

1st Reading _____
2nd Reading _____
3rd Reading _____

VILLAGE OF WAYNESBURG
ORDINANCE NO. _____

An Ordinance For Property Maintenance Code Revision

Whereas, the Village Council of The Village of Waynesburg has deemed it necessary, pursuant to R.C. 737.16, 715.26, 715.261 and for the health, safety, and welfare of the citizens of Waynesburg, to replace ordinance 10-562-07 and all ordinances inconsistent herewith.

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GENERAL PROVISIONS

1. PURPOSE AND INTENT.

This Chapter shall be known as the "Waynesburg Property Maintenance Code." The purpose of this Chapter is to protect the public health, safety and general welfare by establishing minimum standards governing the exterior maintenance, condition and appearance of residential and nonresidential structures and premises; to fix responsibilities and duties upon owners and occupants of structures with respect to sanitation, repair and maintenance and to fix penalties for violations of this Code.

2. VALIDITY:

(A) The provisions of this Chapter shall not be construed to prevent the enforcement of other ordinances or regulations, which prescribe standards other than those prescribed herein. In the event of conflict between any provisions of this chapter and any provisions of any other ordinance of the Village, including rules and regulations adopted pursuant to such ordinance, the more restrictive provisions shall prevail. This code is not intended to supersede any provisions of the Ohio Basic Code or the Ohio Revised Code which may apply to the subject matter of this code. In the event of a conflict between provisions of this Code and any provisions of the Ohio Basic Code or Ohio Revised Code, the more restrictive provisions shall apply and enforcement may proceed under any appropriate provision.

3. APPLICABILITY

This Chapter shall apply to all structures and premises within the Village of Waynesburg.

4. DEFINITIONS.

For the purposes of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DETERIORATION. The condition or appearance of the exterior of the building or part thereof; characterized by holes, breaks, rot crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect or lack of maintenance.

EXTERIOR. Those portions of a building which are exposed to public view and the open spaces of any premises outside of any building.

GARBAGE. Animal and vegetable waste resulting from handling, preparation, cooking and consumption of food.

INFESTATION. The presence of insects, rodents, vermin or other pests on the premises, which constitute a health hazard.

NUISANCE. That which is defined by the statutes of the State of Ohio and Ordinances of the Village of Waynesburg, and declared thereby to be a nuisance.

OCCUPANT. Any person living and sleeping in a dwelling unit or having actual possession of the dwelling unit or having actual possession of the dwelling unit or any person who leases or rents a nonresidential building, structure or any portion thereof.

OWNER. Any person, who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without the accompanying actual possession thereof; or shall have charge, care or control as owner or agent of the owner; or as executor, administrator, trustee, receiver or guardian of the estate, or as a mortgagee in possession.

PERSON. Includes any individual, corporation, association, partnership, trustee, lessee, agent or assignee.

PREMISES. A lot, plot or parcel of land, including the buildings or structures thereon.

PROPERTY MAINTENANCE OFFICER. The Mayor of Waynesburg or his/her duly assigned representative, or designee.

REFUSE. All putrescible and non-putrescible solid wastes(except body wastes) including but not limited to garbage, rubbish, ashes, dead animals, and industrial wastes; an accumulation of brush, broken glass, stumps and roots that present a safety hazard and includes garbage, trash and debris which present an unsanitary and/or safety hazard.

RUBBISH. Non-putrescible solid waste consisting of both combustible and non-combustible wastes such as paper, wrappings, tin cans, yard clippings, leaves, wood, glass, crockery, plastics and similar materials.

5. MAINTENANCE RESPONSIBILITY.

(A) No owner, agent or occupant of any premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any condition which deteriorates, or debases the appearance of the neighborhood; or creates a fire, safety or health hazard; or which is a public nuisance.

(B) The owner shall be responsible for ensuring that the premises are maintained in good repair and appearance in compliance with this Chapter. Occupants shall be responsible for maintaining, in a clean and sanitary condition these premises, or portion thereof, which they occupy and/or control. In the case of commonly held properties associated with condominiums or similar projects, it shall be the responsibility of the designated homeowner's association or similar organization to maintain those items that are under their direct ownership or control.

6. MAINTENANCE REQUIRED.

(A) All exterior parts of every dwelling, structure and accessory structures, including decorative additions, chimneys, fences and all other exterior structures, either above or below the roof line, shall be maintained in a safe condition, weather tight, and so as to resist, decay or deterioration from any cause.

