CODIFIED ORDINANCES OF WHITEHOUSE

Part Ten Exterior Property Maintenance Code

Chapter 1000 General Provisions
Chapter 1001 Definitions
Chapter 1002 Administration and Enforcement
Chapter 1003 Corrective Actions
Chapter 1004 Exterior Property Maintenance Standards

CHAPTER 1000
GENERAL PROVISIONS

Section 1000.01 Title
Section 1000.02 Purpose
Section 1000.03 Scope and Application
Section 1000.04 Compliance Required
Section 1000.05 Conflict of Laws
Section 1000.06 Existing Remedies
Section 1000.07 Separability
Section 1000.08 Saving Clause

1000.01 Title

This Ordinance shall be known as "The Exterior Property Maintenance Code of the Village of Whitehouse, Ohio" and hereinafter shall be referred to as the "Exterior Property Maintenance Code" or the "Maintenance Code."

1000.02 Purpose

The purpose of this Maintenance Code is to protect the public health, safety, morals and general welfare as it pertains to premises and buildings used for residential, commercial, and industrial purposes. This protection is hereinafter provided by:

A. Establishing minimum standards for maintaining residential, commercial and industrial environmental quality to preserve and achieve the presentable appearance of existing structures and premises; avoiding blighting effects of the substandard maintenance of structures and premises and its negative impact on the value of surrounding properties; and eliminating hazardous conditions;

B. Fixing the responsibilities of owners, operators and occupants of structures and their premises; and

C. Providing for administration, enforcement and penalties.

1000.03 Scope and Application

A. The scope of this Maintenance Code is strictly limited to the establishment of minimum standards for the maintenance of exterior surfaces and exterior functioning units of all structures and buildings within the Village. No provisions of this

Maintenance Code shall, in any way, directly or indirectly, be interpreted to interfere with, or limit the right of, any owner or resident to inhabit real property owned or leased by them in such manner and form as they may determine appropriate, consonant with other applicable provisions of law. This Code is directed to obvious visual problems which may occasion safety, health, welfare, or incipient blighting conditions within the Village.

B. The provisions of the Maintenance Code shall apply to all premises and structures used for human habitation, commercial purposes, or industrial purposes which are now or may become in the future substandard with respect to structure, maintenance, proper drainage and sanitary conditions, or other similar conditions which otherwise constitute a public nuisance. The existence of such conditions, factors or characteristics adversely affect public health, safety, morals and general welfare and leads to the continuation, extension and aggravation of blight and its attendant negative effect on surrounding property values. Therefore, this Maintenance Code is hereby declared to be remedial and preemptive, and it is intended that this Maintenance Code be construed and interpreted to effectuate the purposes as stated herein.

C. This Maintenance Code shall not be construed to prevent the enforcement of other provisions of Village codes or the Ohio Revised Code that prescribes standards other than is provided in this Maintenance Code.

1000.04 <u>Compliance Required</u>

Every portion of a building or premises used or intended to be used for residential, commercial, or industrial purposes, shall comply with the provisions of this Maintenance Code, irrespective of when such building has been constructed, altered or repaired, or premises occupied, and without regard to any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this Maintenance Code, except as hereinafter provided.

1000.05 <u>Conflict Of Laws</u>

Every building, structure and land use shall meet all of the provisions and requirements of the official zoning code, building code, fire code and health ordinance applicable to the structure and its intended and present use. Where these codes require the provision of a particular facility or equipment, or where they set a structural or installation standard, such related parts of every structure and dwelling unit shall be maintained to the minimum standard provided for in Chapter 1004 of this Maintenance Code or to the minimum standard provided for in the above codes, whichever standard is higher.

In any case where a provision of this Maintenance Code is found to be in conflict with a provision of any zoning, building, fire, safety or health regulation or other regulation, the provision which establishes the higher standard for the promotion and protection of the safety and health of the people shall prevail.

1000.06 <u>Existing Remedies</u>

Nothing in this Maintenance Code shall be deemed to abolish, impair, or prevent the execution of any existing remedies related to the abatement of a public nuisance.

1000.07 Separability

If any section, subsection, paragraph, sentence, clause or phrase of this Maintenance Code is declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Maintenance Code, which shall continue in full force and effect, and to this end the provisions of this Maintenance Code are hereby declared to be severable.

1000.08 Saving Clause

This Maintenance Code shall not affect violations of any other resolution, ordinance, code or regulation existing prior to the effective date of this Maintenance Code, and any violation of such shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

CHAPTER 1001
DEFINITIONS

Section 1001.01 Construction of Language
Section 1001.02 Definitions

1001.01 Construction Of Language

For the purpose of this Maintenance Code certain terms or words shall be interpreted as follows:

A. Interchangeability

1. Words used in the singular shall include the plural, and the plural the singular;
2. Words used in the present tense shall include the future tense;
3. Words in the masculine gender shall include the feminine and neuter;
4. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"
5. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual;
6. The word "dwelling" includes the word "residence.
7. Whenever words denoting an area or structure are stated in this Maintenance Code, they shall be construed as though they were followed by the words "or any part thereof."

B. Mandatory and Advisory Verbs

1. The word "shall" is mandatory and not discretionary;
2. The word "may" is permissive.

1001.02 Definitions

Where terms are not defined in this Chapter, such terms shall have their customary meanings as the context implies.

