

ORDINANCE NO. 2018- 08

AN ORDINANCE ADOPTING EXTERIOR MAINTENANCE REGULATIONS FOR THE VILLAGE OF BERLIN HEIGHTS, OHIO.

WHEREAS, the Council has received numerous complaints regarding several properties within the incorporated area of the Village of Berlin Heights, Ohio that are not being maintained by their owners and/or tenants; and

WHEREAS, the Council has determined that there are currently no regulations in place relative to the duties of property owners regarding the maintenance of their property; and

WHEREAS, the Council has determined that an Ordinance should be prepared and adopted to regulate exterior maintenance of property to prevent blight and nuisances within the several neighborhoods of the Village; and

WHEREAS, the Council has determined that it is necessary to adopt regulations relative to the exterior maintenance of real property and structures within the incorporated area of the Village of Berlin Heights, Ohio in order to protect the health, safety, and public welfare and to protect real property values in the Village; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BERLIN HEIGHTS, STATE OF OHIO:

SECTION 1. That from the effective date of this Ordinance, the following regulations regarding the exterior maintenance of property and structures thereon shall be adopted, and shall read as follows:

EXTERIOR MAINTENANCE.

(a) **Maintenance of Exterior of Premises.** The exterior of the premises and the exterior of all structures thereon shall be kept free of all nuisances, unsanitary conditions and hazards to the safety of occupants, pedestrians and other persons utilizing the premises, and any of the foregoing shall be promptly removed and abated by the owner, tenant, vendee or other occupant of the premises. The purpose of this ordinance is to protect the health, safety, public welfare and property values within the unincorporated area of the village. It shall be the duty of the owner, tenant, vendee, or other occupant to keep the premises free of hazards, which include, but are not limited to, the following:

- (1) **Refuse.** An accumulation of brush, broken glass, stumps and roots that present a safety hazard, as well as garbage, trash and debris which present an unsanitary and/or safety hazard.
- (2) **Natural Growth.** Dead trees and limbs or other natural growth which by reason of rotting or deteriorating conditions or storm damage, constitutes a hazard to persons in the vicinity thereof.
- (3) **Overhangings and awnings.** Loose and overhanging objects which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity thereof.

(4) **Sources of infestation.** The permitting of any premises to become infested with vermin or rodents is hereby declared to be a nuisance and unlawful. No owner, tenant, vendee, other occupant, or person in charge or control of any premises shall cause or knowingly permit such premises to become or remain infested with vermin or rodents.

(5) **Foundation walls.** Exterior foundation walls shall be kept structurally sound, free from defects and damage and capable of bearing imposed loads safely.

(6) **Chimneys and all flue and vent attachments thereto.** Chimneys and all flue and vent attachments thereto shall be maintained structurally sound, free from defects and such as to capably perform at times the functions for which they were designed and to withstand any wind forces to which they may be subjected.

(7) **Gutters and downspouts.** All gutters and downspouts shall be placed in compliance with the Ohio Building Code and maintained to collect surface water from roofs and conduct such water into storm sewers. Rusted, broken, or damaged gutters and downspouts shall be promptly repaired and replaced.

(8) **Sidewalks.** All sidewalks shall be kept in repair. Any grade separation greater than one inch (1 inch) on the surface of a sidewalk caused by cracks or settling shall be promptly replaced or repaired. Sidewalks, where surfaces are eroded or pitted to such an extent to cause a safety hazard to pedestrians, shall be repaired or replaced.

(9) **Firewood.** Front yards shall be kept free, and storage shall be prohibited, of all firewood, brush, logs, or any other material intended to be used in fireplaces or other permitted burning facilities. Storage of such materials shall be permitted only in side or rear yards and under the following conditions:

(A) The firewood shall be stacked no higher than six feet;

(B) It shall be cut firewood;

(C) It shall be stored at least five feet from the property line;

(D) It shall be stored in such a manner so as not to cause a fire hazard; and

(E) Storage piles shall not exceed two cords in an exposed area. Additional wood may be stored in an enclosed area, accessory building, garage, or shed.

(10) **Compost Piles. Definition.** As used in this section, "compost pile" means any outdoor pile of organic waste matter permitted to decompose for use on the property where the compost pile is maintained.

(A) **Ingredients.** A compost pile shall consist of leaves, grass clippings, garden plants and vegetable trimmings, raw fruit and vegetables, nitrogen-based chemicals and/or fertilizers, and water. There shall not be permitted the addition of any untreated animal manure, fruit or vegetable substances other than those specified herein, food wastes, cooked kitchen waste, grease, meat products, bones and fats, or dairy products, to any compost pile in the Village.

(B) **Compost Piles.** Nothing in this section shall be construed or interpreted so as to prevent persons from creating or maintaining a compost pile or piles for yard waste, provided such compost pile or piles are not stored in quantities or locations prohibited by any provision of this section or by any ordinance of the Village or law of the State. All compost piles:

(1) Shall not be visible from the public right of way;

(2) Shall not constitute a public nuisance or a nuisance to abutting or adjoining properties by providing a breeding place or attraction for, or by being infested with, vermin, rodents or insects, or emit a smell or odor which annoys or disturbs a reasonable person of normal sensitivities or which endangers real or personal property;

- (3) Shall not create any health or fire hazard;
- (4) Shall not be created or maintained in any front or side yard or located closer than five feet from any side or rear property line;
- (5) Shall be enclosed by a barrier on all sides which shall not exceed four feet in height;
- (6) Shall not occupy an area in excess of one percent of the area of the lot or seventy-five square feet, whichever is less; and
- (7) Shall not impede any natural watercourse or drainage from any property.

