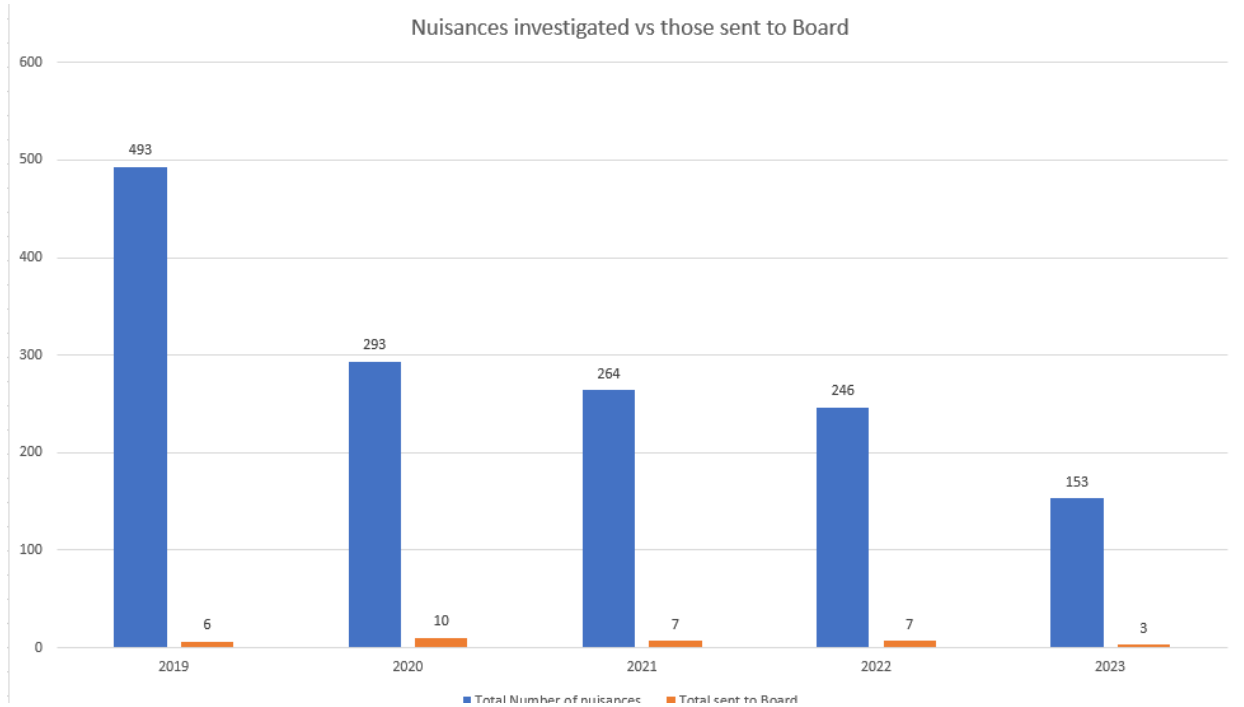


Board of Health Nuisance Order: Current Process and Proposed Changes
February 9, 2024

1. Current Process
 - a. Complaint received by our office.
 - b. Reach out township, village or city to share information – determine who has statutory authority over the complaint. Go solo, refer or partner during the investigation (e.g. Galloway Village).
 - c. Refer to an EH tech to observe/identify any public health nuisances.
 - i. Point owner/occupant to resources for abatement of the PHN & issue observations letters 14-30 days.
 - d. Non-compliance; refer to REHS for Notice of Violation 14-30 days to remedy, depending on severity and type of complaint.
 - e. Non-compliance refers to Board of Health for Board Orders and Referral to Prosecutor. At this point, based upon the timing, Board meetings are at a minimum of 21 Days or max 56 days.
 - i. We are now at a max of 120 days before it goes to the board. Keep in mind that the board order is 30 days for compliance.
 - f. Referral to prosecutor, which typically gives notice to owners/occupants 30 days to respond to the referral for prosecution.
 - g. **Total process from complaint received to prosecutor is 4-6 months.**
2. This resolution would streamline our PHN time frame and if other entities involved it prevent delays in abating the PHN. Not all of our board meetings, council meetings or trustee meetings align.
3. Refer to EH BOH Timeline provided by Julie

Numbers of how many nuisance complaints in total and how many went to the board.



Case example #1
5311 Riverside Dr

We received a PHN complaint and zoning issues. Zoning issues were referred and we issued NOV's, and PHN was abated. Zoning continued their investigation and referred to FCPO, as the case progressed PHN became apparent once again by the occupants/tenants. We opened another complaint and started our process of compliance. If we were able to issue the Board Orders and Referral for Prosecution, we could expedite our case to align with zonings case and prosecutor could work with owners/occupants simultaneously.

Note: Galloway Village needed to be a hearing due the resolution to declare "Unfit for human habitation".

Following the passage of SB 22, the Board rescinded its "nuisance" regulations as new legislation requires orders and regulations may only apply to specific persons (no mask orders for the general public). Without a regulation, REHS could no longer issue notices of violation as they have no authority to declare conditions at a property as a nuisance. So, we starting having hearings for the Board to declare nuisance conditions at a property prior to issuing Board Orders. Recent interpretation of the law as set forth in the resolution suggests Board may delegate authority under R.C. 3707 and 3709.

So what standard does Board apply in declaring a nuisance.

R.C. 3707.07

(B) The board of health of a city or general health district shall abate and remove all nuisances within its jurisdiction. It may, by order, compel the owners, agents, assignees, occupants, or tenants of any lot, property, building, or structure to abate and remove any nuisance therein, and prosecute such persons for neglect or refusal to obey such orders. Except in cities having a building department, or otherwise exercising the power to regulate the erection of buildings, the board may regulate the location, construction, and repair of water closets, privies, cesspools, sinks, plumbing, and drains. In cities having such departments or exercising such power, the legislative authority, by ordinance, shall prescribe such rules and regulations as are approved by the board and shall provide for their enforcement.

The board may regulate the location, construction, and repair of yards, pens, and stables, and the use, emptying, and cleaning of such yards, pens, and stables and of water closets, privies, cesspools, sinks, plumbing, drains, or other places where offensive or dangerous substances or liquids are or may accumulate.

When a building, erection, excavation, premises, business, pursuit, matter, or thing, or the sewerage, drainage, plumbing, or ventilation thereof is, in the opinion of the board, in a condition dangerous to life or health, and when a building or structure is occupied or rented for living or business purposes and sanitary plumbing and sewerage are feasible and necessary, but neglected or refused, the board may declare it a public nuisance and order it to be removed, abated, suspended, altered, or otherwise improved or purified by the owner, agent, or other person having control thereof or responsible for such condition, and may prosecute the owner, agent, or other person having control thereof for the refusal or neglect to obey such order. The board may, by its officers and employees, remove, abate, suspend, alter, or otherwise improve or purify such nuisance and certify the costs and expense thereof to the county auditor, to be assessed against the property and thereby made a lien upon it and collected as other taxes.

R.C. 3709.21

The board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease, and **the prevention, abatement, or suppression of nuisances.** Such board may require that no human, animal, or household wastes from sanitary installations within the district be discharged into a storm sewer, open ditch, or watercourse without a permit therefor having been secured from the board under such terms as the board requires. All orders and regulations not for the government of the board, but intended for the general public, shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such orders and regulations shall be by publication in a newspaper of general circulation within the district. Publication shall be made once a week for two consecutive weeks or as provided in section [7.16](#) of the Revised Code, and such orders and regulations shall take effect and be in force ten days from the date of the first publication. In cases of emergency caused by epidemics of contagious or infectious diseases, or conditions or events endangering the public health, the board may declare such orders and regulations to be emergency measures, and such orders and regulations shall become effective immediately without such advertising, recording, and certifying.

Except as set forth above, nuisance is not specifically defined in R.C. Chapters 3707 and 3709. Other statutes specifically address nuisances for Construction and Demolition Debris Facilities (R.C. 3714), Household Sewage Treatment Systems (R.C. 3718), Recreational Vehicle Parks (R.C. 3729), Solid Waste Facilities (R.C. 3734), and Water Pollution (R.C. 6111). R.C, Chapter 3767 also addresses the abatement of nuisances:

R.C.3767.01 (C) "Nuisance" means any of the following:

- (1) That which is defined and declared by statutes to be a nuisance;
- (2) Any place in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued, or exists, or any place, in or upon which lewd, indecent, lascivious, or obscene films or plate negatives, film or plate positives, films designed to be projected on a screen for exhibition films, or glass slides either in negative or positive form designed for exhibition by projection on a screen, are photographed, manufactured, developed, screened, exhibited, or otherwise prepared or shown, and the personal property and contents used in conducting and maintaining any such place for any such purpose. This chapter shall not affect any newspaper, magazine, or other publication entered as second class matter by the post-office department.

(3) Any room, house, building, boat, vehicle, structure, or place where beer or intoxicating liquor is manufactured, sold, bartered, possessed, or kept in violation of law and all property kept and used in maintaining the same, and all property designed for the unlawful manufacture of beer or intoxicating liquor and beer or intoxicating liquor contained in the room, house, building, boat, structure, or place, or the operation of such a room, house, building, boat, structure, or place as described in division (C)(3) of this section where the operation of that place substantially interferes with public decency, sobriety, peace, and good order. "Violation of law" includes, but is not limited to, sales to any person under the legal drinking age as prohibited in division (A) of section [4301.22](#) or division (A) of section [4301.69](#) of the Revised Code and any violation of section [2913.46](#) or [2925.03](#) of the Revised Code.

And

R.C. 3767.41(A)(2)(a) "Public nuisance" means a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

The Board applied the definition of a nuisance in R.C. 3767.41 in declaring the Galloway Village complex a nuisance and declaring the buildings unfit for human habitation.

Delegating this authority to the Health Commissioner and Assistant Health Commissioners will allow FCPH to address nuisances in a more efficient manner.