the Local Agent in Charge shall be a natural person who resides within Cuyahoga County.

(2) If the Local Agent in Charge is not the owner, then the Local Agent in Charge shall, in a form to be supplied by the Director, accept responsibility with the owner (including any potential criminal, civil, or administrative liability) for the maintenance and management of the premises during any time when such person is identified as the Local Agent in Charge. The form shall include a provision in which the owner indemnifies the Local Agent in Charge for any such

responsibility and liability. In any enforcement or pursuit of those responsibilities and liabilities, the City shall make a good faith effort to hold the owner exclusively responsible or liable, but the City may, in its sole discretion, hold the Local Agent in Charge responsible or liable, in part or in full.

(3) If the Local Agent in Charge is a real estate broker as defined in Ohio Revised Code 4735.01, then the Local Agent in Charge shall include a copy of their real estate broker's license in any form or application they file with the City.

(4) If the owner is a Governmental Entity, then the owner shall be deemed to be the Local Agent in Charge and owner shall not be required to designate any natural person as the Local Agent in Charge.

(j)(l) "Owner" means the person, partnership or corporation that holds title to the residential rental unit.

(k)(m) "Permanent" means an expected design life of at least twenty (20) years.

(h)(n) "Residential rental unit" means any part of a building being used, designed or intended to be used as an individual's private residence, including a unit occupied by one (1) or more persons regardless of whether the occupant pays rent or provides anything else of value to the titled owner in consideration for occupying the structure. A residential rental unit does not include a unit occupied by the titled owner."

6. In Section 1, at amended Section 365.02(a), at the end, after "Rental Occupancy." insert "If the owner is a Governmental Entity, then it shall be exempt from the rental registration requirements of this Section 365.02, unless and until the Governmental Entity intends to rent the unit as evidenced by the owner simultaneously applying for a Certificate Approving Rental Occupancy as described in division (d) of this Section."; in Section 365.02(b)(1)A., line 2, strike "drivers" and insert "driver's"; at Section 365.02, strike division (b)(2), in its entirety and insert: "(2) The name, address, telephone number and email address of a Local Agent in Charge."; in division (g), strike lines 4, 5, 6, and 7 in their entirety and insert: "Section within seven (7) days after the change occurs. If written notification is not provided as required in this section, the Director may revoke the certificate of non-owner occupied residential unit registration until the changed name, address, telephone number, and/or email address is provided in writing."; in division (h), line 1, strike "fee of five hundred dollars (\$500)" and insert "fine of one hundred dollars (\$100)"; in division (h), line 4 after "fee" insert "or fine"; at the end of the division (h), insert the following: "Cumulative fines for such revocations that are associated with a single owner shall not exceed thirty thousand dollars (\$30,000.00) per calendar year." and insert new division (i) to read as follows: "(i) Within two years of passage of this ordinance, the Director shall submit to the Council a report produced by a third party that reviews and evaluates the implementation of Section 365 and Section 3106; the effect of those sections on the housing market in Cleveland and on Cleveland residents; and the impact of the Local Agent in Charge requirement.".

7. In Section 1, at amended Section 365.03(a), in lines 3 and 4, strike "non-owned-occupied residential unit which shall be set by the Board of Control and shall be no less than of seventy" and insert "non-owner-occupied residential unit of seventy"; and insert new division (e) to read as follows:

"(e) The Director shall be authorized to enter into one or more letter agreements with an owner that is a Governmental Entity that reduces or waives the registration fee described in this Section 365.03."

8. In Section 1, at amended Section 367.03(a), line 2, after "or inspectors" insert "; the Director of Public Health and his or her duly authorized agents or inspectors"; in line 5, strike "or the Fire Code," and insert ", the Fire Code, or the Health Code"; and beginning with line 6, strike the remainder of division (a), including subdivisions (a)(1), (a)(2), (a)(3), and (a)(4) in their entirety and insert new divisions (b), (c), (d), and (e) to read as follows:

"(b) The Director of Building and Housing or Fire Chief or Director of Public Health, or their representatives, when seeking to gain entry to a dwelling, building or structure, shall consider, before seeking a search warrant, the advisability of first seeking the consent of the occupants where a dwelling, building or structure is occupied, or first seeking the consent of the owner or person in control of the property where a dwelling, building or structure is not occupied, with the Directors and Fire Chief presuming that, in most circumstances, it is advisable to make a good faith effort to seek the consent of occupants of a dwelling, building or structure or the consent of the owner or person in control of a dwelling, building or structure that is not occupied. The Directors or Fire Chief may, as part of that good faith effort, knock and request the right to enter, and, if there is no answer, may leave a written notice indicating that consent is being sought.

(c) The Directors and Fire Chief may, in the case of a dwelling, building, or structure that is not occupied, seek the consent of the owner or person in control by attempting to contact the owner by telephone, email, or certified or regular mail. The sources of information used to attempt contact by telephone, email, or certified or regular mail, may include:

(1) Information the owner provided to the City, such as rental registration information or the address used on an appeal or an application; or

(2) Information that a City representative, such as an inspector, has discovered during the performance of his or her duties; or

(3) Information from common and readily available sources such as printed or online directories, utility records, credit bureaus, county property records, board of election records, motor vehicle records, court records or other state, county, municipal or federal records.

(d) The Directors or Fire Chief shall not be required, as part of a good faith effort to seek consent, to use all of these methods and shall not be not required to use any particular one of them; the good faith obligation shall be to use whatever combination of them the Directors or Fire Chief judge to be reasonably likely to be

successful, with the Directors or Fire Chief having the discretion to decide when to stop continuing to seek consent when it appears that continued efforts are not reasonably likely to be successful. As part of that consideration, the Directors or Fire Chief may consider the likelihood of obtaining consent when the information examined as part of the good faith effort to seek consent indicates that the owner is deceased, such likelihood depending on factors such as the existence of an executor or administrator of the deceased person's estate or the existence of a surviving spouse or other potential heir or legatee who has indicated that they are seeking to obtain ownership of the dwelling, building or structure or that they are asserting control over it.

(e) The Director of Building and Housing or Fire Chief or Director of Public Health may seek a search warrant to enter, observe and inspect a dwelling, building, or structure, or to allow their duly authorized agents or inspectors to enter, observe and inspect a dwelling, building or structure. Nothing in this Section shall limit, or enlarge, the City's legal right to seek a search warrant under state and federal law based on probable cause or a valid administrative program supporting requests for administrative search warrants based on the criteria necessary to support such administrative warrants, subject to review by a judge of a court authorized to issue the warrants and to the rights of persons under the Ohio and U.S. Constitutions. Nothing in this section shall limit or enlarge the rights of persons under the Ohio or U.S. Constitutions to be free from searches made without a warrant."

; in Section 367.03, renumber existing division (b) to new division "(f)".

9. In Section 1, at amended Section 367.04(d), line 2, after "or structure," insert "with the exception of those properties required to be registered under Chapter 3106,"; and in line 5 after "comply." insert "If the grantee fails to provide a written plan, or to comply with the notice, within ten days, the grantee shall be in violation of Section 3103.25(e). If the Director considers the written plan to be acceptable, he or she shall notify the grantee and the grantee shall be bound by the written plan as an extension of time under the notice and shall be in violation of Section 3103.25(e) if the violations are not corrected by the time set forth in the written plan. If the Director considers the written plan to be unacceptable, he or she shall issue to the grantee a notice with dates for compliance.".

10. In Section 1, at amended Section 367.12(a), line 1, after "property," insert "or enter into a contract for the sale or transfer of real property,"; in line 6, after "Building and Housing." insert "The Certificate of Disclosure shall include all active Notices of Violation associated with the property. No transfer shall be completed without the furnishing of the Certificate of Disclosure."; beginning in line 9, strike "If the purchaser does not receive any portion of the Certificate of Disclosure to be completed by the City prior to sale, the purchaser may rescind the purchase contract for the sale of the property prior to the sale of the property." and insert "If the purchaser or transferee is not provided with the Certificate required by this section, the purchaser or transferee may rescind any agreement for purchase, and, if the transfer has been completed, shall have the right to demand that the transferor accept a transfer of the interest conveyed in the property and may file in any court with jurisdiction to specifically enforce that right."; in division (b), strike ", which shall be established by the Board of Control and

updated from time to time and which shall not be lower than of” and insert “of”; and insert new division (c) to read as follows:

“(c) The requirements of division (a) and (b) of this Section 367.12 shall not apply when the real property at subject is a vacant lot, defined as a parcel that does not contain any permanent lawful occupied structure; or when both parties to the sale or transfer or contract for sale or transfer are Governmental Entities.”.

11. In Section 1 at amended Section 3103.09(a), strike division (a)(11)B. in its entirety and insert the following: “B. Noxious weeds including Russian, Canadian, common, or musk thistle; shatter cane; Johnsongrass; wild lettuce; wild mustard; wild parsley; wild parsnip; wild carrot; giant hogweed; ragweed; wild plants that can cause skin reaction upon contact or produce or aggravate hay fever, asthma, allergic respiratory reaction, or similar conditions; and all other noxious weeds, including those listed as prohibited noxious weeds in OAC 901:5-37-01, as it may be amended;” at division (b)(3)B., line 3, after “brush,” insert “or if notice has been posted for the same under Section 209.01.”; and at the end, after “posting of notice.” insert “Such notice may be appealed during the remainder of the growing season under subsection (g) of this section.”; in division (e)(5)C., line 2, after “building,” insert “with the exception of those properties required to be registered under Chapter 3106,” in line 5, after “comply.” strike the following sentence “The Director may then establish a reasonable time to comply.” and insert “If the grantee fails to provide a written plan, or to comply with the notice, within ten days, the grantee shall be in violation of Section 3103.25(e). If the Director considers the written plan to be acceptable, he or she shall notify the grantee and the grantee shall be bound by the written plan as an extension of time under the notice and shall be in violation of Section 3103.25(e) if the violations are not corrected by the time set forth in the written plan. If the Director considers the written plan to be unacceptable, he or she shall issue to the grantee a notice with dates for compliance.”.

12. In Section 2, after the legislative history of “Section 203.03”, insert the following:

“Section 209.01, as amended by Ordinance No. 1060-2017, passed October 9, 2017,”; in existing line 11, strike the period at the end and insert a comma; in existing line 13, at the end, add a comma; and in existing line 14 after “Sections” insert “365.01,”.

13. In Section 3, line 2, after “new Sections” insert “201.04, 381.14,” and after “3143.04,” insert a comma.

14. In Section 3, after line 2, insert the following two new sections:

“Section 201.04 Civil Tickets

Any city officer or employee authorized to enforce the City’s Health Code may also enforce Chapter 3104 and issue a notice of civil offense and civil fine under the procedures in that Chapter.

Section 381.14 Civil Tickets

Any city officer or employee authorized to enforce the City's Fire Prevention Code may also enforce Chapter 3104 and issue a notice of civil offense and civil fine under the procedures in that Chapter."

15. In Section 4, at new Section 3104.03(a), line 1, strike "A city" and insert "Any city"; in line 2, after Housing," strike "and Zoning Codes," and insert "Zoning, Health, or Fire Prevention Codes"; in 3104.03(b)(5), line 2, after "imposed" strike "not later than fifteen (15 days) days from the date of insurance of the notice".

16. In Section 4, at new Section 3104.04(b), line 1, strike "fifteen (15)" and insert "thirty (30)"; in 3104.04(e), line 5, strike "fifteen (15)" and insert "thirty (30)".

17. In Section 4, at new Section 3104.08(b), line 2, strike "365.02" and insert "365.01"; and at 3104.08(e), line 2, strike "or" and insert "and/or".

18. In Section 4, at new Section 3104.99(a), in lines 2 and 3, strike "set by the Board of Control but shall not be less than"; and in division (b), lines 3 and 4, strike ", to be set by the Board of Control but which shall not be less than" and insert "of".

19. In Section 5, at the first new section entitled "Section 32106.01 Definitions" in the section line title strike "Section 32106.01" and insert "Section 3106.01"; and at division (b), line 2, strike "365.02" and insert "365.01".

20. In Section 5, at new Section 3106.03(a), line 1, strike "property" and insert "vacant building"; in line 2, after "Housing." insert "A vacant lot, defined as a parcel that does not contain any permanent lawful occupied structure, is not a vacant building."; beginning in line 4, strike "A vacant building undergoing a tax foreclosure by a political subdivision is exempt from this requirement." and insert the following new second paragraph as part of existing division (a): "This registration requirement does not apply to vacant buildings owned by a Governmental Entity before the Governmental Entity's typical assessment for demolition, or if the vacant building becomes intended for demolition following the Governmental Entity's typical assessment for demolition. This registration requirement applies to vacant buildings that are owned by a Governmental Entity that have been assessed and are not intended for demolition, or that are owned by a Governmental Entity that does not assess for demolition."; in (b)(4), line 2, strike the period after "Agent in Charge" and insert a semicolon and strike the remainder of (b)(4) in its entirety including subdivisions (b)(4)A., (b)(4)B. (b)(4)C., and (b)(4)D.; and strike division (e) in its entirety and insert the following new division (e): "(e) The Director shall be authorized to enter into one or more letter agreements with a Responsible Party that is a Governmental Entity that reduces or waives the requirements of this Chapter 3106.".

21. In Section 5, at new Section 3106.04, at the first paragraph beginning with "The Director" insert "(a)" before "The Director"; at existing division (a), line 1, strike "and interior"; and renumber divisions (a), (b), (c), (d), (e), and (f) to new divisions "(b)", "(c)", "(d)", "(e)", "(f)" and "(g)".