ABANDONED: Vacant buildings in need of repair or maintenance for a continuous period greater than six (6) months from the date of first notice for repair or compliance requirements from the Enforcement Officer.

BUILDING CODE: The most current edition of the State of Ohio building code, for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings and structures.

ENFORCEMENT OFFICER: The Village Administrator or a person or persons duly designated by the Village Administrator.

EXTERIOR PROPERTY AREAS: Those portions of a structure which are exposed to public view as well as the open space contiguous to the structure.

GARBAGE: The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food or the by-products of such enumerated items, not to be inclusive of a well-maintained compost pile.

GRAFFITI: Any unauthorized inscription, design, word, figure, or mark of any type drawn, marked, painted, tagged, etched, scratched, or written upon any upon any building, bridge, fence, gate, rock, structure, tree, wall, or other property visible to the public that defaces, damages, or destroys any public or private, real or personal property. Such inscription, design, word, figure or mark shall be deemed unauthorized if the property owner has not granted written permission prior to its application to the structure.

INFESTATION: the presence, within or contiguous to, a structure or premises of insects, rats, vermin, or other pests.

JUNK OR INOPERABLE VEHICLE: A vehicle, including but not limited to cars, trucks, busses, trailers, and boats, shall be deemed a junk or inoperable vehicle whenever any of the following occur:

(1) The vehicle is without a valid current registration and/or license plate:

(2) The vehicle is apparently inoperable;

(3) The vehicle is without fully inflated tires and/or has any type of support under it;

(4) The vehicle has a substantially damaged or missing window, windshield, door, motor, transmission, or other similar major part.

OPERATOR: Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER: Shall include any of the following:

(1) The owner of record as shown on the current tax list of the auditor of Lucas County, Ohio;

(2) The mortgage holder of record, if any, as shown in the mortgage records of the recorder of Lucas County, Ohio;

(3) Any person who has a freehold or lesser estate in the premises;

(4) A mortgagee or vendee who evidences possession, charge, care, or control of the premises, and includes someone to whom the sheriff of Lucas County has issued a deed for the premises whether or not the deed has been recorded;

(5) Any person who has charge, care, or of control of the premises as agent, executor, administrator, assignee, receiver, trustee, guardian, or lessee;

(6) Any person who holds himself or herself out to be in charge, care, or control of the premises as evidenced by negotiating written or oral lease agreements relative to the premises, collecting rents for the premises, performing maintenance or repairs on the premises, or authorizing others to perform maintenance or repairs on the premises.

PERSON: Includes a firm, association, organization, partnership, trust, company, corporation or other legal entity, as well as an individual.

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

PUBLIC NUISANCE: Shall include any of the following:

(1) Any building, premises, or real estate, including vacant land, or any appurtenance thereto which is not in compliance with any building, housing, nuisance abatement, air pollution, sanitation, health, fire, zoning, or safety code of the Village of Whitehouse;

(2) Any building, premises, or real estate, including vacant land, or any appurtenance thereto upon which its real property taxes have remained unpaid in excess of one (1) year from date of assessment;

(3) Any building, premises, or real estate, including vacant land, or any appurtenance thereto on which a felony violation of ORC 2925 or 3719 has occurred;

(4) Any building, premises, or real estate, including vacant land, or any appurtenance thereto as defined as a nuisance or public nuisance in ORC 3767;

(5) Any building, premises, or real estate, including vacant land, or any appurtenance thereto that is used or occupied by a criminal gang (as defined in ORC 2923.41) on more than two (2) occasions within a one (1) year period to engage in a pattern of criminal gang activity (as defined in RC 2923.41);

(6) Any building, premises, or real estate, including vacant land, or any appurtenance thereto used in violation of ORC 2915;

(7) The physical condition, or use of any premises regarded as a public nuisance at common law;

(8) Any physical condition, use, or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to junk, inoperable or unlicensed vehicles, abandoned wells, shafts, basements, excavations, abandoned refrigerators, and unsafe fences or structures;

(9) Any premises which have improperly working drainage facilities;

(10) Any premises designated as unsafe for human habitation or use;

(11) Any premises, which is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured as to endanger life, limb or property;

(12) Any premises which is unsanitary, or which is littered with rubbish or garbage;

(13) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; open, vacant, or abandoned; damaged by fire to the extent as not to provide shelter in danger of collapse or failure, and is dangerous to anyone on or near the premises.

RUBBISH: Rubbish is both combustible and non-combustible waste materials, including car parts, motors, and abandoned appliances. The term shall also include rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, and other similar materials, as well as the residue from the burning of wood, coal, and other combustible materials.

STRICT LIABILITY OFFENSE: An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE: Anything constructed or erected which requires location on the ground or attachment to something having location on the ground.

UNFIT FOR HABITATION: Any building or structure found to be a public nuisance by the Enforcement Officer and further declared as unfit for human habitation or use due to any of the following:

(1) The property is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it is hazardous to the health or safety of the occupants or of the public.

(2) The property lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

(3) Because of its general conditions, the property is unsanitary or otherwise hazardous to the health or safety of the occupants or of the public.

YARD: An open space on the same lot with a structure.

