

ORDINANCE NO. 2020-26

AN ORDINANCE ENACTING AN EXTERIOR PROPERTY MAINTENANCE CODE FOR
THE VILLAGE OF ARCANUM, OHIO

BE IT ORDAINED, by the Council of the Village of Arcanum, Darke County, Ohio, to-wit:

SECTION ONE: That the following shall be known as the Exterior Property Maintenance Code of the Village of Arcanum, Ohio:

SCOPE:

The Code is limited to the establishment of minimum standards for the maintenance of exterior surfaces and exterior functioning units of all structures, buildings, and uses within the Village, including lot and yard areas within the Village. No provisions of this Code shall, in any way, directly or indirectly, be interpreted to interfere with, or to limit the right of, any owner or resident to inhabit real property owned or leased by them in such a manner and form as they may determine appropriate; consistent with other applicable provisions of law. This Code is directed to obvious visual problems which may occasion incipient blighting conditions within the Village.

PURPOSE:

The purpose of this Code is to protect the public health, safety, and welfare and prevent loss of property value to Village residents by establishing minimum standards governing the maintenance, appearance, and exterior condition of all premises and uses throughout the Village; to fix certain responsibilities and duties upon owners, residents, and managers of the same as to both separate and correlative responsibilities and duties; to authorize and establish procedures for the exterior inspection of such premises and uses; to fix penalties for the violations of this Code; and to provide for the repair, demolition, or vacation of premises unfit for human habitation, occupancy, or use. This Code is hereby declared to be remedial and essential for the public interest, and it is intended that this Code be construed and interpreted to effectuate the purposes as stated herein.

APPLICABILITY:

Every building, occupancy, lot, yard or use shall comply with the provisions of this Code, whether or not such building, lot, yard or use shall have been constructed, altered, or repaired before or after the enactment of this Code, and without regard to any permits or licenses which shall have been issued for the use or occupancy of the building premises, for the construction or repair of the building or use, or for the installation or repair of equipment or facilities prior to the effective date of this Code. This Code establishes minimum standards for the initial and continued occupancy and use of all such structures and properties and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building. Where there is mixed occupancy, residential or nonresidential use therein shall be nevertheless regulated by and subject to the provisions of this Code.

CONFLICT OF LAWS:

In any case where a provision of this Code imposes a higher standard than that set forth in any other ordinance by the Village or law of the State, then the standard set forth herein shall prevail, but if a provision of this Code imposes a lower standard than that imposed by any other ordinance of the Village or law of the State, then the higher standard contained in any such other ordinance or law shall prevail.

DEFINITIONS:

For the purpose of this Code, certain terms and words are hereby defined. Words used in the present tense shall include the future; then singular number shall include the plural, and the plural shall include the singular; the word "building" shall include the word "structure", and the word "shall" is mandatory and not directory.

- a. *DETERIORATION* means the condition or appearance of the exterior of the building, or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect, or lack of maintenance.
- b. *EXTERIOR OF THE PREMISES* means those portions of a building which are exposed to public view and the open space of any premises outside of any building.
- c. *FINAL ORDER* means that a Notice of Violation has been served according to this Code, and the persons named have failed to comply within the time allowed, or that a Notice of Violation has been served according to this Code, an appeal taken, and is that order of determination issued by the Village Council.
- d. *GARBAGE* means animal or vegetable waste resulting from the handling,

preparation, cooking, and consumption of food.

e. *INFESTATION* means the presence of insect(s), rodent(s), vermin, or other pests on the premises which constitute a health hazard.

f. *NUISANCE/BLITE* means that which is defined by the statutes of the State of Ohio and declared thereby to be a nuisance, and also including conditions defined herein and all conditions dangerous to human life or detrimental to the health of persons on or near the premises where the condition exists and where the conditions are perilous by active and negligent operation thereof, and unsanitary conditions are anything offensive to the senses or dangerous to health

(a) *Fire Hazards*: Dry or dead shrubs, dead trees, dry or dead vegetation, combustible refuse and waste or any material either upon public or private property which, by reason of its size, location or manner of growth or storage, constitutes a fire hazard to a building, improvement, crop or other property, or which, when dry, will in reasonable probability, constitute a fire hazard;

(b) *Polluted Water*: A swimming pool, pond or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted by bacterial growth, algae, remains of insects, remains of deceased animals, reptiles, rubbish, refuse, debris and any other foreign matter or material which, because of its nature or location, constitutes an unhealthy or unsafe condition;

(c) *Open Burning*: The intentional, unauthorized, outdoor burning of any material, structure, matter or thing excluding barbecues conducted in a safe manner

g. *OCCUPANT* means any person living and sleeping in a dwelling unit or having an actual possession of said dwelling unit or any person who leases or rents a nonresidential building, structure, or any portion thereof.

