

Date: 8/6/18

Village of East Sparta Council

Village of East Sparta, Ohio

Ordinance No. O-6-18-06

TITLE: An Ordinance Repealing the Property Maintenance-General Standards of the Village of East Sparta set forth in Ordinance No. 0-18-17-11 by enacting an ordinance setting forth new Property Maintenance Standards for exterior maintenance of properties, removal junk cars and boats and abatement of trash and rank vegetation and other nuisances in the Village and declaring an emergency.

Now, therefore, be it ordained by the Council of the Village of East Sparta, State of Ohio, that:

SECTION 1:

Section A. Property Maintenance-General Standards set forth in Village ordinance O-18-17-11 is hereby repealed.

SECTION 2:

That there is hereby enacted a new Property Maintenance General Standards Ordinance of the Village of East Sparta. This Property Maintenance General Standards Ordinance is set forth as follows:

PROPERTY MAINTENANCE GENERAL STANDARDS

- I. **DEFINITIONS.** As used in sections I through XVI:
 - A. **Deterioration.** The condition or appearance of 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.
 - B. **Exterior.** Those portions of the building which are exposed to public view in open spaces of any premises outside of the building.
 - C. **Garbage.** Animal and vegetable waste resulting from handling, preparation, cooking and consumption of food.
 - D. **Infestation.** The presence of insects, rodents, vermin or other pests on the premises, which constitute a health hazard.
 - E. **Litter.** Means garbage, trash, rubbish, waste, peelings of vegetables or fruits or other organic waste, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, tires, furniture, glass,

oil, chemicals and other similar materials, or anything of any unsightly or unsanitary nature, or anything else serving no functional purpose for which it was intended at the location it is found.

- F. Noxious weeds. Means Offal, thistle, wild lettuce, while mustard, wild parsley, ragweed, milkweed, iron weed, field daisies, goldenrod, burdock, yellow dock, poison ivy, poison oak and all such other plants as may be so defined by the Ohio Department of Agriculture.
- G. Nuisance. That which is defined by the statutes of the State of Ohio, Ohio common law and ordinances of Village of East Sparta and declared thereby to be a nuisance.
- H. Occupant. Any person living and sleeping in a 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.
- I. 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 control as owner or agent of the owner; or is executor, administrator or, trustee, receiver or guardian of the estate or as a mortgagee in possession.
- J. Person. Includes any individual, corporation, association, partnership, trustee, lessee, agent or assignee.
- K. Premises. A lot, plot or parcel of land, including the buildings or structures thereon.
- L. Rank vegetation. Vegetation that is growing vigorously and coarsely.
- M. Refuse. All putrid, i.e., decomposing rotten or foul-smelling solid waste and non-putrid solid waste (except body waste) including but not limited to garbage, rubbish, ashes, dead animals, and industrial waste; an accumulation of brush, broken glass, stumps and roots that present a safety hazard include garbage, litter, trash and debris which present in unsanitary and/or safety hazard.
- N. Rubbish. Non-putrid solid waste consisting of both combustible and noncombustible ways such as paper, wrappings, tin cans, yard clippings, leaves, wood, glass, crockery, plastics or other similar materials.

II. 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 ordinance. Occupants shall be responsible for maintaining, in a clean and sanitary condition their 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 homeowners' association or similar organization to maintain those items that are under their direct ownership or control.

III. 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, weathertight, and to resist decay or deterioration from any cause.

B. Any dwelling, structure, or accessory structure whose exterior services deteriorated shall be repaired or razed.

IV. Infestation.

All structures and 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.

V. Exterior Property Areas.

A. 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:

1. Broken or dilapidated fences, walls, or other structures;
2. 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;
3. Broken, dilapidated or unusable furniture, mattresses or other household furniture, broken glass, plastic materials, paints, oil, miscellaneous coverings, used tires and/or any other material, including those described in this section, placed at or on the premises in such manner as to be patently unsightly, grotesque or offensive to the senses.
4. Any garbage of animal and vegetable waste resulting from handling, preparation, cooking or consumption of food.

VI. 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. No person shall place or deposit any grass clippings, leaves, or other debris or waste produced in conjunction with yard maintenance or gardening onto the streets, alleys, and other public roads of the Village. A homeowner is responsible to ensure that any persons hired to cut their grass or maintain their yard abide by this ordinance. Any grass or waste which inadvertently is caused to enter the streets or alleys of the Village shall be promptly removed; there is no "grace period" within which to remove grass or leaves. A violation VI (A) of this property maintenance ordinance shall carry a penalty pursuant to section XVI of the property maintenance ordinance. In addition to any penalty imposed through this

ordinance, the placement or depositing of grass, leaves or other yard waste in any Village street, alley or road shall include a mandatory fine of \$150.00.

