

**CODIFIED ORDINANCES OF FAYETTE**  
**PART THIRTEEN - BUILDING CODE**

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**CODIFIED ORDINANCES OF FAYETTE**  
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**CHAPTER 1301**  
**Exterior Property Maintenance Code**

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**1301.01 PURPOSE.**

The purpose of this Exterior Property Maintenance Code is to protect the public health, safety and general welfare as it pertains to premises and buildings used for residential, commercial, and industrial purposes.

This protection is provided by:

- (a) Establishing minimum standards for maintaining residential, commercial and industrial property; preserving and achieving the presentable appearance of existing structures and premises; avoiding blighting effects of the substandard maintenance of structures and premises and their negative impact on the value of surrounding properties; and eliminating hazardous conditions;
- (b) Establishing the responsibilities of owners, lessees, or occupants of structures and their premises;
- (c) Providing for administration, enforcement, and penalties. It is the intent of the Village of Fayette to work with all citizens to further the best interests of the community, through the fair and consistent administration of this Exterior Property Maintenance Code.

(Ord. 2023-09. Passed 9-13-23.)

**1301.02 TITLE.**

This Code shall be known as "The Village of Fayette Exterior Property Maintenance Code" and is herein referred to as above or as the "Exterior Property Maintenance Code" or "this Code." (Ord. 2023-09. Passed 9-13-23.)

**DEFINITIONS****1301.03 CONSTRUCTION OF LANGUAGE.**

For the purpose of this Exterior Property Maintenance Code certain terms or words shall be interpreted as follows: Words used in the singular shall include the plural, and the plural the singular:

- (a) Words used in the present tense shall include the future tense;
- (b) Words in the masculine gender shall include the feminine and neuter;
- (c) The word "shall" is mandatory and not discretionary;
- (d) The word "may" is permissive;
- (e) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"
- (f) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; and
- (g) The word "dwelling" includes the word "residence."

(Ord. 2023-09. Passed 9-13-23.)

**1301.04 DEFINITIONS.**

All words used in this Exterior Property Maintenance Code shall have their customary meanings, except those specifically defined in this Section.

**Accessory Structure:** A structure which is subordinate to and incidental to that of the main building on the same lot.

**Building:** Any permanent or stationary structure having a roof supported by columns or walls.

**Building Code:** The most current edition of the State of Ohio building code, or such other code as may be officially designated by the Village for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings and structures.

**Exterior Property Areas:** The open space on the premises and on adjoining property under the control of owners or occupants of such premises.

**Garbage:** The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

**Defacement of Property:** In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, defacement of property shall also mean any letter, number, figure, emblem, graffiti, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are depicting any sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, searing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discolor to any sidewalk, street or other Village property, or the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

**Junk/Inoperable Vehicle:** A vehicle, including but not limited to cars, trucks, busses, trailers, and watercraft, shall be deemed a junk or inoperable vehicle whenever any one of the following occur:

- (1) The vehicle is without a valid current registration and/or license plate; or
- (2) The vehicle is apparently abandoned, wrecked, in a state of disrepair, or incapable of being moved under its own power; or
- (3) The vehicle is without fully inflated tires and/or has any type of support under it; or
- (4) The vehicle has a substantially damaged or missing window, windshield, door, motor, transmission, or other similar major part; or
- (5) The vehicle is left on private property without permission of the person having the right to the possession of the property.

**Owner:** Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state or county as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court or that person or persons or trust in whose name the general taxes for the last preceding year were paid.

**Premises:** A tract, lot, plot, or parcel of land including the grounds, buildings or structures thereon, or easement or public way.

**Public Nuisance:** Includes any of the following:

- (1) The physical condition, or use of any premises regarded as a public nuisance at common law; or
- (2) Any physical condition, use, or occupancy of any premises considered an attractive nuisance to children including, but not limited to, junk, junk vehicles, abandoned wells, shafts, basements, excavations, abandoned refrigerators, or;

- (3) Any premises designated as unsafe for human habitation or use, or
- (4) Any premises, which is capable of being a fire hazard, or is unsafe or unsecured as to endanger life, limb or property; or
- (5) Any premises which is unsanitary, or which is littered with rubbish or garbage.

**Public Property:** Shall mean any street, highway or public right-of-way, and any other publicly owned property or facility.

**Rubbish:** Rubbish is both combustible and non-combustible waste materials, including car parts, motors, and inoperable, broken or abandoned appliances, electronic equipment, and household equipment. The term shall also include rags, cartons, boxes, wood, rubber, tree branches, yard trimmings, tin cans, metals, glass, and similar debris.

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

(Ord. 2023-09. Passed 9-13-23.)

## ADMINISTRATION AND ENFORCEMENT

### **1301.05 APPLICATION OF EXTERIOR PROPERTY MAINTENANCE CODE.**

The provisions of the Exterior Property Maintenance Code shall apply to all premises and structures within the Village of Fayette used for residential, commercial, or industrial purposes which are now or may become in the future substandard with respect to maintenance and sanitary conditions, or other similar conditions which otherwise constitute a public nuisance. The existence of such conditions adversely affects public health, safety, and the general welfare and can have a negative effect on surrounding property values. Therefore, adequate protection of the public requires the establishment and enforcement of these property maintenance standards.

Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern. Except as otherwise specified herein, the owner, lessee, occupant, or person or entity having charge of the property shall be responsible for the maintenance of buildings, structures, and premises. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with all applicable regulations.

(Ord. 2023-09. Passed 9-13-23.)

### **1301.06 COMPLIANCE REQUIRED.**

Except as otherwise provided, 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 Exterior Property Maintenance Code, irrespective of when such building was constructed, altered or repaired, or premises occupied.

(Ord. 2023-09. Passed 9-13-23.)

### **1301.07 CONFLICT OF LAWS.**

In any case where a provision of this Exterior Property 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 public health, safety, and general welfare shall prevail.

(Ord. 2023-09. Passed 9-13-23.)

**1301.08 ENFORCEMENT OFFICIALS.**

The Village Council shall assign the duties of administering and enforcing this Code to the Village Administrator and/or their designee. The Village Administrator may call upon any department, division or contractor of the Village for whatever assistance may be necessary to abate a violation of this Code.

(Ord. 2023-09. Passed 9-13-23.)

**1301.09 INSPECTIONS.**

The Village Administrator and/or their designee is authorized to inspect building exteriors and premises located within the Village of Fayette for purposes of enforcing the provisions of this Exterior Property Maintenance Code.

