

Ordinance No. 2015-9-0

An ordinance regulating property maintenance, to include buildings, other structures, and yards in Andover Village, prohibiting certain conduct relative thereto, providing penalties therefor, declaring certain property conditions to be a public nuisance, authorizing the village to remedy violations and abate public nuisances, providing that the reasonable costs and expenses incurred in such action will be charged to the owner of the lot where the violation occurred, providing for a method to collect said costs, and establishing an appeals process.

Whereas, the mayor and council have determined that poor maintenance of buildings, other structures, and yards within the village detracts from the village's visual appeal, depresses property values, and potentially impacts the public health and safety of village residents, and therefore constitutes a public nuisance; and

Whereas, the mayor and council have determined that it is necessary to define said certain minimum levels in order to prevent the condition of various buildings, other structures, and yards within the village from deteriorating to the point of being publicly offensive, unsafe, or creating adverse effects on surrounding property values.

Now, therefore, be it ordained by the council of the Village of Andover, County of Ashtabula, and State of Ohio, that:

Section 1: Definitions. The definitions contained in the Andover Zoning Ordinance, being Ordinance No. 883 as amended from time to time, are hereby incorporated by reference into this ordinance as if fully rewritten herein.

Section 2: Buildings and Other Structures. Every owner or tenant of a lot must maintain all parts of every building or other structure located on said lot in a safe, clean, and orderly manner. Said responsibility will include without limitation the following minimum standards:

- A. All building or other structure surfaces must be maintained free of broken glass, loose shingles, crumbling stone or brick, peeling paint, or other conditions reflective of deterioration or inadequate maintenance, so that the property is preserved safely, fire hazards eliminated, and adjoining properties and neighborhoods protected from blighting influences.
- B. Fences, exterior stairways, and retaining walls or similar structures must be anchored firmly in the ground, constructed in a workmanlike manner, and maintained in a state of good structural repair.
- C. All buildings or other structures which are dilapidated or otherwise in serious disrepair must be maintained, repaired, or removed.

Section 3: Yards. Every owner or tenant of a lot must maintain the yard of said lot in a safe, clean, and orderly manner so as to avoid a condition which deteriorates or adversely alters the appearance of the neighborhood, reduces property values in the neighborhood, creates a fire, safety or health hazard, or

otherwise constitutes a public nuisance. Said responsibility includes without limitation the following minimum standards:

- A. The yard must not be used to store unused or unusable appliances, dilapidated automobiles, automobile parts, lumber or other building supplies not Intended to be used on the premises, firewood not intended to be used on the premises, broken, dilapidated, or unusable household furniture, mattresses, plastic materials, paints, miscellaneous coverings, or any other materials placed at or on the premises in such a manner as to be unsightly or offensive.
- B. Conditions which cause, promote, or encourage the growth, proliferation, or harboring of insects, rodents, or other pests will not be permitted.
- C. The yard must be maintained in a clean, safe, and sanitary condition and in conformity with the terms of this ordinance at all times.
- D. All rubbish or garbage must be stored and disposed of in a neat and sanitary manner.
- E. A limb or an entire tree which constitutes a menace or a potential hazard to public safety because it is dead, or which harbors insects or destructive or communicable diseases so it constitutes a potential threat to other trees, must be removed.
- F. A person must not allow a tree to endanger the life, health, safety, or property of the public by overhanging a street or road right-of-way (including without limitation the tree lawn), land owned or maintained by the village, or land zoned Public/Quasi-Public by the Andover Village Zoning Ordinance, or by interfering with the use of the street, right-of-way, land, or a utility line.

Section 4: Penalties and Nuisance Abatement.

- A. Poor maintenance and repair of buildings, other structures, and yards in the village is hereby determined to constitute a public nuisance.
- B. A person who violates a provision of this ordinance will be given a notice of violation by the zoning inspector stating the nature of the violation, referring to the section(s) of this ordinance being violated, specifying that the violation must cease, specifying what corrective actions are necessary, and specifying a deadline of no less than 10 days by which said corrective actions must be completed.
- C. The notice of violation will be served by one or more of the following methods:
 - 1. By personal delivery to the owner or tenant of the premises where the violation has occurred.
 - 2. By leaving the notice with a person of suitable age and discretion at the usual place of residence of the owner or tenant of the premises where the violation has occurred.
 - 3. By posting the notice in a conspicuous place on the premises where the violation has occurred.