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

i. *PERSON* includes any individual, corporation, association, partnership, trustee, lessee, agent, or assignee.

j. *PREMISES* means a lot, plat, or parcel of land, including the buildings or structures thereon.

k. *REFUSE* means all putrescible and non-putrescible solid wastes (except body wastes) including, but not limited to garbage, rubbish, ashes, dead animals, and industrial wastes; an accumulation of brush, broken glass, stumps, and roots that present a safety hazard and includes garbage, trash, and debris which present an unsanitary and/or safety hazard and detrimentally affects property values in the surrounding neighborhood.

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

ENFORCEMENT:

The enforcement of any and all provisions of this Code is placed with the Mayor, Police Chief, Village Administrator or Designee, as they believe may be required to carry out and effectuate all of the provisions herein.

INSPECTION:

All buildings, premises, and uses within the Village are subject to exterior inspections from time-to-time by the Mayor, Police Chief, Village Administrator or Designee.

MAINTENANCE RESPONSIBILITY:

a. The owner, manager and/or occupant of every structure or use within the Village shall be responsible for maintaining the exterior surfaces of the same in conformance with the provisions of this Code.

b. The owner, manager and/or occupant of every structure or use within the Village shall be responsible for maintaining the yard area contiguous thereto in conformance with the provisions of this Code.

c. The owner, manager and/or occupant of every yard or lot within the Village shall be responsible for maintaining their yard and/or lot area in conformance with the provisions of this Code.

d. No owner, manager and/or occupant shall be relieved from the obligations of, nor be entitled to defend any violation by reason of any contract or agreement between them and any other person.

GENERAL EXTERIOR MAINTENANCE REQUIREMENTS:

a. The exterior surfaces of all structures or uses within the Village, whether functional or aesthetic, shall be maintained in good repair. Any exterior part or feature thereof having functional use shall be capable of performing the use for which such part or feature was designed.

b. The entire yard area and extending up to and including the lot line in all directions shall be maintained in a safe, clean, and sanitary condition.

EXTERIOR SURFACES/PROPERTY AREAS:

a. All exterior surfaces of every structure or use within the Village shall be maintained so as to resist decay or deterioration from any naturally-occurring cause. All exterior surfaces shall be covered with paint, finish, or other surface-coating so as to prevent such decay and deterioration. An exterior wall segment, facing, or other distinguishable surface area determined by the Mayor, Police Chief, Village Administrator or Designee to have more than twenty-five percent (25%) of its total bare, peeling, flaking, pitted, corroded, or otherwise deteriorated, will require the wall segment, facing, or other distinguishable surface area to be surfaced-coated in its entirety. If the surface to be coated is a portion of a larger structure, such surface coating shall be compatible in color, texture, and design with the entire structure.

b. Any deteriorated or decayed exterior walls, doors, porches, floors, steps, railings, or parts or features thereof, shall be repaired or replaced.

c. Any damaged or broken windows, screens, or shutters, and deteriorated or decayed sill, sash, molding, lintel, frame, roofs, gutters, downspouts or trim thereof, shall be repaired or replaced.

ROOFS, GUTTERS, DOWNSPOUTS, AND CHIMNEYS:

a. The roof of every structure or use within the Village shall be maintained weather-tight. All missing shingles, or other roofing materials, shall be replaced with materials of similar kind, nature, design, and color as the original thereof. If any roof segment, or distinguishable portion thereof, is determined by the Mayor, Police Chief, Village Administrator or Designee to have more than twenty-five percent (25%) of its total area comprised of missing or deteriorated shingles, or other roofing material, then the roof segment or distinguishable portion thereof shall be replaced or repaired with materials of similar kind, nature, design, and color as the original thereof.

YARD AREA MAINTENANCE:

a. Refuse

(1) No furniture, mattresses, household furnishings, rugs, appliances, dilapidated vehicles or vehicle parts, discarded or abandoned machinery, and construction equipment shall be placed or stored in any yard area or use within the Village over a period in excess of seven (7) days. Said seven (7) day period may be extended as a result of extenuating circumstances if approved by the Mayor, Police Chief, Village Administrator or Designee.

(2) Exterior property areas of all premises or uses shall be kept free of polluted water, debris, objects, materials, or conditions that, in the opinion of the Mayor, Police Chief, Village Administrator or Designee, create a health, accident, or fire hazard, or are a public nuisance, or constitute a blighting or deteriorating influence on the neighborhood. All debris shall be removed within seven (7) days. Said seven (7) day period may be extended as a result of extenuating circumstances if approved by the Mayor, Police Chief, Village Administrator or Designee;

(3) No garbage cans shall be stored in front of a residence or commercial business.

(4) All lots shall be provided with grass or other appropriate ground cover or landscaping material so as to assure absorption of rainfall and prevent erosion and rapid runoff of surface water.

b. Accessory Structures

(1) All structures or uses located in the yard areas within the Village, such as sheds, barns, garages, bins, and the like, shall be maintained in good repair in conformance

with other provisions of this Code having regard to foundations, roofs, and exterior surfaces.