(Ord. 2023-09. Passed 9-13-23.)

**1301.10 NOTICE OF VIOLATION.**

If the Village Administrator and/or their designee determines that there is a violation of this code, this will be communicated to the property owner and/or occupant. The goal is to achieve compliance. If, after a reasonable warning period, the violation continues, a Notice of Violation will be sent to the property owner. If the Recipient of a Notice of Violation does not comply with the Notice of Violation within the stated period of time, the Village of Fayette may institute an action for injunction, mandamus, or abatement or any other appropriate action or proceeding to enjoin, correct, or abate such violation.

(Ord. 2023-09. Passed 9-13-23.)

**1301.11 EXTERIOR PROPERTY MAINTENANCE CODE APPEALS.**

To implement the purposes and requirements of this Exterior Property Maintenance Code, any recipient of a violation may appeal the violation to the Board of Zoning Appeals.

- (a) Authority. The Appeals Board shall hear all appeals relative to the enforcement of this Code. By a majority vote, the Appeals Board may reverse or affirm, wholly or partly, or may modify the decision appealed from, and shall make such order or determination as in its opinion ought to be made. Failure to secure a majority vote shall be deemed a confirmation of the decision of the Village Administrator.
- (b) Hearings. Any Recipient of a Notice of Violation which has been issued in connection with the enforcement of any provision of this Exterior Property Maintenance Code, may request and shall be granted a hearing on the matter before the Exterior Property Maintenance Code Appeals Board. The notice of appeal shall be filed in the office of the Village Administrator. The appeal shall be filed within twenty (20) calendar days after the date of the notice. Upon receipt of such a petition and application fee, the Appeals Board shall set a time and place for the hearing. The Appeals Board shall give the appellant written notice thereof by first class mail postmarked at least ten (10) days prior to such hearing. The hearing shall be held no less than ten (10) days and no more than thirty (30) days from the date the appeal was filed. At such hearing, the appellant shall be given an opportunity to be heard and to show cause why any item appearing on the Notice and order should be modified or withdrawn. The failure of the appellant or his representative to appear and state the case at such hearing shall have the same effect as if no appeal was filed.

(c) **Findings.** Prior to sustaining any Notice of Violation and compliance order, the Appeals Board shall make the following findings:

- (1) That a violation exists on the property.
- (2) That appellant was served with a Notice of Violation as provided for in Section 1301.10.
- (3) That the Notice of Violation stated the specific nature of the violation, the corrective action needed to be taken to abate the violation, and a specific time period within which to abate the violation.
- (4) That within the time period stipulated in the Notice of Violation, the appellant failed to comply with the Notice of Violation by not abating the violation, and/or by not bringing the use into compliance with the Village of Fayette Exterior Property Maintenance Code.
- (5) That upon expiration of the date required for compliance in the Notice of Violation, the property violated specific provisions of the Village of Fayette Exterior Property Maintenance Code and/or conditions imposed by the Appeals Board. (Ord. 2023-09. Passed 9-13-23.)

#### **1301.12 VIOLATION PENALTY.**

Any person, firm, or corporation violating any provision of the Village of Fayette Exterior Property Maintenance Code shall be fined not more than five hundred dollars (\$500.00) for each offense. Each and every day, during which illegal violation continues, may be deemed a separate offense. (Ord. 2023-09. Passed 9-13-23.)

#### **1301.13 ABATEMENT OF NUISANCE BY VILLAGE AND COST RECOVERY.**

Should a nuisance not be abated by the expiration of the time stated in the notice or any extensions granted or such additional time as the Exterior Property Maintenance Code Appeals Board may grant, the Village Administrator may call on any department, division, or contractor of the Village 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. The Village may collect the cost in accordance with the Ohio Revised Code and/or assess the cost to the owner via liens approved by the Village of Fayette. (Ord. 2023-09. Passed 9-13-23.)

#### **1301.14 TRANSFER OF OWNERSHIP.**

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 the property to another until the provisions of the Notice of Violation have been complied with. (Ord. 2023-09. Passed 9-13-23.)

#### **1301.15 ABANDONMENT OF CONSTRUCTION PROJECT.**

Any building or structure for which a zoning permit has been issued, and except for circumstances beyond the property owner's control (e.g., labor strikes, inclement weather, etc.), all construction work shall be diligently pursued to completion. Any construction project upon which no substantial work has been undertaken for a period of six (6) months shall be deemed abandoned. (Ord. 2023-09. Passed 9-13-23.)

#### **1301.16 PERIODIC REVIEW.**

The Village Administrator shall periodically review the Exterior Property Maintenance Code and shall present to the Village Council any proposed amendments or deletions to this Code. (Ord. 2023-09. Passed 9-13-23.)

## RESIDENTIAL EXTERIOR PROPERTY MAINTENANCE STANDARDS

### 1301.17 SCOPE.

The provisions of this Code set forth the minimum conditions and the responsibilities of every person and/or legal entity owning, leasing, or occupying any premises for the maintenance of structures, equipment, and exterior property to preserve and to achieve the presentable appearance of existing structures and premises and to avoid blighting effects and their negative impact on the value of surrounding properties, and to eliminate hazardous conditions.

(Ord. 2023-09. Passed 9-13-23.)

### 1301.18 RESPONSIBILITY.

Every person and/or legal entity owning, leasing, or occupying of any premises shall keep such premises in compliance with these requirements, except as otherwise provided in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Code. (Ord. 2023-09. Passed 9-13-23.)

### 1301.19 APPLICATION OF MAINTENANCE STANDARDS.

The following standards are applicable to all residential structures, dwelling units, and all residential portions of mixed use structures.

(Ord. 2023-09. Passed 9-13-23.)

### 1301.20 STRUCTURAL SOUNDNESS AND MAINTENANCE OF DWELLINGS.

(a) General Maintenance. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The owner, lessee, or occupant of the property shall keep all parts of the exterior property in a clean and sanitary condition. No premises shall be in a condition that constitutes a health hazard, safety hazard, or general nuisance.

(b) Protective Treatment. All exterior surfaces including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

(c) Foundations. Foundations shall support the building at all points and shall be free of all holes and cracks which admit rodents, water or dampness to the interior of the building or reduce the capability of the foundation to support the building.