CHAPTER 1002
ADMINISTRATION AND ENFORCEMENT

Section 1002.01 Enforcement Officer
Section 1002.02 Inspections
Section 1002.03 Notice of Violations
Section 1002.04 Transfer of Ownership
Section 1002.05 Procedure upon Failure to Comply with Notice of Violation
Section 1002.06 Abatement of Nuisance by Village and Cost Recovery
Section 1002.07 Prosecution
Section 1002.08 Appeal
Section 1002.99 Violation and Penalties

1002.01 Enforcement Officer

A. *Chief Enforcement Officer and Assigned Enforcement Officers.* The Village Administrator shall serve as the Chief Enforcement Officer and may assign the duties of administering and enforcing this Maintenance Code to other related technical officers, inspectors, and other employees (hereinafter, the Chief and any assigned Enforcement Officers shall be denoted as the Enforcement Officer).

1. The Enforcement Officer shall issue all necessary notices or orders to ensure compliance with the Code.

2. The Enforcement Officer may call upon any department for whatever assistance may be necessary to abate a violation of this Exterior Property Maintenance Code.

B. *Relief from Personal Responsibility.* Any officer or employee of the Village, acting in good faith and without malice, is hereby relieved from all personal liability or costs in any action, suit, or proceeding instituted for damage accruing to persons or property as a result of any act performed by that officer or employee in the lawful discharge of official duties under the provisions of this Maintenance Code, and shall be defended by the legal representative of the Village until the final termination of the proceedings. However, the Village will not be liable for the actions of any independent contractor, hired by the Village to effect this Maintenance Code, for acts outside the scope of official duties.

C. *Rulemaking Authority.* The Enforcement Officer shall have power as necessary in the interest of public safety, health and general welfare, to adopt and promulgate rules and procedures to implement the provisions of this Maintenance Code, to secure the intent thereof, and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire protection requirements specifically provided in this Maintenance Code, or of violating accepted engineering methods involving public safety.

D. *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this Maintenance Code, the Enforcement Officer shall have the authority to grant modifications for individual cases, provided the Enforcement Officer shall first find that special individual reason makes the strict letter of this Maintenance Code impractical and the modification is in compliance with the intent and purpose of this Maintenance Code and that such modification does not lessen health, life, and fire

safety requirements. The details of action granting modifications shall be recorded and entered in the official records for the property.

E. *Official Records.* All inspections, notices, and orders shall be in writing and be certified by the Enforcement Officer. An official record shall be kept of all inspections and related activities of the Enforcement Officer as long as the building or structure to which such records relate remains in existence. All such records shall be open to public inspection during business hours and according to reasonable rules to maintain the integrity and security of such records.

1002.02 <u>Inspections</u>

The Enforcement Officer is authorized, subject to constitutional restrictions on unreasonable searches and seizures, to make inspections of all residential, commercial, industrial, and all other building exteriors and premises for purposes of enforcing the provisions of this Maintenance Code.

A. The Enforcement Officer, in enforcing provisions of this Maintenance Code, is authorized and directed to make inspections either in response to a complaint alleging the existence of a public nuisance or when the Enforcement Officer has reasonable grounds to believe a public nuisance exists. The identification of a person who makes a complaint pursuant to this Maintenance Code shall be kept confidential and shall not be subject to disclosure under ORC 149.43.

B. Whenever inspections are necessary by any other department of the Village, the Enforcement Officer shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders.

C. The Enforcement Officer or any official or employee connected with the enforcement of this Maintenance Code shall not be engaged in, or be directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of construction documents thereof; nor shall such officer, official, or employee engage in any work that conflicts with official duties or with the interests of any Village Department.

D. For the purpose of making such inspections, pursuant to the Village Charter and applicable ordinances, the Enforcement Officer may enter any building, premises or real estate, including vacant land, or any appurtenance thereto in the Village of Whitehouse to perform any duty imposed upon him or her by this Maintenance Code or may apply to a judge of a court of record, pursuant to ORC 2933.21(F), for a search warrant to conduct an inspection. Every occupant of a building, premises or real estate or any appurtenance thereto shall give the Enforcement Officer access to any part of the building, premises or real estate or any appurtenance thereto at all reasonable times for the purposes of making an inspection as necessary to comply with this Maintenance Code.

E. *Expert Opinion.* The Enforcement Officer is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

1002.03 Notice of Violation

A. Whenever the Enforcement Officer determines that there is a violation of the provisions of this Maintenance Code, notice of such violation and order for compliance shall be given to the person or persons responsible therefore, as hereinafter provided. No owner shall fail to comply with any notice of violation, and no owner or other person shall obstruct or interfere with service or the enforcement of the notice. The Enforcement Officer may issue additional warnings to property owners nearing violation of applicable requirements contained in the Exterior Property Maintenance Code.

B. *Content.* Such notice of violation and order shall:

1. Be in writing.

2. Include a description of the real estate sufficient for identification.

3. Include a statement of the reason or reasons why the notice is being issued, including identification of the relevant sections of the Maintenance Code or ORC.

4. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the property into compliance with the provisions of this Maintenance Code;

5. Advise that if the order to abate the conditions indicated in the notice of violation is not complied with by the specified date of compliance, the Enforcement Officer may:

   (a) Initiate a civil and/or criminal action against the owner, or

   (b) Cause the conditions indicated in the notice of violation to be corrected by Village personnel or private contractor and charge the costs of such correction as a lien upon the real estate.