B. 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 8 inches in height. Excluded from this section are any lots or lands which are agricultural or zoned agricultural, even though such property may be within the Village municipal limits.

C. When the Village Zoning Inspector determines that weeds or grasses, noxious weeds, and rank vegetation exceeding 8 inches in height are present on the lots and 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 (5) days after completion of service of such notice. Notice shall be served in accordance with section X (B) of this property maintenance ordinance.

D. If notice cannot be completed in accordance with section X(B) of the property maintenance ordinance, 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.

E. In the event that 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 (5) 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 cutting and/or removal. The failure to pay the bill within thirty (30) days after billing will result in an assessment and shall be certified to the County Auditor for collection pursuant to section XIII of the property maintenance ordinance. 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 lot without the necessity of further notice and charge the responsible party just as though notice had been given.

F. A violation of section VI of this property maintenance ordinance as set forth herein shall carry a penalty pursuant to section XVI of the property maintenance ordinance. In addition to any penalty imposed through this ordinance for any violation of this property maintenance ordinance the penalty for section VI relating to the cutting and/or removal of weeds and grasses, noxious weeds and rank vegetation shall include a mandatory fine of \$150. 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 section XVI, the mandatory fine, written notice must be given to the owner, occupant or person in charge as provided in this section, and the five (5) -day period in the notice must have expired.

Any provision of the property maintenance ordinance 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 (5) -day period provided in the notice shall be deemed to be reasonable period of time. Section XI of the property maintenance ordinance 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 nonexclusive 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 the Stark County Board of Health regulations.

VII. Dead Trees and Branches.

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

VIII. Duties of The Zoning Inspector.

It shall be the responsibility and duty of the zoning inspector to enforce and administer the provisions of this chapter with the assistance of the Village of East Sparta Police Department if necessary.

VIX. Responsibilities of the Owner.

The owner shall have the duties and responsibilities as prescribed in this ordinance 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.

X. Notice of Violation.

A. Where a violation of this ordinance is found to exist, a written notice from the Village Zoning Inspector 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 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 residents of the owner and/or occupant by delivery to the individuals at the premises.

XI. Time Extension for Compliance.

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

XII. 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 zoning inspector within the period specified in the notice, the zoning inspector shall proceed as provided by law.

XIII. 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 period of time specified in the notice, the Village Zoning Inspector may cause

such violations to be corrected, removed or abated. The Village may contract with a private person or firm to accomplish the tasks. The actual cost of bringing the property into compliance +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 the Village shall certify said court 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.

XIV. Prosecution of Violations.

Where the owner and/or occupant of any premises fails to comply with the notice of violation of any of the provisions of this ordinance, the owner or occupant shall be considered in violation of this ordinance and the Village Zoning Inspector may proceed at law to compel compliance and to prosecute the violation.

XV. Appeals.

Any owner and/or occupant who is served a notice of violation of any of the provisions of this chapter may within ten (10) days of receipt of the notice, appeal the findings of the Village Zoning Inspector. Such appeal shall be made by filing with the Village mayor a notice of appeal. The appeal shall be scheduled for hearing before the Village Board of Zoning Appeals. Except as otherwise provided for herein, the hearing before Village Board of Zoning Appeals shall be conducted in the same manner as provided for appeals under the Village zoning ordinance.

XVI. Penalty.

A. Any person, firm or corporation or his or her agents who violates any provisions of this chapter or who fails or refuses to obey a lawful order of the Village Zoning Inspector or the Village of East Sparta 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 pled guilty to one or more violations of this chapter, the offender is guilty of a misdemeanor of the 4th 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 issue pursuant to this Village maintenance ordinance 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 zoning inspector from instituting appropriate actions to restrain, correct or abate a violation, or 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.

XVII. Storage of Junk, Junk vehicles, and Junk watercraft.

A. Definitions. As used in sections XVII through XVII:

1. "Junk" means any worn-out, cast-off or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any article or material which,

unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk.

2." Junk car" means any used vehicle propelled or intended to be propelled by power other than human power and which is in an inoperative or partially dismantled condition. Portions of junk cars, such as hoods, fenders, radiators, rims, motors and the like, not being utilized for the repair of a motor vehicle, shall be considered as junk.