(d) 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. 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. All canopies, signs, awnings, exterior stairways, fire escapes, exhaust ducts, porches, balconies, and similar overhanging extensions, where exposed to public view, shall be maintained in good condition and shall not show evidence of ripping, tearing, or deterioration.

(e) Windows, Skylight, Doors and Frames. Windows shall be fully supplied with window glass or an approved substitute without open cracks or holes, and shall be maintained so as to exclude adverse weather elements from entering the structure.

Skylights, doors, and frames shall be kept in sound condition, in good repair and weather tight.

(f) 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.

(g) 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.

(h) Gutters and Roof Drains. Rain gutters, downspouts, leaders or other means of water diversion shall be provided to collect/conduct and discharge all water from the roof and maintained so as not to leak or cause dampness in the walls, ceiling, or basements or adversely affect adjacent properties. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.

(i) Chimneys and Towers. All chimneys, television and/or radio towers and similar structures shall be maintained structurally safe and sound, and in good repair. 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.

(j) Porches and Decks. Every porch or deck shall be constructed and maintained so as to be free of missing, defective, rotting or deteriorated foundations, supports, floors, other members, and steps thereto, and kept in sound condition and in good repair.

(k) Basement. Basement or cellar hatchways shall be constructed and maintained as to prevent the entrance of rodents, rain, and surface drainage into the dwelling.

(l) 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.

(m) Sidewalks and Driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(n) Building Security. Doors, windows or hatchways for dwelling units shall be provided with devices designed to provide security for the occupants and property within. (Ord. 2023-09. Passed 9-13-23.)

## **1301.21 PAINT AND COATING MATERIALS.**

All paint and other coating materials shall be free of dangerous substances banned from general use by authorized federal, state, county, or local regulatory agencies for health and safety reasons. (Ord. 2023-09. Passed 9-13-23.)

**1301.22 EXTERIOR PROPERTY AND STRUCTURE EXTERIORS.**

All buildings and the exterior of all premises shall be properly maintained to achieve a presentable appearance and to avoid blighting effects and hazardous conditions.

- (a) Exterior Space. The exterior open space around each dwelling shall be maintained or so improved so as to provide for the following:
  - (1) The immediate diversion of water away from buildings and proper drainage of the premises;
  - (2) Grass, plantings or other suitable ground cover to prevent soil erosion which is or may become detrimental to the structures, premises use or adjacent premises and structures;
  - (3) Sidewalks, walkways, parking areas, and driveways of a concrete, asphalt, pavers or similar surface which are of sound construction and properly maintained; and
  - (4) Exterior steps which are of sound construction and properly maintained free of hazardous conditions.
- (b) Yards. All yards, courts, and lots shall be graded and kept free of overgrown grasses, debris and other materials which may cause a fire, health, safety hazard, or general unsightliness.
- (c) Hazards. Hazards and unsanitary conditions shall be eliminated.
- (d) Occupancy. No temporary buildings, trailers, recreational vehicles, tents, or garages shall be used temporarily or permanently as a residence in the course of construction.
- (e) Storage. Outdoor storage of junk and debris shall be prohibited.
- (f) Grading. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of water thereon, or within any structure located thereon.
- (g) 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 when such pooling or retention of water is part of a plan approved by the County Engineer.
- (h) 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 shrubs and/or trees, or discharge, empty, or place any material, fill or waste into any swale so as to divert or impede drainage flow.
- (i) Fences and Walls. All fences, retaining walls, or similar structures shall be anchored firmly in the ground, shall be constructed in a quality manner and maintained so that such approved fences, retaining walls, or similar structures shall always be in a state of good structural repair. If any fence, retaining wall, or similar structure is found not to be in a 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.
- (j) Commercial Vehicles. No commercial vehicles may be parked on any residential property, except for commercial vehicles making service calls or vehicles being used to move personal goods to or from a subject property.
- (k) Furniture. No furniture intended for indoor use may be stored outside, unless it is in a completely enclosed porch or patio room.

- (l) Off Street Parking. Parking and/or storing of any vehicle on a front lawn shall be prohibited. Parcels with nonconforming gravel driveways may have gravel parking areas, but in no case shall a landscaped area (i.e., neither paved nor graveled) be used as an open off-street parking area.
- (m) Trailers and Recreational Vehicles. If a licensed and operable trailer, utility trailer, watercraft, camping or recreational equipment is parked or stored outside a garage, it shall be parked or stored to the rear of the home. On a corner lot; however, the camping or recreational equipment may not be stored on any side of the house toward a street.
- (n) Street Numbers. Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public right-of-way. All numbers shall be in at least four (4) inches high and of a color contrasting to the background.
- (o) Rodent Harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.
- (p) Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The owner, lessee, occupant, or person or entity having charge of the premises shall keep that part of the exterior property which such person or entity occupies or controls in a clean and sanitary condition.

(Ord. 2023-09. Passed 9-13-23.)

### **1301.23 VEGETATION.**

- (a) No person or entity owning, leasing, or occupying land within the Village shall fail to keep such property free and clear of all noxious weeds and vegetation or fail to cut all such weeds and vegetation on land owned or in his or her possession whenever such weeds or vegetation have grown to a height of eight (8) inches or more.
- (b) No person owning, leasing, operating, occupying land within the Village shall permit trees, bushes, shrubs, or other growth to overhang or block any part of a public sidewalk.
- (c) All plant materials, especially trees and shrubs, afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material shall be removed or appropriately treated. (Ord. 2023-09. Passed 9-13-23.)

### **1301.24 STAIRWAYS.**

All exterior stairways on all residential premises shall:

- (a) Be maintained free of holes, grooves, and cracks which constitute a safety hazard;
- (b) Be maintained free of rotted or deteriorated supports;
- (c) Have treads of uniform width and risers of uniform height; and
- (d) Stairway handrails and/or railings shall be firmly fastened and maintained in good condition. Where the absence of handrails and/or railings create a hazardous condition, the Enforcement Officer may require their installation in accordance with the provisions of any applicable Building Code.

(Ord. 2023-09. Passed 9-13-23.)

**1301.25 ACCESSORY STRUCTURES.**

All structures accessory to the dwellings, including detached garages, shall be structurally sound, neatly maintained, and in good repair or they shall be razed to grade level and debris removed from the premises.

(Ord. 2023-09. Passed 9-13-23.)