(2) Any broken, rusted, deteriorated, or decayed fence, yard enclosure, or other devise or structure located in the yard area contiguous to any structures or use within the Village shall be repaired or removed.

c. Ground Surface Hazards

Holes, cracks, excavations, breaks, projections, and obstructions at any place on the premises which, in the opinion of the Mayor, Police Chief, Village Administrator or Designee, are a hazard to persons using the premises shall not be permitted.

MOTOR VEHICLES:

A Nuisance is hereby declared to exist when a person, firm or corporation keeps, stores, places, or allows to remain, unlicensed motor vehicles, motor vehicles in an inoperative condition, motor vehicles unfit for further use, automobile or motor vehicle parts on any parcel of land, street or alley, within the corporate limits of the Village of Arcanum.

(1) "Motor vehicle in an inoperative condition" means and includes any style or type of motor driven vehicle used or useful for the conveyance of persons or property which is unable to move under its own power due to defective or missing parts and which has remained in such condition for a period in excess of ten (10) consecutive days.

(2) "Motor vehicle unfit for further use" means and includes any style or type of motor driven vehicle used for the conveyance of persons or property which is in a dangerous condition, has defective or missing parts or is in such a condition generally as to be unfit for further use as a conveyance.

(3) "Automobile and motor vehicle parts" shall mean and include any portion or parts of any motor driven vehicle as detached from the vehicle as a whole.

(4) "Use of private property by vehicles" shall mean the operation of motorized or motor driven bike, scooter, or vehicles on private property.

(5) Any motor vehicle which is left on public property for 48 hours or longer without permission from the Chief of Police will be presumed inoperative and subject to towing at owner expense.

INFESTATION:

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

NOTICE OF VIOLATION:

a. Where a violation of any provision of this Code is found to exist, the Village through the Mayor, Police Chief, Village Administrator or Designee, shall cause a written notice of such violation to be served upon the property owner and manager, occupant, or other person responsible for the correction thereof. The Notice shall specify the violation committed, and shall provide a reasonable period of time, not more than thirty (30) days, to correct or abate the violation. When the nuisance involves a motor vehicle, a period of 72 hours is considered a reasonable period of time to correct or abate the violation. The Notice shall state that, if the violation is not corrected or abated within the time allowed, the Village may enter upon the premises and perform the correction or abatement, may impound a motor vehicle found to be a nuisance, and charge the cost thereof to the person named in a Final Order.

b. Notice shall be served by certified mail or personal service by a Village of Arcanum Police Officer to the current address as recorded with the County Auditor or Bureau of Motor Vehicles, as the case may be, as to the owner, and the property address as to the occupant. Notice shall also be served by certified mail or personal service by Village of Arcanum Police Officer to the owner or occupant, if possible.

c. When the nuisance involves a motor vehicle, a copy of the notice shall also be conspicuously affixed to the motor vehicle if the surrounding facts and circumstances make it practicable to do so.

d. In the absence of appeal, as provided below, the completion of Notice and failure to comply, shall constitute a Final Order as to administrative proceedings.

APPEAL:

a. Within seven (7) days of the date of receipt of notice of a violation, the person may request a hearing before the Village Council by filing a written request with the Mayor, Police Chief, Village Administrator or Designee. The appeal shall be heard at the next regularly scheduled meeting of the Village Council, allowing at least five (5) days' notice to the party. The Village Council may sustain, modify, or dismiss, in whole or in part, any action required to correct or abate the violation set forth in the Notice and shall issue an order incorporating its determinations, and such order shall be a Final Order as to these administrative proceedings.

b. The Village Council shall consider the following in determining appropriate action to be taken, to-wit:

(1) That any modification of the original order of the Mayor, Police Chief, Village Administrator or Designee, shall not, in any material way, alter the standards of this Code and shall not affect detrimentally the health or safety of occupants, or the health, safety, or welfare of the occupants or owners of adjacent premises or of the immediate neighborhood; and

(2) That strict enforcement would constitute an undue and unnecessary hardship on the owner, manager, or resident by reason of compelling an expenditure for repair of the premises which would be substantially disproportionate to any benefit to the health, safety, or welfare of the community that might be derived therefrom.

c. Further appeal may proceed according to R.C. Chapter 2506.

MISDEMEANOR FOR FAILURE TO CORRECT OR ABATE:

It shall be unlawful for any person, manager, or occupant to fail to correct or abate a violation, as determined by a Final Order entered under this Code.

Prosecution for criminal violation of this Code shall be in either the Darke County Common Pleas Court or Darke County Municipal Court. The Final Order shall be prima facie evidence of the violation of this Code.