6. State the right of the violator to file an appeal of the notice and to have a hearing with the Board of Zoning Appeals within fifteen (15) days of receipt of the notice.

C. *Service of Notice of Violation*

1. A notice of violation shall be deemed to be properly served if one (1) or more of the following methods are used:

   (a) By personal delivery to the owner or occupant of the premises or by leaving the notice at the premises with a person of suitable age and discretion; or

   (b) By certified mail deposited in the United States Post Office addressed to the person or persons responsible at his/their last known address, with return receipt requested. If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Enforcement Officer. Service shall be deemed complete when the fact of mailing is entered of record, provided

that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery; or

(c) By posting a copy of the notice form in a conspicuous place on the premises found in violation and publishing a legal notice in a newspaper of general circulation in the Village. The published legal notice shall identify the owners of the property, the last address, if known, of the owners, the parcel identification, the location and nature of the violation; or

(d) Publication in a newspaper of general circulation in Lucas County a minimum of once per week for three (3) consecutive weeks where a copy of the newspaper, with the notice clearly marked, shall be mailed to the owner at the last known address and the notice shall be deemed received as of the date of the last publication.

2. When the notice of violation has been served, it shall be effective as to anyone having any interest in the real estate whether recorded or not at the time the order was issued, and shall be effective against any subsequent owner as long as the conditions causing the real estate exist and the Enforcement Officer maintains a record of the notice of violation in a public file.

3. Written or oral acknowledgement by the owner of receipt of a notice of violation shall be evidence that the owner received the notice. An appeal of the notice by the owner pursuant to Section 1002.08 (Appeals) shall constitute evidence of written acknowledgement by the owner of service of the notice of violation.

D. *Emergencies.* Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health and safety, a written order shall be provided to the owner reciting the existence of such an emergency and specifying such action as necessary be taken to meet the emergency, or such action deemed necessary by the Enforcement Officer using Village or private contractor resources to abate the conditions causing the emergency.

1. The Enforcement Officer may declare the property as a public nuisance or declare the structure a hazardous public nuisance pursuant to Section 1003.02 (Hazardous Structures).

2. The Enforcement Officer shall make every reasonable effort to personally serve the owner with the order; however, it shall be adequate to affix upon the door or entrance to the building, premises, or real estate, to include vacant land, or appurtenances thereto, where the emergency is alleged to exist, a placard on which shall be printed the written order issued by the Enforcement Officer.

3. Notwithstanding other provisions of this Maintenance Code, such order shall be effective immediately and shall be complied with immediately.

4. If in the opinion of the Enforcement Officer action is deemed necessary using Village or private contractor resources to abate the conditions causing the emergency, the Enforcement Officer shall cause a request for a temporary restraining order to be filed seeking judicial approval for the Village to abate the public nuisance.

(a) The cost of any repairs shall not exceed fifty (50) percent of the fair market value of a structure to be repaired. Determination of such shall be made by a certified appraiser to be contracted for that purpose by the Village.

(b) When repairs are made or other corrective action is taken at the direction of the Enforcement Officer, the cost of such repairs and corrective action shall be paid by the Village and shall constitute a debt in favor of the Village against the owner of the repaired structure.

(c) In the event said owner fails, neglects, or refused to pay the Village the amount of this debt within sixty (60) days from receipt of the bill for repairs, the Village Administrator may recover the costs against the owner in a civil action or certify the cost and expense of repairs to the county auditor and the same shall become a lien upon the real estate.

5. The owner has the right to immediately appeal the emergency order to the Board of Zoning Appeals, but such appeal does not waive the owner's requirement to immediately comply with the order.

(a) If the owner appeals the emergency order, the burden is on the Enforcement Officer to prove by clear and convincing evidence that an emergency existed which required immediate action on the part of the owner. The owner has the burden to prove there was not an emergency.

(b) If the Court has issued a temporary restraining order approving demolition or modification, an owner's appeal will not stay the Court's order.

1002.04 <u>Transfer of Ownership</u>

It shall be unlawful for the owner of any building or structure who has received a notice of violation to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice of violation issued by the Enforcement Officer, and shall furnish to the Enforcement Officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation, and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation.

1002.05 <u>Procedure upon Failure to Comply With Notice of Violation</u>

Whenever the Enforcement Officer determines that a person or persons against whom a notice of violation has been issued has failed to timely comply with the notice or where Village abatement of an emergency has occurred, the Enforcement Officer may:

A. Cause to be filed against the owner a civil complaint for injunctive relief seeking abatement or any other remedy provided by law or any other appropriate action to prevent or terminate the conditions cited in the notice of violation; and/or

B. Cause to be filed against the owner a civil action styled "complaint for civil forfeiture" to recover any accumulated civil forfeiture penalties of one hundred dollars ($100.00) or as otherwise specified herein for each calendar day that the owner fails to comply; and/or

C. Cause to be filed against the owner a criminal complaint pursuant to Section 1002.99.

1002.06 Abatement of Nuisance By Village And Cost Recovery

A. Provided that thirty (30) days notice is given in accordance with ORC 715.26(B), should the nuisance not be abated at the expiration of the time stated in the notice or order of the Enforcement Officer or any extensions granted or such additional time as may be granted upon appeal, the Enforcement Officer shall be authorized at any time thereafter to cause entry upon such premises and the owner shall permit such entry to take such action as deemed appropriate to abate the nuisance, in addition to any remedies provided elsewhere in this Maintenance Code.