**1301.26 WASTE RECEPTACLES.**

(a) Accumulation, Dumping, Storing, and/or Burying of Rubbish or Garbage. All exterior property and premises, and carport, deck, and patio shall be free from any accumulation, dumping, storing, and/or burying of rubbish and/or garbage including, but not limited to tires, combustible and noncombustible waste materials, abandoned construction materials and debris, paper, rags, cartons, boxes, rubber, leather, tin cans, metals, mineral matter, glass, animal and vegetable waste, residue from burned materials, inoperable and broken appliances and household equipment, and other similar materials.

(b) Disposal of Rubbish/Garbage. Every owner, lessee, or occupant of any structure shall dispose of rubbish/garbage in a clean and sanitary manner by placing such rubbish/garbage in approved containers.

(c) Placement of Rubbish/Garbage Containers. All approved residential rubbish/garbage containers shall be placed at the curb or authorized alley location for pick-up unless prior arrangements have been made with the Village and collector for pickup at another location. No such rubbish/garbage container shall be placed at the curb earlier than twenty-four (24) hours preceding the pickup and all containers shall be removed within twenty-four (24) hours after the pickup. When not at the curb for pickup, all rubbish/garbage receptacles shall either be in an enclosed building or placed behind the front building line.

(Ord. 2023-09. Passed 9-13-23.)

**COMMERCIAL AND INDUSTRIAL EXTERIOR PROPERTY MAINTENANCE STANDARDS****1301.27 SCOPE.**

The provisions of this Code set forth shall govern the minimum conditions and the responsibilities of every owner, lessee or occupant of any commercial premises for maintenance of commercial and industrial structures, equipment and exterior property to preserve and achieve the presentable appearance of existing structures and premises, to avoid blighting effects of the substandard maintenance of such structures and premises and their negative impact on the value of surrounding properties, and to eliminate hazardous conditions.

(Ord. 2023-09. Passed 9-13-23.)

**1301.28 RESPONSIBILITY.**

Every owner, lessee, or occupant of any commercial/industrial premises shall maintain all occupied and unoccupied structures, exterior property, and vacant land in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Code.

(Ord. 2023-09. Passed 9-13-23.)

**1301.29 GENERAL PROVISIONS.**

Every commercial/industrial building/structure shall meet all of the provisions and requirements of the zoning ordinances, applicable building codes, fire code and health department requirements applicable to the structure and use of the property.  
(Ord. 2023-09. Passed 9-13-23.)

**1301.30 STRUCTURAL SOUNDNESS AND MAINTENANCE OF COMMERCIAL AND INDUSTRIAL STRUCTURES.**

Every foundation, floor, wall, ceiling, and roof of every commercial and industrial structure shall be so constructed and maintained and be kept in good repair and in safe condition so as to make all occupied rooms and other interior areas weather-tight, water-tight, rodent proof, and so as to be fit for human use 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) General Maintenance. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The owner, lessee, or occupant of the property shall keep all parts of the exterior property in a clean and sanitary condition. No premises shall be in a condition that constitutes a health hazard, safety hazard, or general nuisance.
- (b) Protective Treatment. All exterior surfaces including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
- (c) Foundations. Foundations shall support the building at all points and shall be free of all holes and cracks as to prevent rodents, water or dampness to the interior of the building or and any conditions tending to reduce the capability of the foundation to support the building.
- (d) 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 as to prevent rodents, rain, or dampness to the interior of the dwelling. All canopies, marquees, signs, awnings, exterior stairways, fire escapes, exhaust ducts, porches, balconies, and similar overhanging extensions, and their supporting structures where exposed to public view, shall be maintained in good condition and shall not show evidence of ripping, tearing, or deterioration.
- (e) Windows, Skylight, Doors and Frames. Windows shall be fully supplied with window glass or an approved substitute which is without open cracks or holes, shall have sashes in good condition which fit within frames, be capable of being easily opened and held in position by hardware, and maintained so as to exclude adverse weather elements from entering the structure. Skylights, doors, and frames shall be kept in sound condition, good repair and weather tight.
- (f) 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 have hinges and latches which are in good working condition.
- (g) 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.

- (h) **Gutters and Roof Drains.** Rain gutters, downspouts, leaders, or other means of water diversion shall be provided to collect/conduct, and discharge all water from the roof and maintained so as not to leak or cause dampness in the walls, ceiling, or basements or adversely affect adjacent properties. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.
- (i) **Chimneys and Towers.** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weathercoating materials such as paint or similar surface treatment.
- (j) **Porches, Decks, and Docks.** Every porch, deck, or dock shall be constructed and maintained so as to be free of missing, defective, rotting or deteriorated foundations, supports, floors, other members, including steps, and kept in sound condition and in good repair.
- (k) **Exterior Surfaces.** 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.
- (l) **Basement.** Basement or cellar hatchways shall be so constructed and maintained as to prevent the entrance of rodents, rain, and surface drainage into the dwelling.
- (m) **Decorative Features.** All trim, corbels and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- (n) **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.
- (o) **Overhang Extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, awnings, fire escapes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. 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.
- (p) **Sidewalks and Driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions. (Ord. 2023-09. Passed 9-13-23.)

### **1301.31 PAINT AND COATING MATERIALS.**

All paint and other coating materials shall be free of dangerous substances banned from general use by authorized federal, state, county, or local regulatory agencies for health and safety reasons. (Ord. 2023-09. Passed 9-13-23.)

### **1301.32 EXTERIOR PROPERTY AND STRUCTURE EXTERIORS.**

All buildings and the exterior of all premises shall be properly maintained to achieve a presentable appearance and to avoid blighting effects and hazardous conditions.

