

**ORDINANCE \_\_\_\_\_**

**An ordinance to amend Section 1803.7, article 1803 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, relating to the Property Maintenance Ordinance, and establishing the procedure for enforcing such requirements.**

**BE IT ORDAINED BY THE CITY COUCIL OF THE CITY OF NITRO, WEST VIRGINIA,** that Section 1803.7 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended, all to read as follows:

**Article 1803  
General Requirements**

**Section 1803.7. Rubbish, salvage, and garbage, materials, machinery and equipment.**

**1803.7(a). Accumulation of rubbish or garbage.** All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

**1803.7(b). Disposal of rubbish.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

Whenever rubbish, trash or other refuse shall be allowed to accumulate upon any premises within the City in such quantities as to be a fire hazard or detrimental to public health, the owner and person in charge of the premises upon which such accumulation is found shall be jointly and severally responsible for its removal and shall be required to remove or cause to be removed such accumulation within 72 hours after receipt of written notice from Code Enforcement Officer.

If both the owner and the person in charge of such property fails within the time indicated in the order or notice to comply with such notice, the Code Enforcement Officer shall thereupon authorize and direct the Public Works Department to remove such accumulations of refuse; and after the removal of such refuse, the City Treasurer shall collect from the property owner the amount of the expense to the City of such removal.

The provisions of Section 1801.3 relating to collection of Property Maintenance Fees shall be applicable to the charges provided for under this section 1803.7.

**1803.7(b)(1). Rubbish storage facilities.** The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**1803.7(b)(2). Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors; Provided, That prior to being discarded or abandoned but while being retained at the premises, any refrigerator or similar equipment not in operation shall be stored with the doors removed and otherwise in accordance with the requirements established in section 1803.7(d) of this Article.



corrected within the 5 days immediately succeeding issuance of that Warning Citation, the property maintenance inspector shall issue a Citation that requires the violation stated thereon to be corrected within the 10 days immediately succeeding the issuance of the Citation.

**1803.7(e)(2).** Issuance of a Warning Citation or a Citation shall be prima facie evidence of the violation indicated on the face of the respective Citation. Any person alleging he or she was improperly issued a Citation may, within 10 days after service of the Citation, file a petition for appeal of the Citation or payment thereof, along with the required bond, with the municipal court clerk in accordance with the following procedure:

**1803.7(e)(2)(A).** In order to properly and timely appeal a Citation, the petition for appeal shall be filed within 10 days after service of the Citation and the alleged violator shall pay the required amount of the applicable fine in full to the municipal court clerk. The amount so paid shall be held by the municipal court clerk as bond pending an evidentiary hearing before and resolution of the case by the municipal court. The municipal court clerk shall issue to the alleged violator a receipt showing the amount of bond paid.

**1803.7(e)(2)(B).** If any petition for appeal filed in accordance with this section is not timely filed or is not accompanied with the required bond, the alleged violator shall be deemed to have waived his or her right to appeal the Citation, and such petition shall be summarily denied as untimely filed.

**1803.7(e)(2)(C).** Nothing set forth above shall prevent the municipal court judge from finding, upon a proper showing, that an alleged violator suffers from financial hardship, and, as a result, waiving the requirement that the bond be posted as a prerequisite to filing the petition for appeal.

**1803.7(e)(2)(D).** Any petition filed with the municipal court clerk shall be in writing, on the form provided by the municipal court clerk, and signed by the alleged violator affirming that the contents of the petition are true and accurate to the best knowledge of the alleged violator at the time of signing. The petition for appeal shall state the facts and reasons in support of the petition. Upon filing the petition for appeal with the municipal court clerk, the alleged violator shall serve a copy of the petition and receipt showing proof of bond or waiver thereof upon the property maintenance inspector who shall receive the documents as a representative for the city attorney.

**1803.7(e)(2)(E).** Upon filing a petition for appeal with the municipal court clerk, the clerk, or his or her designee, shall place the case on the municipal court docket, set the case for evidentiary hearing within 30 days from the date of filing the petition, provide a notice of hearing to the alleged violator, and forward a copy to the property maintenance inspector. Upon receipt of the petition, the property maintenance inspector shall cause a copy of the Citation at issue to be forwarded to the municipal court clerk who shall file it as the original complaint alleging the violation indicated therein.

**1803.7(e)(2)(F).** The municipal court shall treat the Citation itself as the original complaint before the court, and shall treat it as prima facie evidence of the violation alleged therein. At the close of all of the evidence, should the municipal judge find against the alleged violator, the bond posted by the alleged violator shall be applied as payment for the fine imposed for the violation. In the event the municipal court judge finds that a violator suffers from financial hardship, the municipal judge may permit alternative sentencing. Should the court find in favor of the alleged violator, the bond shall