B. Such abatement shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the Municipality, but shall be deemed to be in addition to any authority existing by virtue of the statutes of Ohio or any ordinance heretofore enacted by Council.

C. In abating such nuisance, the Enforcement Officer may call on any department, for whatever assistance may be necessary to abate the aforesaid nuisance or may, by private contract, abate such nuisance and the cost of the contract will be paid for from Village funds specifically authorized by Council in order to abate such public nuisance. The fees for abatement activities and services performed by the Village of Whitehouse in carrying out its responsibilities under this Code shall be at the rate of one hundred and fifty (150) dollars per person-hour with a minimum charge of not less than one hundred fifty (150) dollars. Fees for any private abatement contracts shall be at the rate of the private contract plus a Village administrative fee at the aforementioned rate per person-hour.

D. All costs for abating such nuisance shall be recovered in the following manner:

1. The owner(s) shall be billed directly by United States certified mail with return receipt requested or by personally serving the owner with a copy of such bill. In the event the certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing. If all other service fails, the billing notice may be published in a newspaper of general circulation in the Municipality once a week for two (2) consecutive weeks.

2. If the costs are not so recovered within sixty (60) days of receipt of the mailing described above in this section, the Village in accordance with authority granted by ORC 715.26.1 may cause the cost of the abatement to be levied as an assessment against the property or may commence a civil action to recover the total costs from the owner.

1002.07 Prosecution

In case any violation order is not promptly complied with, the Enforcement Officer may request the Village Solicitor to institute an appropriate action or proceeding at law to exact the penalty provided in Section 1002.99 of this Maintenance Code, and in addition thereto, may ask the Village Solicitor to proceed at law or in equity against the person responsible for the violation for the purpose of ordering him/her to abate such nuisance.

1002.08 Appeal

Any person affected by any notice of violation which has been issued in connection with the enforcement of any provision of this Maintenance Code, may request and shall be granted a hearing on the matter before the Board of Zoning Appeals, provided that such person shall file in the office of the Enforcement Officer a notice of appeal on forms provided by the Village within fifteen (15) days after the date of delivery of the Enforcement Officer's Notice of Violation.

A. The Board of Zoning Appeals shall provide notice, hear, and decide appeals in the same manner as appeals taken from Zoning Code decisions. Appeals of notices and orders (other than emergency orders) shall stay the enforcement of the Enforcement Officer's notice and order until the appeal is heard by the Board. The failure of the petitioner or his representative to appear and state his case at such hearing shall have the same effect as if no petition were filed.

B. *Findings.* Prior to ruling on any violation notice and compliance order, the Board of Zoning Appeals shall make the following findings:

   1. The violator was served with a Notice of Violation as provided for in Section 1002.03 which stated the specific nature of the violation; all corrective action needed to be taken to abate the violation; and a specific time period for abatement of the violation.

   2. Within the time period stipulated in the Notice of Violation, the violator failed or intends to fail to comply with the correction order by not abating the violation, and/or by not bringing the use into compliance with the Maintenance Code.

   3. Upon expiration of the date indicated for compliance in the Notice of Violation, the property was or will be maintained in violation of specific provisions of the correction order and/or conditions previously imposed by the Board of Zoning Appeals as a prerequisite to the modification of a previous compliance order.

C. *Court Review.* Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the Village Administrator.

1002.99 Violation and Penalties

A. No person shall violate any provision or fail to conform to any of the requirements of this Exterior Property Maintenance Code or fail to comply with any order made thereunder.

B. Whoever violates any section of this Exterior Property Maintenance Code shall be guilty of a minor misdemeanor, and the violation shall be deemed a strict liability offense.

   1. If the offender has previously been convicted of, or pleaded guilty to, a violation of this Maintenance Code, then the offender shall be guilty of a fourth degree misdemeanor.

2. Whoever knowingly makes a false statement, or knowingly swears or affirms the truth of a false statement previously made on any documents filed in support of an enforcement action or appeal pursuant to the provisions of this Maintenance Code, shall be guilty of a third degree misdemeanor.

C. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

D. The application of the penalty provided herein shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER 1003
CORRECTIVE ACTIONS

Section 1003.01 Property Condemnation as Unfit for Human Habitation by Health Department
Section 1003.02 Designation as Hazardous Structure
Section 1003.03 Abandonment of Construction Project
Section 1003.04 Vacant Building Maintenance Standards

1003.01 Property Condemnation as Unfit for Human Habitation by Health Department

A. The Enforcement Officer may notify the Health Department whenever complaints are received or it is suspected that any dwelling or structure:

1. Is damaged, decayed, dilapidated, unsanitary, unsafe, and/or vermin infested and/or contains hazardous levels of lead-based paint or other substance;

2. The general condition of the occupied premises is unsanitary, unsafe and/or unhealthful;

3. The structure is occupied by more persons than permitted under relevant health and zoning codes, or was erected, altered, or occupied contrary to law.

B. If the Health Department condemns any dwelling or premise as unfit for human habitation or use, once the property is vacated after such Health Department order, it shall be unlawful for any person to enter such structure except for the purpose of securing the structure pursuant to Section 1003.04 (Vacant Building Maintenance Standards), making the required repairs, or razing the structure.

1003.02 Designation as a Hazardous Structure

A. Any building or structure shall be a hazardous public nuisance when in the judgment of the Enforcement Officer its condition constitutes an imminent danger of injury or death to persons or property. Such designation shall be warranted upon the following findings:

1. The structure does not provide minimum safeguards to prevent unlawful entry or protect occupants in the event of fire;

2. The structure contains unsafe exterior fixtures or equipment which in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public;

3. The structure is damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

B. Whenever a building or structure has been designated a hazardous structure, the Enforcement Officer shall placard the building or structure as such pursuant to Section 1002.03.D. (Emergencies). All such buildings, premises or real estate shall be immediately vacated and it shall be unlawful for any person to enter such structure

except for the purpose of securing the structure pursuant to Section 1003.04 (Vacant Building Maintenance Standards), making the required repairs, removing the hazardous condition, or razing the structure. Any such building shall not be reoccupied until the Enforcement Officer determines that the emergency no longer exists.

C. *Repair, Secure, or Demolition.* Any building or structure declared and placarded as a hazardous structure public nuisance by the Enforcement Officer shall be brought to a safe condition within a reasonable time as ordered by the Enforcement Officer, by commencing the ordered repairs or razing the structure. Any repairs or demolition undertaken shall be completed within the time period ordered by the Enforcement Officer.

D. Failure to bring the building or structure into a safe condition is a violation of this Maintenance Code, such that the Enforcement Officer may cause any proper legal action to be initiated on behalf of the Village to abate the hazard to the community.

E. Whenever, in the opinion of the Enforcement Officer, there is imminent peril due to an unsafe condition, the Enforcement Official shall order the necessary work to be done to render such structure temporarily safe pursuant to Section 1002.03D. (Emergencies), and shall cause such other action to be taken as the Enforcement Officer deems necessary to meet such emergency.

1003.03 <u>Abandonment of Construction Project</u>

A. All construction work (including excavations) on any building or structure for which a building permit has been issued shall be diligently pursued to completion, except for circumstances beyond the property owner's control (e.g., labor strikes, inclement weather, etc.).

B. Any incomplete construction project, upon which no substantial work has been undertaken for a continuous period of six (6) months, shall be deemed abandoned if in the opinion of the Enforcement Officer it is a public nuisance affecting or endangering surrounding property values and is detrimental to the public health, safety, and general welfare of the community. Where applicable, such property shall be secured according to Section 1003.04 (Vacant Building Maintenance Standards).

C. Upon abandonment of any construction project, all buildings or structures not completed to the degree such buildings or structures have been indicated on the plans submitted in support of a building permit, and all building materials, signs, goods, supplies, and construction equipment shall be removed from the site and depressions to the grade level of the lot shall be filled.

1003.04 <u>Vacant Building Maintenance Standards</u>

A. A building or structure which the Enforcement Officer has declared a hazardous structure, abandoned, or where the Health Department has declared the structure a public nuisance unfit for human habitation or public nuisance, shall be secured and maintained in accordance with the provisions of this Maintenance Code and each of the following requirements:

1. All windows, doors, openings, or holes in the structure shall be covered with minimum one-half (1/2) inch weather-protected CDX plywood tightly fitted to the

exterior of the opening and painted to be compatible with the exterior of the structure.

2. The CDX plywood shall be attached with appropriate length galvanized bolts or two (2) inch galvanized screws.

3. The roof and flashing shall be sound, tight, and not have defects that admit water. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. The use of sheets of plastic or tarpaulins or similar materials does not satisfy the requirements of this paragraph.

4. All graffiti shall be removed immediately.

5. The Enforcement Officer may order the vacant building or structure and premise shall be maintained in compliance with any all Village codes related to sanitation, infestation, high grass and weed requirements, building and housing codes, maintenance of the public sidewalks adjacent to the premise, and house number requirements.

B. *Discontinuance of Utilities.* The Enforcement Officer may cause any or all utilities to be disconnected or disconnected from any building or structure that has been declared as unfit for human habitation or use and vacated, or found to be vacant and declared and placarded as a hazardous structure, until such time as the defects upon which the declaration and placarding of the building or structure were based have been eliminated.

1. The Enforcement Officer may cause any or all utilities serving such building or structure to be discontinued by notifying the public utility or utilities serving such building or structure that the building or structure has been declared as being unfit for human occupancy or use and vacated or declared and placarded as a hazardous structure.

2. Such notice shall include the date the order was issued, the date the property was first vacated or declared a hazardous structure, and a copy of the order relating to the building or structure shall be attached.

3. Upon receipt of such notice, the public utility or utilities shall disconnect or discontinue the utility service within a reasonable time.

4. Any utility or utilities available to a building or structure that has been so disconnected may be resumed or reconnected for the purpose of facilitating compliance with a notice of violation upon prior written approval by the Enforcement Officer.