4. By the same method as notice is required to be served by the Rules and Regulations Governing Andover Village upon the owner or tenant of the premises where the violation has occurred.
- D. A person who continues a violation beyond the deadline stated in the notice of violation, and a person who participates in, assists in, or maintains said violation and has also received a copy of said notice (including without limitation an owner or tenant of the lot where the violation has occurred, or an architect, builder, contractor, or other agent of said owner or tenant responsible for the action or omission involved in said violation), will be guilty of a minor misdemeanor upon the first offense, subject to the penalties imposed by Andover Municipal Code 5130.99, Each subsequent violation of the same provision will constitute a misdemeanor of the fourth degree. Each day the violation continues will constitute a separate offense.
- E. The owner of the lot where the violation has occurred will become liable to the village for the reasonable costs and expenses incurred by the village in remedying the violation and abating the public nuisance, including attorney fees, whether or not said person has been prosecuted for a criminal violation of the provisions of this ordinance.
1. If the violation is not corrected by the deadline stated in said notice, the village or its authorized agents may enter upon the lot where the violation has occurred and cause the building, other structure, or yard to be maintained, repaired, or removed to remedy the violation and abate the public nuisance, without being deemed guilty of trespass. No provision of this ordinance, however, requires the village to take said action.
 2. Said costs and expenses will be charged to the owner of the lot, together with \$150.00 for inspection, scheduling, billing, and other administrative costs. A statement for said amount will be delivered to the owner in the manner established by this ordinance for the service of a notice of violation.
 3. If said charges are not paid within 30 days of the date of said statement, the village fiscal officer may certify said delinquent charges to the Ashtabula County Auditor for placement upon the tax duplicate and collection as real estate taxes are collected, in accordance with ORC {715.261.
- F. No provision of this ordinance will prevent the village from taking such other lawful civil action as is necessary to prevent, enjoin, or remedy a violation of this ordinance, and the village may recover its reasonable costs and expenses incurred in such an action, including attorney fees. No provision of this ordinance, however, requires the village to take said action.
- G. A violation of this ordinance which also constitutes a violation of a local, state, or federal law, rule, or regulation (including without limitation all applicable regulations imposed by the Ashtabula County Building Department and the Ashtabula County Health Department) will also subject the violator to the penalties imposed by said law, rule, or regulation in addition to the remedies and penalties imposed by this ordinance.

Section 5: Appeals. The following appeal procedure will apply to owners or tenants who wish to challenge the notice of violation.

- A. The remedies and penalties imposed by this ordinance will be suspended during the pendency of the appeal process, unless specifically imposed by the zoning inspector due to extraordinary circumstances.
- B. The zoning inspector's decision to issue a notice of violation may be appealed to council.
- C. If the zoning inspector's decision is to be appealed, a written appeal must be filed with the village fiscal officer within 10 days after the date of the notice of violation, which appeal must specifically explain the grounds for the appellant's disagreement with the decision to issue a notice of violation.
- D. The village fiscal officer will forward a copy of the notice of violation and the appeal to each councilmember immediately upon receipt of the appeal.
- E. Upon receipt of an appeal, the mayor will schedule a special council meeting to hear the appeal. Said hearing will be held no less than 10 days nor more than 45 days after the village fiscal officer's receipt of the appeal.
- F. Notice of the hearing will be given by the village fiscal officer to the appellant at least 10 days before the hearing date. Said notice will specify the date, time, and place of the hearing.
- G. The hearing will comply with the requirements imposed by ORC Chapter 2506. The appellant may appear in person and by counsel at said hearing, examine all witnesses, and present grounds to challenge the decision to issue a notice of violation. All testimony adduced at the hearing will be given under oath, and must pertain to relevant facts. General testimony concerning opinions and feelings about a matter before council will not constitute reliable, probative evidence for council to consider. If the appellant wishes to have a stenographic record made of said hearing, the appellant must arrange for and pay the costs of same. The hearing may be adjourned from time to time to another date, time, and place by a majority vote of the council members present at the hearing (even if a quorum is not present at said hearing) without further notice other than by announcement at the hearing at which such adjournment is taken.
- H. Council will render a decision within 30 days after concluding its hearing. The deadline may be extended by mutual agreement between the appellant and council. If no decision is rendered within said 30-day period or any agreed extension thereof, the appeal will be deemed granted and the notice of violation will be automatically rescinded.
 1. Council will either affirm the zoning inspector's decision, affirm it but modify same, or overrule the decision. The minutes of the meeting at which said decision is made will include the findings of fact upon which the decision is based, a clear pronouncement of council's decision, council's vote on said decision, and a statement that it is a final decision, subject to appeal as provided in S5.K.

- J. The village fiscal officer will send a copy of said minutes to the appellant in the same manner as notice is to be given pursuant to the provisions of this ordinance immediately after said minutes have been approved by council.
- K. The decision of council may be appealed to the Ashtabula County Common Pleas Court pursuant to ORC Chapter 2506. Said appeal must be filed within 30 days of the date the minutes reflecting the decision of council have been approved.

Section 6: Miscellaneous Provisions.

- A. This ordinance is known as "the Andover Property Maintenance Ordinance". B. If any provision contained in this ordinance is found invalid, illegal, or unenforceable, the finding will not affect any other provision of this ordinance, and it will be construed as if it had never contained the provision.
- C. The rights and remedies provided to the village by this ordinance are cumulative and the use of any one right or remedy by the village and its agents will not preclude or waive its right to use any or all other remedies. These rights and remedies supplement all other rights the village may have by law, statute, ordinance, or otherwise.
- D. A waiver by the village of a violation of this ordinance, whether intentional or unintentional, will not constitute a waiver of any other violation.
- E. Words of either gender used in this ordinance include the other gender, and words of the singular tense include the plural, and vice versa, unless the context requires otherwise.
- F. Terms used in this ordinance are to be given their ordinary, everyday meaning unless they are specifically defined in this ordinance or the context requires otherwise.
- G. The section and paragraph headings contained in this ordinance are for reference purposes only and will not affect its meaning or interpretation.

Wherefore, this ordinance will take effect and be in full force from and immediately after the earliest date allowed by law.

_____ 7-14-15

Passed:
 Approved: 
 Mayor

Attest:

 Village Fiscal Officer