(B) Any dwelling, structure or accessory structure whose exterior surface is deteriorated shall be repaired or razed.

7. INFESTATION

All structures and the premises thereof shall be maintained free of vermin, rodents and other pests, and free of sources of breeding, harborage and infestation by such vermin, rodents and other pests.

EXTERIOR PROPERTY AREAS

8. PREMISES TO BE MAINTAINED.

No owner or occupant of any premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any of the following:

- A. Broken or dilapidated fences, walls, or other structures;
- B. Rugs, rags, or other materials hung on lines or in other places on the premises which materials are not being used for general household or housekeeping purposes;
- C. Broken, dilapidated or unusable furniture, mattresses or other household furniture, broken glass, plastic materials, paints, miscellaneous coverings, and/or any other material, including those described in this section, placed at or on the premises in such a manner as to be patently unsightly, grotesque or offensive to the senses.
- D. Any garbage of animal and vegetable waste resulting from handling, preparation, cooking or consumption of food.

9. RANK VEGETATION.

Lawns and landscaping on private property shall be kept from becoming overgrown and unsightly and shall be maintained so as not to constitute a blighting or deteriorating effect on the surrounding neighborhood.

(a) Any person who is the owner, occupant, or in control of any lots or land within the Village shall not permit the growth of weeds or grasses, noxious weeds or rank vegetation exceeding nine inches in height. Weeds and grasses,

noxious weeds and rank vegetation shall have the same meaning as in section 93.40 of the Ohio Basic Code unless otherwise modified in this ordinance or in the Property Maintenance Code.

(b) When the property maintenance officer determines that weeds or grasses, noxious weeds, and rank vegetation exceeding nine inches in height are present on the lots or lands within the Village, written notice shall be served upon the owner, and if different, the person in possession or control, lessee, agent, tenant or other person in charge that such weeds or grasses must be cut and removed within five days after completion of service of such notice. Notice shall be served in accordance with Item 13 (B) of this Property Maintenance Code.

(c) If notice can not be completed through such method then service may be made by publication once in a newspaper of general circulation in the Village and shall be deemed completed upon the date of publication of the notice in the newspaper.

(d) In the event the owner, occupant, person in possession or in control, lessee, agent, tenant or other person in charge fails to cut and/or remove said weeds or grasses, noxious weeds and rank vegetation within five days as required, the Village may cut and/or remove said weeds or grasses and bill the owner, occupant or person in control, lessee, agent, tenant or other person in charge for the cost of the cutting and/or removal. The failure to pay the bill within thirty days after billing will result in an assessment and shall be certified to the County Auditor for collection pursuant to Item sixteen of this property maintenance code. In addition, such notice shall provide that if the owner, occupant or person in control including a lessee, agent, tenant or other person having charge of such lots or land fails or refuses to cut such weeds and grasses following notice provided pursuant to this section, and it becomes necessary for the Village to cut the same lot more than one time during any calendar year, the Village may recut such lot or lots without the necessity of further notice and charge the responsible party just as though notice had been given.

(e) A violation of item nine of this Property Maintenance Code as set forth herein shall carry a penalty pursuant to item nineteen of this Property Maintenance Code. In addition to any penalty imposed through this Property Maintenance Code for any violation of this Property Maintenance Code the penalty for item nine relating to the cutting and/or removal of weeds and grasses, noxious weeds and rank vegetation shall include a mandatory fine of \$ 150.00. A separate offense shall be deemed committed each day on which the violation continues; provided however before citations are issued to violators subjecting them to fines and penalties of item nineteen, and the mandatory fine, written notice must be given to the owner, occupant or person in charge as provided in this section, and the five day period in the notice must have expired.

Any provision of the Property maintenance Code or any other ordinance inconsistent with this amendment as it applies to the cutting of weeds, grasses, noxious weeds and rank vegetation shall not apply. The five day period provided in the notice shall be deemed to be a reasonable period of time. Item 14 of the Property Maintenance Code allowing an extension of time shall not apply to the cutting of weeds and grasses, noxious weeds and rank vegetation.

The remedies provided for the failure to cut or remove weeds and grasses, noxious weeds and rank vegetation as outlined herein are non exclusive and shall not limit other remedies such as the filing of a civil action for nuisance abatement or injunction or actions by the Board of Health pursuant to the Ohio Revised Code and Board of Health Regulations.

