



Ohio Revised Code

Section 3791.12 Inspections - hearings.

Effective: July 1, 2013

Legislation: House Bill 51 - 130th General Assembly

(A) As used in this section and section 3791.13 of the Revised Code:

(1) "Service station" means any facility designed and constructed primarily for use in the retail sale of gasoline, other petroleum products, and related accessories; except that "service station" does not include any such facility that has been converted for use for another bona fide business purpose, on and after the date of commencement of such other use.

(2) "Abandoned service station" means any service station that has not been used for the retail sale of gasoline, other petroleum products, and related accessories for a continuous period of six months, whenever failure to reasonably secure station buildings from ready access by unauthorized persons and to reasonably maintain the station's premises has resulted in conditions that endanger the public health, welfare, safety, or morals; provided, that such conditions include, but are not limited to, the presence of defective or deteriorated electrical wiring, heating apparatus, and gas connections, or of unprotected gasoline storage tanks, piping, and valves, or any combination of the foregoing; and provided further that the casual and intermittent use of a service station for the retail sale of any item described in division (A)(1) of this section during such six-month period shall not be held to prevent the station from being determined an abandoned service station if it meets the other qualifications of this division.

(B) The executive authority of each municipal corporation and the board of county commissioners of each county shall designate a suitable person to make inspections, within their respective territorial jurisdictions, of any service stations that are, or appear to be, no longer in use for the purposes described in division (A)(1) of this section, or for any other bona fide business purpose. Inspections of service stations under this section shall be made at the order of the executive authority or board, or upon the complaint of any person claiming to be adversely affected by the condition of a service station. Any inspector designated under this section shall have the right to enter upon and inspect any service station that is, or appears to be, no longer in use as described in this section. No inspector, while in the lawful pursuit of official duties for such purpose, shall be



subject to arrest for trespass while so engaged or for such cause thereafter.

(C) Whenever an inspector, upon inspecting a service station as provided in this section, has reasonable cause to believe that it qualifies as an abandoned service station, the inspector shall prepare a written report of the condition of the station's buildings and premises. The report shall be filed immediately with the executive authority or board. Upon receipt of the report, the executive authority or board shall fix a place and time, not less than thirty days nor more than sixty days after receipt of the report, for a hearing to determine whether the service station is an abandoned service station. The executive authority or board shall send written notice of the place and date of the hearing, together with a copy of the inspector's report and information that the service station may be ordered repaired or removed if determined to be abandoned, to all persons listed in the records of the county recorder as an owner of the affected property, and to all persons listed in the records of the county recorder or county clerk of courts as holding a lien on the affected property. Such notice shall be sent by certified mail to the address shown on such records.

(D) In hearing the matter and deciding the issue, the executive authority or board shall consider the testimony of any persons appearing pursuant to the notice or their authorized representatives, the testimony of any witnesses appearing on behalf of such persons, the inspector's report or testimony, or both, and any other evidence pertinent to the matter. If the executive authority or board thereupon determines that the service station is an abandoned service station in such condition as to constitute a danger to the public health, welfare, safety, or morals, it shall order the satisfactory repair, or removal, of the service station and its appurtenances, and restoration of the property, within such period of time, not less than thirty days, as the executive authority or board thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required to be notified by division (C) of this section in the same manner as provided in that division.

(E) If an abandoned service station is not satisfactorily repaired or removed within the period of time provided in an order made under division (D) of this section, the municipal corporation or county may enter the land and complete the repair, if repair was ordered, or remove the service station and its appurtenances, if removal was ordered, and restore the property.

(F) Any person aggrieved by an order of an executive authority or board made under division (D) of this section, may appeal as provided in Chapter 2506. of the Revised Code within thirty days of the



mailing of notice of the order.

(G) In the event that no persons notified as provided in division (C) of this section, or their authorized representatives, appear at the hearing, respond to an order of the executive authority or board, or appeal within thirty days of the mailing of notice of the order as provided in division (F) of this section, the municipal corporation or county may proceed as provided in division (E) of this section.