- (a) **Exterior Space.** The exterior open space around each structure shall be maintained or improved so as to provide for:
  - (1) The immediate diversion of water away from buildings and proper drainage of the lot;

- (2) Grass, plantings, or other suitable ground cover to prevent soil erosion which is or may become detrimental to the structures, lot use or adjacent lots and structures; and
- (3) Sidewalks, walkways, parking areas, driveways and exterior steps free of hazards.
- (4) All green areas shall be graded and seeded with an all-season, well maintained vegetative ground cover.
- (b) Fences and Walls. All fences, retaining walls, or similar structures shall be anchored firmly in the ground, shall be constructed in a quality manner and maintained 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 a 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.
- (c) Yards. All yards, courts, and lots shall be kept free of noxious weeds, overgrown grasses, debris, and other materials which may cause a fire, health, safety hazard, or general unsightliness.
- (d) Hazards. Hazards and unsanitary conditions shall be eliminated.
- (e) Occupancy. No temporary buildings, trailers, recreational vehicles, tents, or garages shall be used temporarily or permanently as a residence during the course of construction.
- (f) Grading. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of water.
- (g) 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 County Engineer. All condensate and waste cooling water shall be appropriately discharged into an approved drainage system.
- (h) Drainage Swales. Swales are to be maintained by the owners of the parcels on which they are located, and at no time shall anyone place any material, fill or waste into any swale so as to impede or divert drainage flow.
- (i) Traffic Markings. All parking and drive aisle markings such as directional arrows, lane division lines, parking space lines, or stop signs, etc., shall be maintained so as to be clearly visible and easily recognized.
- (j) Conduct of Business.
  - (1) All storage of trash and garbage containers and/or dumpsters shall be screened from view in a manner approved by the Village Administrator. All enclosures shall be maintained in good condition.
  - (2) All storage of materials, goods or products, including inoperable vehicles, shall be within a completely enclosed building except those businesses permitted or conditionally permitted to do so under the terms of the Village of Fayette Zoning Ordinances to conduct business or maintain outdoor storage of materials, goods, or products out-of-doors.
- (k) Exterior Light 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. Parking lot lighting shall be shoe-box style with light directed downward with no glare. All lighting shall emit constant light and shall not flash or cause a safety hazard to traffic or the general public.

- (l) Driveways and Walkways. All driveways, walkways, stairs, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- (m) Rodent Harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.
- (n) Mosquito Infestation. All structures and exterior property shall be kept free of the accumulation of stagnant water by any means, which may yield the potential for serving as a breeding ground for mosquitoes.  
(Ord. 2023-09. Passed 9-13-23.)

### **1301.33 VEGETATION.**

- (a) No person or entity owning, leasing, or occupying land within the Village shall fail to keep such property free and clear of all noxious weeds and vegetation or fail to cut all such weeds and vegetation on land owned or in his or her possession whenever such weeds or vegetation have grown to a height of eight (8) inches or more.
- (b) No person owning, leasing, operating, occupying land within the Village shall permit trees, bushes, shrubs, or other growth to overhang or block any part of a public sidewalk.
- (c) All plant materials, especially trees and shrubs, afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material shall be removed or appropriately treated. (Ord. 2023-09. Passed 9-13-23.)

### **1301.34 STAIRWAYS.**

All exterior stairways on all commercial/industrial premises shall:

- (a) Be maintained free of holes, grooves, and cracks which constitute a safety hazard;
- (b) Be maintained free of rotted or deteriorated supports;
- (c) Have treads of uniform width and risers of uniform height; and
- (d) Stairway handrails and/or railings shall be firmly fastened and maintained in good condition. Where the absence of handrails and/or railings create a hazardous condition, the Village Administrator may require their installation in accordance with the provisions of the applicable Building Code.  
(Ord. 2023-09. Passed 9-13-23.)

### **1301.35 ACCESSORY STRUCTURES.**

All accessory structures, including signs and detached storage buildings, shall be structurally sound, neatly maintained, and in good repair or shall be razed to grade level and debris removed from the premises. (Ord. 2023-09. Passed 9-13-23.)

### **1301.36 RUBBISH AND GARBAGE.**

- (a) Accumulation, Dumping, Storing, and/or Burying of Rubbish or Garbage. All exterior property and premises of every commercial/industrial structure shall be free from any accumulation, dumping, storing, and/or burying of rubbish and/or garbage, including, but not limited to tires, combustible and noncombustible waste materials, abandoned construction materials and debris, paper, rags, cartons, boxes, rubber, leather, tin cans, metals, mineral matter, glass, animal and vegetable waste, residue from burned materials, inoperable and broken appliances and business equipment, and other similar materials.

(b) Disposal of Rubbish/Garbage. Every owner, lessee, or occupant of a commercial/industrial structure shall dispose of rubbish/garbage in a clean and sanitary manner by placing such rubbish/garbage in approved containers.

(c) Rubbish/Garbage Storage Containers. The owner of any occupied commercial/industrial premises shall supply approved covered containers for rubbish/garbage, and the owner, lessee, or occupant of the premises shall be responsible for the removal of rubbish/garbage.

(d) Container and/or Dumpster Enclosures. All storage of trash and garbage containers and/or dumpsters shall be effectively screened from view within an enclosure as approved by the Village. All enclosures shall be maintained in good condition.

(Ord. 2023-09. Passed 9-13-23.)

### **1301.37 SIGNAGE.**

(a) Prohibited and Obsolete Signs. All prohibited and abandoned signs as defined in the Zoning Ordinance shall be removed or replaced pursuant to the applicable sections of the Zoning Ordinance.

(b) Sign Maintenance. All signage and incidental landscaping and/or lighting shall be maintained in good condition and shall not show evidence of deterioration. Neither lighting nor signage shall be permitted to be placed on trees or utility poles.

(c) Visibility. Signage shall not be located in such a manner that impairs traffic visibility so as to constitute a traffic or safety hazard.

(Ord. 2023-09. Passed 9-13-23.)

## CHAPTER 1309

### Property Maintenance

<b>1309.01</b>	<b>Definitions.</b>	<b>1309.061</b>	<b>Notice to cut noxious weeds, grass, rank vegetation.</b>
<b>1309.02</b>	<b>Storage of certain trash, motor vehicles, materials, and dangerous or unsightly premises prohibited.</b>	<b>1309.062</b>	<b>Procedure upon failure of owner to cut weeds/abate nuisance after notice.</b>
<b>1309.03</b>	<b>Notice to owner and occupant.</b>	<b>1309.063</b>	<b>Defacing placard notice.</b>
<b>1309.04</b>	<b>Permit required.</b>	<b>1309.064</b>	<b>Special conditions.</b>
<b>1309.05</b>	<b>Garbage and offal.</b>	<b>1309.07</b>	<b>Failure to comply with notice; procedure.</b>
<b>1309.06</b>	<b>Weeds, grass, vegetation to be cut; notice.</b>	<b>1309.08</b>	<b>Appeal.</b>
		<b>1309.99</b>	<b>Penalties; remedy by Village.</b>

#### CROSS REFERENCES

Nuisances prohibited - see GEN. OFF. Ch. 521  
 Parking unlicensed vehicles - see P. & Z. 1179.01

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#### **1309.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) Trash and Waste.