5. Except as provided in Section 1003.04C. (Reoccupancy of Buildings), no person shall resume or reconnect any utility or cause resumption or reconnection of any utility which has been discontinued or disconnected as provided herein without first obtaining prior written approval by the Enforcement Officer.

C. *Reoccupancy of Buildings.* No vacant building or structure that has been declared a public nuisance unfit for human occupancy or placarded as a hazardous structure shall again be used for human habitation or use until written approval is secured from

the Enforcement Officer. The Enforcement Officer shall remove, or cause to be removed, such placard whenever the defects upon which the declaration and posting or placarding action were based have been eliminated.

CHAPTER 1004
EXTERIOR PROPERTY MAINTENANCE STANDARDS

Section 1004.01 Maintenance Responsibility and Workmanship Standard
Section 1004.02 Structural Soundness
Section 1004.03 Exterior Property and Structure Exterior Standards

CROSS REFERENCES
Cutting of Weeds and Grasses Required – see GEN. OFF. 521.11
Littering and deposit of Garbage, Rubbish, Junk, etc. – see GEN. OFF. 521.04
Nuisances – see Ohio R.C. Ch. 3767
Outdoor Refuse Storage Containers – see GEN. OFF. 521.12
Removal of noxious weeds or litter – see Ohio R.C. 731.51 et. seq.
Requirements for Curbside Placement – see ST., UTIL., & PUB. SVC. 955.01

1004.01 Maintenance Responsibility and Workmanship Standard

A. *Responsibility.* The owner, operator, or agent of any structure or premises within the Village shall be responsible for maintaining the exterior surfaces as well as the yard area contiguous thereto in conformance with the provisions of this Maintenance Code, or to raze the structure to grade level and have debris removed from the premises.

B. *Workmanship.* Repairs, maintenance work, alterations, or installations which are caused directly or indirectly by the enforcement of this Maintenance Code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

1004.02 Structural Soundness

Every foundation, floor, wall, ceiling and roof of every structure shall be so constructed and maintained and be kept in good repair and in safe condition so as to eliminate hazardous and unsanitary conditions, to make all occupied rooms and other interior areas weather-tight, water-tight, rodent proof, and so as to not adversely affect the neighborhood in which they are located. Good repair, maintenance and safe condition shall include, but is not limited to, the following:

A. *Foundations.* All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads and shall be maintained plumb and free from open cracks and breaks which admit rodents, water or dampness to the interior of the building or lessen the capability of the foundation to support the building. Basement or cellar hatchways shall be maintained as to prevent the entrance of rodents, rain and surface drainage into the structure.

B. *Structural Member.* Any structural member of a structure which has become deteriorated or damaged to the extent that it does not serve the purpose as originally intended shall be renewed, restored, repaired, or replaced as is necessary to serve the purpose as originally intended.

C. *Exterior Walls and Surfaces.* Exterior walls and other exterior surface materials shall be free of holes, cracks, loose or rotting boards and timbers or any other condition which might admit rodents, rain or dampness to the interior of the dwelling. The exterior of all privately owned dwellings, structures and premises shall be free from graffiti when such graffiti is visible from a right of way. Owners on whose property graffiti is displayed shall completely remove the graffiti or shall completely and uniformly cover the graffiti with appropriate wall covering within fourteen (14) days of the occurrence of the graffiti.

D. *Roof.* Roof members, covering and flashing shall be structurally sound and tight so as to prevent the entrance of moisture and be maintained by renewal, repair, waterproofing or other suitable means. All missing shingles or other roofing materials shall be replaced. Rain gutters, downspouts, and drains shall be maintained in good repair and free from obstructions.

E. *Porches.* Every porch shall be so constructed and maintained so as to be free of missing, defective, rotting or deteriorated foundations, supports, floors, other members, and steps thereto, so as to be safe to use and kept in sound condition and in good repair.

F. *Exterior Stairways.* All exterior stairways on all premises shall have treads and risers of uniform width and height, and be maintained free of holes, grooves, cracks, or rotted or deteriorated supports which constitute a safety hazard or which decrease its capacity to support the loads to which the stairway was constructed. Stairway handrails and/or railings shall be firmly fastened and maintained in good condition. Where the absence of handrails and/or railings creates a hazardous condition, the Enforcement Officer may require their installation in accordance with the provisions of the Ohio Building Code.

G. *Overhanging Extensions.* All canopies, marquees, signs, awnings, and similar overhanging extensions and their supporting structures shall be maintained in good repair and be properly anchored so as to be kept in a sound condition and shall not show evidence of ripping, tearing, or deterioration. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. Prohibited and obsolete signs shall be removed or replaced pursuant to the applicable sections of the Zoning Code.

H. *Decorative Features.* All cornices, entablatures, bell courses, corbels, terracotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

1004.03 <u>Exterior Property and Structure Exterior Standards</u>

The exterior of all premises and every structure thereon and all surfaces thereof, shall be properly maintained in structurally sound and in good condition so as to be fit for human use, to achieve a presentable appearance, to avoid blighting effects on neighboring properties, and to be painted or protected where necessary for the purpose of preservation.