PENALTY:

Whoever fails to comply with any Final Order, as provided herein, shall be upon conviction of the same, guilty of a misdemeanor of the third degree.

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

VILLAGE RIGHT OF ABATEMENT:

In the event a violation is not corrected or abated as required by a Final Order, the Village of Arcanum shall have the right to enter upon the premises and make the correction or abatement and recover the actual cost thereof, plus fifteen percent (15%) for inspections and administrative fees, from the owner and/or other person named in the Final Order.

ABATEMENT PROCEDURE FOR NON-MOTOR VEHICLE NUISANCE:

a. Upon information that a Final Order has not been complied with, the Legislative Authority may cause written notice to be served on the owner, lessee, manager, or occupant of the premises; giving notice that the Village of Arcanum will enter the premises five (5) days thereafter to make correction or abatement. After the passage of five (5) days with the continued failure to abate or correct, the Mayor, Police Chief, Village Administrator or Designee, shall hire the necessary machinery and labor to perform the required task. Expenses incurred shall, when approved by Council, be paid out of the money in the treasury not otherwise appropriated.

b. The Notice provided for this section shall be sent to the last known addresses of the owner or other person having charge of the land, or delivered by the Mayor, Police Chief, Village Administrator or Designee. If the owner or other person having charge served with the Notice is a non-resident of the Village whose address is known, the Notice shall be sent to his or her address by certified mail. If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the Notice once in a newspaper of general circulation in the County.

ABATEMENT PROCEDURE FOR MOTOR VEHICLE NUISANCE

a. Upon information that a Final Order involving a motor vehicle nuisance has not been complied with, the Mayor, Police Chief, Village Administrator or Designee, is authorized to remove or direct the removal of the motor vehicle for purposes of impounding the motor vehicle.

b. Whenever the Mayor, Police Chief, Village Administrator or Designee, impounds a motor vehicle as authorized herein, and the Mayor, Police Chief, Village Administrator

or Designee, knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the Mayor, Police Chief, Village Administrator or Designee, shall in a timely manner give or cause to be given notice in writing to the owner of the fact of such impoundment and the reasons therefore and of the place to which the vehicle has been removed.

c Whenever the Mayor, Police Chief, Village Administrator or Designee, impounds a vehicle under this section and does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided above, the Mayor, Police Chief, Village Administrator or Designee, shall cause a search of the records of the Bureau of Motor Vehicles to be made within three days of the removal to ascertain the name of the owner. Notice by certified mail with return receipt requested shall be sent to the owner of the motor vehicle at his or her last known address within three days after the results of the search are received. The Mayor, Police Chief, Village Administrator or Designee, shall mail to the Bureau of Motor Vehicles and file with the proprietor of any place where the vehicle may be stored, a copy of the notice. The notice shall include a complete description of the vehicle, the date and time of removal, the place from which removed, the reasons for removal, and the name of the place where the vehicle is stored.

FEES FOR SERVICE AND RETURN:

The Mayor, Police Chief, Village Administrator or Designee, may make service and return of the Notice provided for in this ordinance, and shall be allowed the same fees as provided for service and return of summons in civil cases.

CERTIFICATION TO COUNTY AUDITOR:

If the bill for abatement or correction is not paid within thirty (30) days after submission, then the Fiscal Officer shall certify said costs, together with a ten percent (10%) penalty, to the Darke County Auditor for placement on the tax duplicate to be collected as other taxes for return to the Village, and shall be a lien upon the premises from the date of certification.

SECTION TWO: Any portion or portions of ordinances or resolutions heretofore approved by the Village of Arcanum which are in conflict or inconsistent with any provisions of the Exterior Property Maintenance Code adopted in Section One hereof are hereby repealed as of the effective date of this ordinance.

SECTION THREE: Because of the need to protect the value of property in the Village, protect the quality of life in the Village, and protect the health, safety, and welfare of the inhabitants of the Village of Arcanum, this ordinance shall take full force and effect from and after its earliest date after passage.

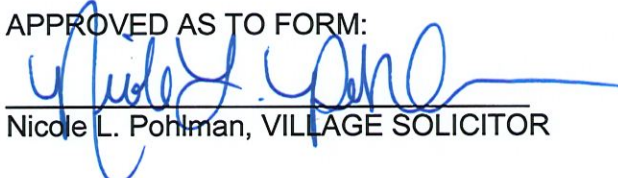
Passed this 25th day of August, 2020.


Jerry L. Boolman, Council President Pro Tem


Bonnie L. Millard, Mayor

ATTEST:


Toni M. Stanley, Fiscal Officer

APPROVED AS TO FORM:

Nicole L. Pohlman, VILLAGE SOLICITOR

1st Reading: 07/28/2020
2nd Reading: 08/11/2020
3rd Reading: 08/25/2020
Three Reading Rule Waived:
Emergency Declared: