



MEMORANDUM

Council Agenda
Item No. XI. P
1/30/2024

The City of OKLAHOMA CITY

TO: Mayor and City Council

FROM: Craig Freeman, City Manager

Ordinance on final hearing (emergency), relating to Nuisances, amending Chapter 35 of the Oklahoma City Municipal Code, 2020, Section 35-177, Procedure Used to Abate Public Nuisance Per Se on or at Real Property under this Division.

Purpose:

This ordinance amendment adopts due process hearing procedures, as required by State law, to make abatement orders enforceable in civil court when criminal activities on private property violate the Criminal Activities Public Nuisance Abatement Ordinance.

Background:

City Council adopted the Criminal Activities Public Nuisance Abatement Ordinance, Ordinance No. 23450, on September 25, 2007, pursuant to its authority as conferred in the Oklahoma City Charter, Article I, § 3, and statutory authority. Title 11 O.S. § 22-121 provides, "The municipal governing body may declare what shall constitute a nuisance, and provide for the prevention, removal and abatement of nuisances." 50 O.S. § 16 provides in pertinent part (emphasis added), "Cities and towns in this state shall have the right and power to determine what is and what shall constitute a nuisance ... and wherever it is practical so to do, said cities and towns shall have the power summarily to abate any such nuisance after notice to the owner, and an opportunity for him to be heard, if this can be given."

The ordinance as written provides for the City Manager or designee to issue a "statement" to a property owner or manager identifying a public nuisance on the property, and authorizes a suit in district court pursuant to 50 O.S. § 17, but the ordinance provides no opportunity for the owner or manager to be heard. Thus the "statement" does not have the force of a lawful order as required to invoke Section 17, authorizing an injunction case "where it is deemed impractical summarily to abate any such nuisance." The ordinance amendment adopts due process procedures allowing the owner, lessee or manager an opportunity to request a hearing in order to be heard, as required by law.

Review:

Police Department

Recommendation: Ordinance be adopted with emergency.