A. *Windows.* Windows shall be fully supplied with window glass or an approved substitute which is glazed and is without open cracks or holes, shall have sashes in good condition which fit within frames, and be maintained so as to exclude adverse

weather elements from entering the structure. Windows in dwellings shall be capable of being easily opened and held in position by hardware,

B. *Exterior Doors.* Doors shall be maintained so as to be structurally sound, fit within frames so as to be weatherproof, windproof, and water-proof and be provided with door hinges and door latches which are in good working condition.

C. *Chimneys.* The chimney of every structure shall be maintained structurally sound and in good repair, free of loose, missing or deteriorated mortar and bricks, or other chimney building materials. Any such loose, missing or deteriorated mortar or bricks shall be refitted, replaced or repaired.

D. *Paint and Coating Materials.* Except for materials that have been designed or manufactured to remain untreated, all exterior wood, composition or metal surfaces shall be protected from the elements by paint or other protective covering. Surfaces shall be maintained so as to be kept clean and free of flaking, loose or peeling paint or covering. Where the Enforcement Officer determines that any exterior wall segment, facing, or other distinguishable surface area has more than twenty-five (25) percent of its total area peeling, flaking, corroded, or otherwise deteriorated, the said exterior wall segment, facing, or other distinguishable surface area, shall be surface-coated in its entirety. All paint and other coating materials shall be free of any lead or other dangerous substances banned from general use by authorized federal, state, county, or local regulatory agencies for health and safety reasons.

E. *Fences and Walls.* All fences, retaining walls, or similar structures shall be anchored firmly in the ground, shall be constructed in a workmanlike manner and maintained in that same manner so that such approved fences, retaining walls, or similar structures shall always be in the state of good structural repair. If any fence, retaining wall, or similar structure is found not to be in the state of good structural repair, it shall be removed, replaced, or repaired as required. Except when constructed of materials that have been designed or manufactured to remain untreated, all fences shall be treated periodically with paint or chemicals so as to retard deterioration.

F. *Traffic and Pedestrian Structures.* Driveways, parking areas, and walks shall be maintained or so improved so as to provide for a durable, hard, dust free surface such as concrete, asphalt, or comparable material. All traffic markings such as directional arrows, lane division lines, parking space lines, stop signs, etc., shall be maintained so as to be clearly visible and easily recognized.

G. *Exterior Lighting Fixtures.* Exterior lighting fixtures over steps, paths, walkways, courts, drives and parking lots shall be neatly maintained in operable condition and lighted for sufficient periods of time before and after business hours to provide for pedestrian and employee safety and properly aimed so as not to shine on adjacent properties (per local zoning regulation).

H. *Yards and Plant Materials.* The exterior open space around each structure shall be maintained or so improved so as to provide for grass, plantings or other suitable ground cover to assure absorption of rainfall and prevent soil erosion which is or may become detrimental to the structures, lot use, or adjacent lots and structures.

1. All yards, courts, and lots shall not evidence signs of neglect or general unsightliness and be kept free of noxious weeds, overgrown grasses, debris and other materials which may cause a fire, health or safety hazard. All grass,

weeds or rank vegetation shall be periodically cut, subject to the Health, Safety, and Sanitation General Offenses Code, Section 521.11 (Cutting of Weeds and Grasses Required, including Adjacent Public Rights of Way).

2. Plant materials, especially trees and shrubs, shall be removed or appropriately treated if afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material.

I. *Drainage.* All portions of all premises shall be so graded that there is no pooling of water or recurrent entrance of water into any part of any building except where such pooling or retention of water is part of a plan approved by the Municipal Engineer or his designate. All condensate and waste cooling water shall be appropriately discharged into an approved drainage system.

J. *Drainage Swales.* Swales are to be maintained by the owners of the parcels on which they are located, and at no time will anyone plant trees and/or shrubs or discharge, empty, or place any material fill or waste into any swale so as to impede or divert drainage flow. Small swales can be mowed as part of the yard. Larger swales in meadow situations should be mowed less frequently in order to allow grasses to grow taller to retard runoff and prevent erosion. Swales in woodland areas should be left in their natural condition leaving the understory growth to retard runoff and prevent erosion.

K. *Junk, Inoperable or Unlicensed Vehicle.* No junk, inoperable, or unlicensed vehicle shall be located on any property, except when stored within a completely enclosed building or in a manner in conformance with the zoning code and Section 521.08 of the Health, Safety, and Sanitation General Offenses Code.

L. *Placement of Outdoor Refuse Storage Containers.* Trash maintained outside an enclosed structure shall be stored in an approved outdoor refuse storage containers pursuant to Section 521.12 of the Health, Safety, and Sanitation General Offenses Code. All storage of trash and garbage containers and/or dumpsters shall be effectively screened from view in a manner approved by the Enforcement Officer behind the front building line (the front wall of the principal building) and shall be placed at the curb or authorized alley locations for pickup as authorized pursuant to Chapter 955 (Refuse Collection) of the Street, Utilities and Public Services Code, unless prior approval has been given by the Enforcement Officer.

1. Bulk Items and Bags. If trash is of such nature that it cannot be put in regulation containers, it shall be stored in an enclosed area not visible to adjacent residential or commercial businesses and only placed at the curb or authorized alley locations in a bundle or bags as specified by the trash hauler.

2. Dumpster. All buildings utilizing a dumpster for trash removal must locate the dumpster to the rear of the structure unless prior approval has been given by the Enforcement Officer.