

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 73 - 2023

JULY 19, 2023

AN ORDINANCE

Amending Chapter 406, Administrative Code, Nuisance Abatement.A. Board Solicitor for Hearings by having the Appeals Board select a Solicitor for purpose of the appeal hearings. The legislation basically does some housecleaning on the measure that was previously passed.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

WHEREAS, City Council approved Nuisance Abatement legislation on February 15, 2023; and

WHEREAS, the composition of the appeals board was changed from council as a body to a board of primarily residents and one councilperson; and

WHEREAS, the proposal did not remove the council solicitor as the solicitor to the appeals board: Letter I read as follows: The City Council Solicitor will serve as Solicitor to the Appeal Board for purposes of the appeal hearings; and

WHEREAS, City Council proposes to correct this oversight by allowing the board to select a solicitor for the purpose of an appeal, as noted: The Appeals Board shall select a Solicitor to ~~The City Council Solicitor will~~ serve as Solicitor to the Appeal Board for purposes of the appeal hearings.

SECTION ONE: That Chapter 406 -7 read as follows:

§ 406-7 Appeals.

A. **Nuisance Abatement Board of Appeals** — There is hereby established a Nuisance Abatement Board of Appeals which, if an appeal is taken, shall conduct the hearing on the question of whether a public nuisance, in fact, exists. The Appeals Board may uphold, amend or modify the determination of the Department or extend the time for compliance with the department's order if the extension is limited to a specific time period.

- (1) The Nuisance Abatement Board of Appeals shall consist of
 - a. a member of City Council.
 - b. a private citizen who owns and operates a business within the City of Allentown.
 - c. a private citizen who owns and operates a business within the City of Allentown.
 - d. A private citizen who resides within the City of Allentown.

- e. A private citizen who resides within the City of Allentown.
- (2) The initial terms of the members of the Nuisance Abatement Board of Appeals are as follows:
 - a. Two years: the individuals identified in 406-7A(1)b and d.
 - b. One year: the individuals identified in 406-7A(1)a, c and e.
- (3) After the initial terms have expired, each member of the Nuisance Abatement Board of Appeals shall be appointed for a term of two years.
- (4) Appointments shall be made in accordance with the appointment procedures established by the City of Allentown Home Rule Charter.
- (5) After all members have been appointed, the Nuisance Abatement Board of Appeals shall hold an organizational meeting within 30 days to appoint a Chair and Vice Chair. The Council member serving on the Board may not be appointed Chair or Vice Chair.
- (6) Three members of the Board shall constitute a quorum for purposes of conducting Board business.

B. Time limitations. — An appeal under this section shall suspend the period of time within which the nuisance is to be abated until a decision is rendered by the appeals board.

C. Right of Appeal. A property owner, operator, or tenant may, within 10 business days of the date of the notice of a determination of public nuisance, appeal in writing to the public nuisance appeals board. The written appeal shall be mailed or delivered to:

City Clerk for the City of Allentown
435 Hamilton Street
Allentown, PA 18101

D. Scheduling of Hearings

- (1) All hearings for appeals of determinations of public nuisance shall be scheduled within 90 days of the date of service of the appeal.
- (2) Notice of the date, time and place of the hearing shall be served upon the appellant and the Director pursuant to § 406-5B. above.

E. Decisions

The Nuisance Board of Assessment Appeals shall issue its decision to either grant or deny the appeal within five business days of the date of the hearing. Notice of the decision shall be served upon the appellant and the Director pursuant to § 406-5B above.

F. Time limits for a decision

Failure to hold an appeal hearing within 90 days of the date of service of the shall result in the appeal being granted, unless the Board and the property owner or tenant agree otherwise. Failure to issue a written decision within 5 business days of the hearing shall result in the appeal being granted unless the Board and the property owner or tenant agree otherwise in writing.

G. Final administrative decision. — The determination of the appeals board shall be a final administrative decision within the city.

H. **Local Agency Law.**

All hearings shall be conducted pursuant to the requirements of the Local Agency Law, 2 Pa.C.S. §§751-754.

- I. **Board Solicitor for Hearings.** The Appeals Board shall select a Solicitor to ~~City Council Solicitor will~~ serve as Solicitor to the Appeal Board for purposes of the appeal hearings.

SECTION TWO: That this Ordinance takes effect ten (10) days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.