3. "Inoperative condition" means that a vehicle is incapable of being propelled under its own power.

4. "Partially dismantled condition" means that a vehicle or watercraft has some part missing which is ordinarily an essential component thereof.

5. "Vehicle" means everything on wheels or runners as set forth in Ohio Revised Code section 4501.01(A) through 4501.01(U). Said definition includes by way of example, but is not limited to, motor vehicles, buses, bicycles, commercial tractors, trailers, semitrailers, and recreational vehicles.

6. "Watercraft" means any vessel operated by machinery either permanently or temporarily affixed, sailboat, inflatable manually propelled boat, canoe, kayak, or rowboat.

7. For the purposes of this section, junk motor vehicle and junk watercraft mean any motor vehicle or watercraft meeting the requirements of Ohio R.C. 4513.63 (B) to (E) that is left in the open on private property for more than 72 hours with the permission of the person having the right to possession of the property, except if the person is operating a junkyard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12, or regulated under the authority of a political subdivision; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any government authority, unless the person having the right to the possession of the property can establish that the motor vehicle or watercraft is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle.

(a) Storage a Public Nuisance. Except as otherwise provided herein, the deposit, storage, maintenance or collection of junk, junk cars, junk watercraft or other junk vehicle outside a building or buildings is hereby declared a public nuisance and offensive to the public health, welfare and safety of the residents of this Village.

(b) Removal notice; Exceptions. No person in charge or control of any premises within the Village, whether an owner, tenant, lessee, occupant or otherwise, shall allow any junk or junk cars to remain upon the premises longer than ten (10) days after receipt of a written notice to remove such junk or junk cars from such premises, such notice to be issued and delivered by the Chief of the Police Department or any member thereof duly designated by him, or the Village mayor, or Village Zoning Inspector. Such written notice shall be served upon the person either personally or at his usual place of residence or by registered or certified mail addressed to such person's last known place of residence.

The provisions of this section, however, shall not apply to the deposit, storage, maintenance or collection of junk or junk cars in a close building, in a regularly established junkyard, in any area of the village in which the same are permitted under the regulations of the zoning code of the village, or if the motor vehicle is a collector's vehicle.

(c) Impounding and Disposition. The Chief of Police or any member of the Police Department designated by him is hereby authorized to remove or cause to be removed any junk car remaining at any place within the Village in violation the provisions of this section. Such junk car shall be impounded until lawfully claimed or disposed of in accordance with the provisions of Ohio revised code 737.32 and 737.33. A vehicle so removed shall not be released except upon payment of towing and storage charges.

(d) Penalty. Whoever violates any of the provisions of this section is guilty of a minor misdemeanor on a first offense. For each subsequent offense such person is guilty of a misdemeanor of the 4th degree. A separate offense shall be deemed committed each day that a junk motor vehicle remains on such premises.

XVIII. Storage of Unlicensed Motor Vehicles Prohibited.

A. No person shall store or permit to be stored upon any lot or land, for a period of more than twenty (20) days, any motor vehicle that does not have displayed thereon license plates for the current year, unless the vehicle stored in a completely enclosed building or garage. The twenty (20) day time period shall mean any twenty (20) days and shall not mean twenty (20) consecutive days. This section shall not apply to persons doing business in properly zoned areas for the sale, salvage, repair or impounding of motor vehicles.

B. In addition, the owner must produce on request, verification of insurance papers as required by state law as to the minimum insurance requirements for each vehicle and violation of subsection (a) hereof.

C. Any motor vehicle stored for more than twenty (20) days and violation of this subsection (a) hereof may be towed and impounded.

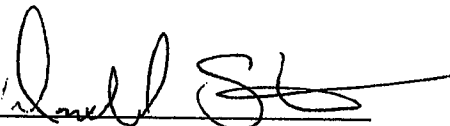
D. Whoever violates any of these sections is guilty of a minor misdemeanor. A person convicted of a subsequent violation of either of the section within one year shall be guilty of a misdemeanor of the 4th degree.

SECTION 3:

This ordinance is declared an emergency measure immediately necessary for the preservation of the health, safety and welfare of the community and for the additional reason that is needed to assist the Village of East Sparta in addressing nuisance, junk cars and improperly maintain properties within the Village limits. Provided it receives the affirmative vote of two thirds elected members of Council, it shall take effect and be enforced immediately upon its passage and approval by the mayor. Otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 6th DAY OF AUGUST 2018.


VILLAGE CLERK


MAYOR