[This section was amended by ordinance 7-624-10 passed July 6, 2010]

10. DEAD TREES AND BRANCHES.

No owner or occupant of any premises shall permit a dead tree to stand near to a public sidewalk or roadway as to endanger users thereof, should all or part of it fall. No such owner or occupant shall permit a dead branch to overhang a public sidewalk or roadway.

ADMINISTRATION AND ENFORCEMENT

11. PROPERTY MAINTENANCE OFFICER.

It shall be the responsibility and duty of the Property Maintenance Officer to enforce and administer the provisions of this Chapter with the assistance of the Waynesburg Police Department as necessary.

12. RESPONSIBILITIES OF OWNER.

Owners shall have the duties and responsibilities as prescribed in this Chapter and no owner shall be relieved from any such duty and responsibility nor be entitled to defend against any charge of violation thereof by reason of the fact that the occupant is also responsible thereof and in violation thereof.

13. NOTICE OF VIOLATION

(A) Where a violation of this Chapter is found to exist, a written notice from the Property Maintenance Officer shall be served upon the person or persons responsible for the corrections thereof. The notice shall specify the violation or violations committed and a reasonable period of time to correct or abate the violation.

(B) Service of the notice shall be by certified mail addressed to the owner and/or occupant at his residence or to the tax mailing address as indicated by the records of the Village or by delivery to the residence of the owner and/or occupant by delivery to the individuals at the premises.

14. TIME EXTENSION FOR COMPLIANCE.

Where the owner and/or occupant of a premises is unable to comply with a notice of violation within the time period specified, the owner, within two weeks of the notice of nonconformance, may enter into an agreement with the Property Maintenance Officer detailing a program to abate non-conformance within a reasonable time limit.

15. FAILURE TO COMPLY.

Whenever the owner and/or occupant of a structure or premises fails, neglects or refuses to comply with any notice of the Property Maintenance Officer within the time period specified in the notice, the Property Maintenance Officer shall proceed as provided by law.

16. ABATEMENT OF VIOLATIONS.

Where the owner and/or occupant of any premises fails to comply with a notice of violation of any of the provisions within the time period specified in the notice, the Property Maintenance Officer may cause such violation to be corrected, removed or abated. The Property Maintenance Officer may contract with a private person or firm to accomplish the task. The actual cost of bringing the property into compliance plus 15% for Inspections and administration shall be billed to the owner. If the bill is not paid within 30 days after submission, then the Clerk of Council shall certify said costs together with a 10% penalty to the Stark County Auditor for placement on the tax duplicate to be collected as other taxes for return to the Village.

17. PROSECUTION OF VIOLATIONS.

Where the owner and/or occupant of any premises fails to comply with a notice of violation of any of the provisions of this Chapter, the owner or occupant shall be considered to be in violation of this Chapter and the Property Maintenance Officer may proceed at law to compel compliance and to prosecute the violation.

18. APPEALS.

Any owner and/or occupant who are served a notice of violation of any of the provisions of this Chapter may within ten days of receipt of the notice appeal the findings of the Property Maintenance Officer. Such appeal shall be made by filing with the Village Mayor a notice of appeal. The appeal shall be scheduled for hearing before the Board of Zoning Appeals. Except as otherwise provided for herein, the hearing before the Board of Zoning Appeals shall be conducted in the same manner as provided for appeals under the Village Zoning Ordinance.

19. PENALTY.

(a) Any person, firm or corporation or his or their agents who violates any provisions of this Chapter or who fails or refuses to obey a lawful order of the Property Maintenance Officer or the Waynesburg Police Department, issued pursuant to this Chapter, is guilty of a minor misdemeanor for each offense. A separate offense shall be deemed committed each day during which a violation continues.

(b) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of this Chapter, the offender is guilty of a misdemeanor of the fourth degree.

(c) Further, the court is hereby authorized and encouraged to order, as a condition of probation or otherwise, that the offender cure the violation of any or all provisions of this chapter upon which the citation and conviction are based, by complying with the notice to comply issued pursuant to this Property Maintenance Code or otherwise and within such reasonable time as ordered by the court.

(d) The imposition of the penalties herein prescribed shall not preclude the Solicitor or Property Maintenance Officer from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

This ordinance repeals and replaces ordinance 10-562-07 and all ordinances inconsistent with this code are hereby repealed.

Passed by Council of the Village of Waynesburg

Date:

Mayor, Village of Waynesburg

Attest by the fiscal officer of the Village of Waynesburg.

Fiscal Officer, Village of Waynesburg

Approved as to Form:

Solicitor