(1) "Garbage and offal" means all refuse and waste of animals, fish, fowl, fruit and vegetable matter, and any other material or materials so designated by the Department of Health of the County or the State, liquefied or otherwise, which accumulated in the use and preparation of food for the table, that has been discarded and abandoned and is no longer of value to the owner for ordinary purposes of domestic consumption and also includes all refuse arising from the dealing in or storing aforesaid substances.

- (2) "Refuse" embraces only such matters as was either in fact noxious or has been refused or has been abandoned by its owner as worthless.
- (3) "Rubbish" includes wire, chips, shavings, bottles, broken glass, crockery, tin, cast or wooden ware, boxes, rags, dead weeds, paper circulars, handbills, boots, shoes, ashes, or any waste material other than garbage or offal.
- (b) Vehicles.
  - (1) "Vehicle" means anything on wheels.
  - (2) "Motor vehicle" means any vehicle, including, trailers, manufactured homes, semi-trailers, recreational vehicles (including travel trailers, motor homes, and truck campers) propelled or drawn by power other than muscular power.
  - (3) "Vehicle parts" means any portion or part of any vehicle detached from the vehicle as a whole.
  - (4) "Motor vehicle in an inoperative condition" means any motor vehicle which is unable to lawfully move under its own power or, if a vehicle designed to be drawn, unable to be safely drawn, and which has remained in such condition for a period in excess of fourteen consecutive days.
  - (5) "Unregistered motor vehicle" means any motor vehicle that remains unregistered (without valid license plates) for a period in excess of fourteen consecutive days.
- (c) Materials.
  - (1) "Scrap metal" means pieces of or parts of steel, iron, tin, zinc, copper, aluminum or any alloy thereof whether covered with porcelain or other materials, whether intact or in parts which has served its usefulness in its original form and can no longer be used or useful for its originally intended purpose.
  - (2) "Used building materials" includes any materials such as wood, stone, brick, cement blocks, or any composition or combination thereof used or useful in the erection of any building or structure which have been used previously for such erection or construction by the same person or other person.
- (d) Dangerous or Unsightly Premises. Any fence, wall, shed, house, building, structure, or any part of the aforesaid; or any tree, pole, smoke stack; or any excavation, basement, cellar, sidewalk subspace, dock, wharf, or landing dock, which in its entirety, or in any part thereof, by reason of the condition in which the same is permitted to be or remain, does or may endanger the health, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage, or injury to any one or more persons in the Municipality, in any one or more of the following particulars:
  - (1) By reason of being a danger to the general health of the community;
  - (2) By reason of being a fire hazard;
  - (3) By reason of being unsafe for occupancy, or use on, in, upon, about, or around the aforesaid premises; or
  - (4) By reason of being unsightly because of long continued vacancy or lack of reasonable or adequate maintenance thereby depreciating the enjoyment, use or value of property in the immediate vicinity.

(Ord. 2022-06. Passed 8-10-22.)

**1309.02 STORAGE OF CERTAIN TRASH, MOTOR VEHICLES, MATERIALS, AND DANGEROUS OR UNSIGHTLY PREMISES PROHIBITED.**

(a) Presence of Garbage. Etc. on Premises. It shall be unlawful and hereby is declared a public nuisance for any owner or occupant of real estate to store, place, or allow to remain garbage and offal, refuse, rubbish, vehicle parts, motor vehicles in an inoperative condition, unregistered motor vehicles, scrap metal, or used building materials outdoors on any lot, lots, parts of lots or parcels of land within the corporate limits of the Municipality.

(b) Dangerous or Unsightly Premises. It shall be unlawful and is hereby declared to be a public nuisance for any owner or occupant of real estate to permit or allow his lot, lots, parts of lots or parcels of land within the corporate limits of the Municipality to be dangerous or unsightly premises.

(Ord. 2022-06. Passed 8-10-22.)

**1309.03 NOTICE TO OWNER AND OCCUPANT.**

(a) At such time as the Chief of Police or the Chief's Designee becomes aware of a violation of Section 1309.02 and deems it appropriate, the Chief of Police or the Chief's Designee shall give written notice (hereinafter referred to as the "Notice") to the owner of record or to the occupants of the real estate if they are not the owners thereof.

(b) The Notice shall specifically state the basis for finding the particular real estate as a public nuisance and shall state the date by which the nuisance must be abated. The Chief of Police or the Chief's Designee shall determine such date based upon the particular facts and circumstances of the nuisance.

(c) If the Notice alleges that the particular real estate is a public nuisance because of the presence of an unregistered motor vehicle, proof that a motor vehicle is missing a license plate or has an expired license plate or is parked in such a manner that either the front license plate or rear license plate is obscured such that it cannot be viewed from a reasonable place off the subject premises (and proof that such condition existed for a period in excess of fourteen consecutive days) shall be sufficient to prove the offense. It is an affirmative defense to a charge under this section that the particular motor vehicle during the time period in question was lawfully registered and lawfully license plated in the State of Ohio or in another state.

(d) If the notice of a public nuisance alleges that the particular real estate is a public nuisance because of the presence of a motor vehicle in an inoperative condition or because such motor vehicle is an unregistered motor vehicle, evidence that it was viewed on at least five days including the first day and the fifteenth day or later day and that at the times of such viewing there was no visible material change in the vehicle shall constitute a rebuttable presumption that the motor vehicle was inoperative and/or unregistered for a period in excess of fourteen consecutive days.

(e) Service of the notice shall be made as determined by the Chief of Police or the Chief's Designee, which service may be personal service by any officer or employee of the Municipality or by certified mail. In the event the address of the appropriate party is unknown or if certified mail service is refused or not picked up, then service may be made by posting the notice at the premises or by publishing the notice once in a newspaper in circulation in the Municipality.

(f) In the event the public nuisance is such that it poses an immediate threat to life or property the Municipality may take action to abate the nuisance. The costs of such abatement may be recovered as provided in this chapter. The Chief of Police or the Chief's Designee shall give whatever notice is practicable under the circumstances to the owner and/or the occupants of the premises by any reasonable means, including the telephone.

(Ord. 2022-06. Passed 8-10-22.)

#### **1309.04 PERMIT REQUIRED.**

(a) Notwithstanding the definition of used building materials, it shall not be unlawful for any person to place or store them on any lot, lots, parts of lots, or parcels of land when such materials are to be used by the purchaser or owner in later construction on the same lot or on any lot owned or controlled by such person, or if the person is in the business of construction, provided that such materials are used or consumed in construction or removed from the premises within a one-year time period from the time said materials are first placed on the lot, lots, parts of lots or parcels of land.