22. In Section 5, at new Section 3106.05, in the section title line, strike the existing section name and insert "Bond Required for Registration of Non-Residential".

Property"; in division (a), line 1, after "commercial" insert ", industrial, or other non-residential"; in line 4, after "commercial" insert ", industrial, or other non-residential"; at the end of division (a), insert the following second paragraph and subdivisions (1), (2), and (3):

"Upon registration of a non-residential vacant property under Section 3106.03, the Responsible Party may apply to the Director for an exemption from the bond requirement in this Section. Upon such application, the Director may cause a vacant building inspection to occur at the vacant property. The exemption shall be granted only under one of the following conditions:

(1) The exemption shall be granted until the transfer or occupancy of the property if the property is not boarded up and has not been boarded up by the City in the last three years; no formal complaints regarding the Responsible Party's ownership or maintenance of the property have been made in the last three years and were found meritorious; and the Responsible Owner is not delinquent regarding the vacant property's property tax balance.

(2) The exemption shall be granted until the next annual registration of the property if the Responsible Party can demonstrate that there are reasonable and substantial plans to correct the property's code violations; there has been substantial progress in correcting the property's code violations; and appropriate permits have been filed.

(3) The exemption shall be granted indefinitely if the Owner is a Governmental Entity."

; and in Section 3106.05, strike division (f) in its entirety.

23. In Section 5, at new Section 3106.06, in the section title line, strike "For" and insert "for"; and after "Property" insert "; Correction Required Following Transfer"; insert new division (d) to read as follows:

"(d) Following transfer, the Responsible Party, with the exception of a Responsible Party that is a Governmental Entity, shall correct all code violations at the vacant property within six months of transfer or, if the Director determines that the condition of the property poses a threat to health and safety such that it should be corrected within a lesser time, within a lesser time established by the Director. Failure to do so shall be a violation of Section 3103.25(e).

(1) The Responsible Party may request from the Director an extension of time to correct the code violations. Such a request shall be made at least 30 days before the end of the Responsible Party's time to comply, and the request shall be made on a form provided by the Director. No single extension may be for more than six months. Responsible Parties may request multiple extensions.

(2) The Director shall approve such a request for an extension so long as the request for an extension is reasonable, the buyer has made substantial progress in correcting the violations, and issuing an extension is in the best

interests of the City. If such an extension is approved, then failure to make the corrections within the extended time shall be a violation of Section 3103.25(e).

(3) The Responsible Party may appeal any decision by the Director under this Section to the Board of Zoning Appeals, in writing within ten (10) days from the date of the Director's issuance of the decision. The Board may sustain, disapprove, or modify the Director's action, and the Board's decision shall be final."

24. In Section 5, strike new Section 3106.07 in its entirety.

25. In Section 5, at new Section 3106.08, in the section title line, strike "3106.08" and insert "3106.07"; insert new division (a) to read as follows:

"(a) The annual registration fee required shall be:

(1) For residential structures with no more than three residential units, \$70 per unit.

(2) For all other structures, \$1,000 per structure."

; renumber existing divisions (a) and (b) to new divisions "(b)" and "(c)"; in renumbered division (b), lines 1 and 2, strike "set by the Board of Control but shall not be less than one hundred and fifty dollars (\$150)" and insert "seventy dollars (\$70)"; insert new division (d) to read as follows:

"(d) There shall be no fees levied under this Chapter, including application fees, inspection fees, and certificate of correction fees, associated with vacant residential property that is owned by a Governmental Entity as defined in Section 365.01. This fee exemption alone does not exempt any property or property owner from the other requirements or responsibilities under this Chapter."

; and renumber existing division (c) to new division "(e)".

26. In Section 5, at new Section 3106.09, in the section title line, strike "3106.09" and insert "3106.08".

27. In Section 5, at new Section 3106.10, in the section title line, strike "3106.10" and insert "3106.09".

28. In Section 5, insert new Section 3106.10 to read as follows:

"Section 3106.10 Time of Effect and Expiration of Section 3106.06

(a) Section 3106.06 shall take effect six months following the effective date of this chapter.

(b) Without further authorization from Cleveland City Council, Section 3106.06 shall expire two years following the effective date of this chapter."

29. Strike Section 8 in its entirety and insert: "Section 8. That Section 3106.06 shall take effect and be in force six months after the effective date of this ordinance, consistent with Section 3106.10.".

Date: _____ (Signed): _____

Kevin Roberts
Assistant Director of Law

Ord. No. 1039-2023