

ORDINANCE NO. 115-2021

**TITLE: AMEND ORDINANCE NO. 84-2006
NUISANCE LAW**

AN ORDINANCE AMENDING ORDINANCE NO. 84-2006, SECTIONS 674.02 “NOTICE” AND 674.04 “COST OF ABATEMENT” OF THE BARBERTON CODIFIED ORDINANCES, BY CHANGING THE WORDING TO MODIFY NUISANCE ACTIVITIES TO BE CALCULATED USING TWELVE MONTHS PRIOR TO THE LAST NUISANCE ACTIVITY.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Barberton, State of Ohio:

SECTION 1. That Ordinance No. 84-2006, “Barberton Codified Ordinances – Nuisance Law,” Chapter 674 of the Barberton Codified Ordinances, Sections 674.02 “Notice” and 674.04 “Cost of Abatement” shall be amended by showing said amendment with a ~~striketrough~~ for any deletions and **bold** for any additions.

§ 674.02 NOTICE

(A) The Chief of Police or his or her designee, upon finding that three or more nuisance activities declared in § [674.01](#) of this code of ordinances have occurred at a dwelling within any ~~calendar-year~~ **twelve month period**, shall cause a written notice and order to be served on the owner of the property declaring that such property is a nuisance property. The notice and order shall set forth the nature of the nuisances, the costs to respond to and abate a similar future nuisance, and state that the owner may avoid being charged the costs of response and abatement by taking steps to prevent any further nuisance activities as set forth in this chapter. The notice shall further state that if a fourth or subsequent nuisance activity as declared in § [674.01](#) of this code of ordinances occurs within the ~~same calendar-year~~ **twelve months of the dates** of the earliest of the first three activities, the city may abate the nuisance by responding to the activities using administrative and law enforcement actions and the costs of such abatement shall be assessed on the nuisance property. Notice shall be served on the owner personally or by certified mail or regular mail to the person's residence, regular place of business or last known address. If the certified or regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address, or the property affected. The underlying nuisance activity need not have been charged, nor is there a need for a previous finding of guilt, before there can be a finding that a nuisance activity had occurred.

(B) If, within ~~one calendar-year~~ **twelve months** after the first of the three nuisances referred to in division (A) above has occurred a fourth or successive nuisance activity as declared in § [674.01](#) of this chapter, the city may abate the nuisance by responding to the activities using administrative and law enforcement action and the costs of such abatement shall be assessed on the nuisance property. The costs of such response and abatement shall be calculated as set forth in § [674.04](#) of this chapter. Any further nuisance activity that occurs within ~~the remainder of the calendar-year~~ **twelve months** of a nuisance activity for which the owner has been given notice of assessment may be charged to the owner.

(C) The Chief of Police shall provide notice to the owner of the nuisance property of the city's intent to assess the costs of response and abatement against the owner's property. Such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be served as set forth in division (A) above.

(D) The owner of a nuisance property who receives a notice the Chief of Police or his or her designee pursuant to divisions (A) or (C) above may appeal such

notice by submitting a written request for reconsideration to the Chief of Police within 30 days of the date of the notice. If the Chief of Police finds that the facts presented do not support the declaration of a nuisance, the Chief shall rescind the notice. Otherwise the Chief shall deny request and refer the appeal for hearing by the Board of Nuisance Abatement. Any such appeal shall not stay any actions by the city to abate any nuisance activity.

§ 674.04

- (a) Costs of abatement shall be:
 - (1) Each nuisance ~~in a calendar year of three~~ **after three** nuisances and up to and including five nuisances **in a twelve-month period of the earliest nuisances referred to in division 674.02 (A)**, shall be assessed by the Chief of Police or his or her designee, a service fee of \$100;
 - (2) Each nuisance in a ~~calendar year~~ **twelve-month period of the earliest nuisance** in excess of five nuisances shall be assessed by the Chief of Police, or his or her designee, a service fee of \$200; and
 - (3) If the owner of the property has been duly notified of said nuisances, but has failed to take corrective action, and/or has failed to notify the Chief of Police of said corrective actions regarding the nuisances, and/or has failed to make restitution for said nuisances, the matter will be turned over to the office of the Law Director for consideration and/or authorization of charges.

(b) All costs of abatement shall be reported to the Director of Finance, who shall mail a statement of the amount thereof to the owner of the property. If, after 30 days, such amount remains unpaid, the Director of Finance shall certify the total amount of the expenses, the name of the owner of the land and a sufficient description of the premises to the County Auditor, to be entered on the tax duplicate, to be a lien on the land from the date of entry and to be collected as other taxes and assessments and returned to the city pursuant to Ohio R.C. 731.54.

SECTION 2. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

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

Passed _____ 2021

Clerk of Council

President of Council

Approved _____ 2021

Mayor