(b) Proof of the use of the used building materials in future construction rests with the owner or person in charge as a defense to a violation of this chapter. These items may be maintained on a lot, lots, parts of lots or parcel of land with a permit issued by the Village Administrator.

(c) If the storage of the materials is in such a fashion as to provide a breeding ground for insects and/or rodents such as mice or rats, and is in an unsightly and untidy manner, said storage of used building materials shall be *prima-facie* unlawful. Used building materials left in the destruction of any building not removed within a one-year period shall be considered *prima-facie* unlawful storage under the provisions of this chapter.

(Ord. 2022-06. Passed 8-10-22.)

#### **1309.05 GARBAGE AND OFFAL.**

(a) No garbage or offal shall be permitted or remain exposed in any building or on any premises for a period longer than shall be reasonably necessary to remove and deposit the same in a waste container of substantial water-tight construction with a tight fitting lid.

(b) It shall be the duty of any person producing or having garbage or offal to cause it to be removed by persons properly authorized to places permitted or provided by the Village.

(Ord. 2022-06. Passed 8-10-22.)

#### **1309.06 WEEDS, GRASS, VEGETATION TO BE CUT; NOTICE**

Any person owning or having charge of land within the Village or within 200 feet of a residential or commercial building not used for agricultural purposes shall keep such property free and clear of all noxious weeds, untrimmed grass and/or rank vegetation and shall be required to cut such weeds, grass and vegetation on the lots owned or controlled by him/her whenever the length of the weeds, grass and/or vegetation reaches eight (8) inches in length. When such weeds, grass and/or vegetation reaches eight (8) inches, or noxious weeds are about to spread or mature seeds, and the property owner receives a notice to cut the same pursuant to Section 1309.061, he/she shall cut them to no more than three (3) inches.

(Ord. 2022-06. Passed 8-10-22.)

**1309.061 NOTICE TO CUT NOXIOUS WEEDS, GRASS, RANK VEGETATION.**

(a) Upon information that noxious weeds, untrimmed grass and/or rank vegetation growing on lands within the Village has reached eight (8) inches in length, or noxious weeds are about to spread or mature seeds, the Village Administrator, shall cause notice to be served on the owner or person having charge of such land that such weeds, rank vegetation or grass must be cut and destroyed within three (3) calendar days (seventy-two hours) after service of such notice.

(b) Notice shall be served by a law enforcement officer, by certified mail to the owner or occupant of the property in question by publication once in a newspaper of general circulation in the Village, or by notice of placard conspicuously posted on the property which contains the following information:

The address of the property, the date of the notice, the address and telephone number of the Village Administrator and a warning that if the public nuisance is not removed within three (3) days (seventy-two hours) after posting, the Village may issue a citation or the Village will abate the nuisance and seek recovery of the actual cost involved in the removal of the nuisance through billing and collection procedures or seek recovery pursuant to Section 1309.062. Additionally, each placard shall contain a statement that it is unlawful for any person to deface, remove or alter any notice placard placed hereunder, except by permission of the Village Administrator.

(Ord. 2022-06. Passed 8-10-22.)

**1309.062 PROCEDURE UPON FAILURE OF OWNER TO CUT WEEDS/ABATE NUISANCE AFTER NOTICE.**

(a) If the owner or person having charge of such land fails to comply with the notice to cut and destroy noxious weeds, rank vegetation or grass within three (3) calendar days (seventy-two hours) after the service of such notice or after the publication of such notice in the newspaper of general circulation in the Village, such owner or person in charge shall be subject to the penalty provided in Section 1309.07. In addition, the Village Administrator may cause the noxious weeds, rank vegetation or grass to be cut and destroyed and all expenses and labor incurred in such operation shall be paid out of the Village's funds not otherwise appropriated.

(b) The Village reserves the right to abate any nuisance which occurs under this chapter. The Village Administrator shall make a written return to the County Auditor of his/her action under Section 1309.062. A written statement shall include the charges for the service, the amount paid for labor, the fees of the officers serving such notices and a proper description of the premises. Such amounts, when allowed, shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of the entry and shall be collected as other taxes and returned to the Village. (Ord. 2022-06. Passed 8-10-22.)

**1309.063 DEFACING PLACARD NOTICE.**

It shall be unlawful for any person to deface, remove or alter any notice placard placed as notice under Section 1309.061, except by the express permission of the Village Administrator. This provision shall be conspicuously stated on every notice placard.

(Ord. 2022-06. Passed 8-10-22.)

**1309.064 SPECIAL CONDITIONS.**

(a) Where an owner of land within the Village intends to use the land in furtherance of agriculture, the Village of Fayette Zoning Inspector may grant a special approval to the owner of the land to permit the growth of grass and/or vegetation upon a parcel of land not less than one (1) acre in size to a length contrary to the requirements set forth in Section 1309.06. Such approval must:

- (1) Be for a specified period of years, or
- (2) Be specifically restricted to run to the benefit of the owner of the premises, and
- (3) Not be transferable to a subsequent owner, and
- (4) Not run with the land, and
- (5) Be in furtherance of, incident to, or an extension of a permitted use, and
- (6) Specify the number of times annually that such vegetation will be harvested.

(b) All appeals of the Village of Fayette Zoning Inspector's decision herein shall be made pursuant to the Codified Ordinances of Fayette, Ohio.

(Ord. 2022-06. Passed 8-10-22.)

### **1309.07 FAILURE TO COMPLY WITH NOTICE; PROCEDURE.**

(a) Noncompliance; Work by Municipality. If the owner and occupant or person having charge of such land fails to correct the violations cited in the notice under 1309.061, then the Municipality shall cause the weeds, vegetation and grass to be cut and removed or destroyed at a charge of one hundred dollars (\$100.00) per hour, plus one hundred dollars (\$100.00) for any part of an hour, with a minimum charge of one hundred dollars (\$100.00). All such expenses and labor costs incurred shall, when approved by Council, be paid out of Municipal funds.

(b) Return to County; Cause a Lien. Council shall make a written return to the County Auditor of the Municipality's services chargeable under this section, including charges and costs of mowing, the fees of the officers serving required notices, the cost of sending or publishing notification, and a proper description of the premises. Such amounts, when allowed and certified as provided by law, shall be entered upon the County tax duplicate and shall thereby be a lien upon such lands from and after the date of entry and be collected as other taxes and returned to the Municipality for deposit within the General Fund.