(C) **Removal.** Any compost pile within the Village which is found to be in violation of this section shall be completely brought into compliance or removed within seven days after receipt of a written notice from the Village to the owner or other person lawfully in possession of the property on which the compost pile is located. Failure to bring the compost pile completely into compliance or to remove a compost pile pursuant to such notice shall be deemed a criminal violation of this section, the penalty for which is set forth below.

(D) **Noncompliance; Remedy of Village.** If such property owner or other person lawfully in possession of the premises upon which the compost pile is located neglects or refuses to obey such notice as provided for herein above, then the Mayor, the Zoning Inspector, or other properly authorized employee or agent of the Village shall be and is hereby authorized to remove the compost pile at the expense of the owner or other person having charge thereof. All expenses incurred by the Village for the removal and disposition of a compost pile, together with an administrative charge of fifty dollars (\$50.00) for each such removal, shall be reported to the Village Fiscal Officer, who shall mail a statement of the amount thereof to the owner and/or other person lawfully in possession of the premises from which the compost pile was removed. If, after thirty days, such amount remains unpaid, the Village Fiscal Officer shall certify the total amount of the expenses, including the administrative charge, the name of the owner of the land and a sufficient description of the premises to the Erie County Auditor to be entered on the tax duplicate to be a lien on the land from the date of entry and to be collected as other taxes and assessments and returned to the Village pursuant to R.C. 731.54.

(11) **Above ground pools.** Above ground pools shall be drained and/or covered or taken down when not in use during the off-season or for any other extended period of time so as not to create a breeding ground for mosquitoes or other nuisance.

(12) **Garages and sheds.** All garages and sheds shall have doors. Tarps used as doors for garages, sheds, and or other structures shall be prohibited. Car ports and lean-tos are exempt from the door requirement, but tarps are prohibited.

(b) **Appearance of Exterior of Premises and Structures.** The exterior of the premises, the exterior of structures, the exterior or dwelling structures, and the condition of accessory structures shall be maintained by each owner or operator so that the appearance of the premises and all buildings thereon does not constitute a nuisance.

(1) **Residential.** To affect the purposes of this section, the owner, tenant, vendee or other occupant of the premises shall use, maintain, or refrain from using the premises and all buildings thereon, as the case may be, as follows:

(A) **Storage of commercial or industrial materials or waste.** There shall not be stored or used, equipment and/or materials relating to commercial or industrial uses or wastes unless permitted under the Zoning Code for the premises.

(B) **General Maintenance.** The exterior of every structure or accessory structure,

including fences and carports shall be maintained in good repair. The same shall be maintained free of broken windows, crumbling stone or brick, or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated.

(2) **Nonresidential.** To affect the purposes of this section, the owner, tenant, vendee or other occupant of the premises shall use, maintain, or refrain from using the premises and all buildings thereon, as the case may be, as follows:

(A) **Signs and billboards.** All permanent signs and billboards exposed to public view permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair. Any signs which have weathered or faded shall, with their supporting members, be removed forthwith or put into a good state of repair. All broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.

(B) **Store fronts.** All store fronts shall be kept in good repair and shall not constitute a safety hazard or nuisance. Any cornice visible above a store front shall be kept in good repair.

(C) **Awnings and marquees.** Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, with their supporting members, be removed forthwith. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.

(D) **Storage of industrial and commercial materials or waste, and motor vehicle equipment.** There shall not be stored or used at a location visible from the sidewalk, street or other public areas equipment, materials, waste, or motor vehicle equipment relating to commercial or industrial uses unless expressly permitted under the Zoning Code.

(c) **Structural Soundness and General Maintenance; Exterior Residential and Non-Residential.** Every owner, tenant, vendee or other occupant of the premises shall maintain the exterior of every structure or accessory structure, including car ports, free of nuisance.

To affect the purposes of this section, the owner, tenant, vendee or other occupant shall use, maintain or refrain from using the premises and all buildings thereon, as the case may be, as follows:

(1) **Surfaces.** All surfaces shall be maintained free of broken windows, crumbling stone or brick, or other conditions reflective of deterioration or inadequate maintenance.

(2) **Exterior walls, sidings and roofs.** Exterior walls, sidings, and roofs shall be kept structurally sound, in good repair and free from defects.

(3) **Damaged materials.** Damaged materials shall be repaired or replaced.

(4) **Rotted or corroded materials.** Materials showing signs of rot, deterioration or excessive corrosion shall be restored and protected.

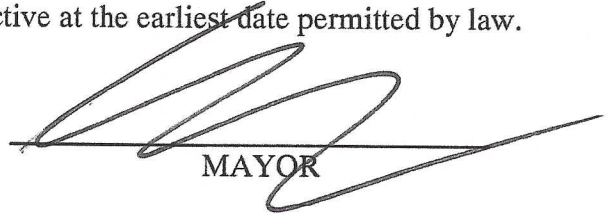
(d) **Freedom from Infestation.** No owner, tenant, vendee or other occupant of any premises or building thereon shall maintain the exterior parts of the premises or building to permit the infestation of insects or rodents.

(e) Whoever violates this section is guilty of a misdemeanor of the fourth degree. In the

event a person is convicted of a violation of this ordinance more than two times in a twenty-four month period, the person shall be found guilty of a misdemeanor of the third degree.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including *§121.22 of the Revised Code.*

SECTION 3. This Ordinance shall be effective at the earliest date permitted by law.



MAYOR

ATTEST:



VILLAGE FISCAL OFFICER

1st Reading: November 14, 2018

2nd Reading: December 12, 2018

3rd Reading: January 9, 2019 (as amended)

Adopted: January 9, 2019 (as amended)