(c) In addition to the collection of the cost of the service of removal of the growing vegetation in excess of eight inches, the property owner or person in charge or both, shall be cited for violation of this chapter and any person occupying the property, in charge of said property, or a property owner or both, shall be found guilty of violating this chapter and shall be fined not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000).

(d) Each day such violation is permitted to continue shall constitute a separate offense.

(e) The posted violation sign and post must be returned to the Village office in its original condition. If said sign is not returned in its original condition, a five hundred dollar (\$500.00) fee will be imposed.

(Ord. 2022-06. Passed 8-10-22.)

### **1309.08 APPEAL.**

(a) Any owner or occupant who receives a notice from the Chief of Police or the Chief's Designee with respect to a public nuisance may appeal such notice to the Board of Building Appeals by filing a written notice of appeal in the Office of the Village Clerk. Such notice of appeal should make specific reference to the Notice received and must be filed within five days of receipt of the notice or by the date by which the nuisance was to have been abated, whichever occurs first.

(b) The Board of Building Appeals shall consist of the President of Council, the Clerk of Council, and the Chairperson of the Safety Committee. The Board of Building Appeals shall set a time and place for hearing of the appeal and notice of such hearing shall be given to the Chief of Police or the Chief's Designee, the Administrator and the appellant. In reviewing the findings of the Chief of Police or the Chief's Designee with respect to the existence of the public nuisance, the required abatement, and the time to complete the abatement, the Board of Building Appeals shall consider the nature of the violation alleged and its effect upon the public health, safety and welfare including, but not limited to, the depreciating effect of a violation upon the value of surrounding properties and the reasonableness of the time given to abate the nuisance.

(c) The Board may affirm, modify, or cancel the order of the Chief of Police or the Chief's Designee.

(Ord. 2022-06. Passed 8-10-22.)

#### **1309.99 PENALTIES; REMEDY BY VILLAGE.**

(a) In the event the public nuisance is not abated by the date set forth in the notice, or, if an extension date has been given by the Chief of Police or the Chief's Designee or by the Village Council, then by such date, the owner and occupant shall be guilty of third degree misdemeanor and each day of nonabatement shall constitute another offense. It shall be an affirmative defense under this subsection that the particular defendant did not have the authority to correct the nuisance or did not know of the nuisance.

(b) The Village Administrator may proceed to have the nuisance abated and the total cost shall be collected by either a civil suit or certification of such total cost to the County Auditor for placement upon the tax duplicates

(c) The Village Administrator may enforce this chapter by injunction brought in the Court of Common Pleas of Fulton County.

(Ord. 2022-06. Passed 8-10-22.)



## CHAPTER 1321

### Unsafe and Unsightly Structures

<b>1321.01</b>	<b>Unsafe, unsightly or hazardous conditions.</b>	<b>1321.06</b>	<b>Failure to repair.</b>
<b>1321.02</b>	<b>Notice to owner and lienholder.</b>	<b>1321.07</b>	<b>Appeal.</b>
<b>1321.03</b>	<b>Service of notice.</b>	<b>1321.08</b>	<b>Enforcement by injunction.</b>
<b>1321.04</b>	<b>Posting of signs.</b>	<b>1321.99</b>	<b>Penalty.</b>
<b>1321.05</b>	<b>Permits for construction or repairs pursuant to orders to be obtained.</b>		

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#### **1321.01 UNSAFE, UNSIGHTLY OR HAZARDOUS CONDITIONS.**

(a) All buildings, structures, or portions thereof which are structurally unsafe, or not provided with adequate egress, or which constitute a fire hazard, or otherwise dangerous to human life, or which in relation to existing use constitute a hazard to health by reason of inadequate maintenance, dilapidation, fire damage, obsolesce, or abandonment are for the purposes of this Chapter unsafe buildings.

(b) The owner and/or occupant shall keep the exterior of all real estate premises and every structure thereon including, but not limited to, walls, roofs, cornices, chimneys, drains, towers, porches, landings, fire escapes, stairs, store fronts, signs, windows, doors, awnings, and marquees in good repair and all surfaces thereof shall be kept painted or protected with other coating or materials placed thereon for the purposes of preservation and avoiding a blighting influence on adjoining properties. All surfaces shall be maintained free of broken glass, loose shingles, crumbling stone or brick, peeling paint or other conditions reflective of deterioration or inadequate maintenance, to the end that the property itself may be preserved safely, fire hazards eliminated, and adjoining properties in the neighborhood protected from blighting influences. All yards, courts or lots shall be kept free of unsightly materials not appropriate to the area and debris which may cause a fire hazard or may act as a breeding place for vermin or insects. Any premises or structures not complying with this subsection are hereby declared to be "unsightly premises". The term "unsafe buildings" as used in this Chapter shall include "unsightly premises". For use in notices under this Chapter or any other reference, the term "unsightly premises" or "unsafe buildings/unsightly premises" may be used in lieu of the term "unsafe buildings".

(c) All unsafe buildings (including unsightly premises) are declared to be public nuisances and shall be abated by repair and rehabilitation or by demolition in accordance with the procedures of this Chapter. (Ord. 2018-02. Passed 4-25-18.)

**1321.02 NOTICE TO OWNER AND LIENHOLDER.**

(a) The Chief of Police or the Chief's Designee shall examine or cause to be examined every building, structure, or portion thereof reported as or believed to be an unsafe building as defined in Section 1321.01. The Chief of Police or the Chief's Designee shall give written notice (hereinafter referred to as the notice) to the owner of record, including any purchasers under a recorded land contract and to the persons occupying any building if they are not the owners thereof.

(b) The notice shall specifically state the defects that caused the building, structure, or portion thereof to be unsafe. The notice shall further state that within thirty days of the date of the notice the work shall commence to either make the repairs or improvements or to demolish and remove the building, structure, or portion thereof, which work shall be completed within 120 days of the notice. The work shall not be deemed as completed unless and until the premises is in a clean, safe, and sanitary condition as determined by the Chief of Police or the Chief's Designee.

(c) In case of emergency making immediate repairs or demolition necessary, the Chief of Police or the Chief's Designee may order the repairs or demolition to be made within a shorter period of time.

(d) Notice may also require the building or portion thereof to be vacated forthwith by the occupants thereof. Notice shall also be served to lienholders in accordance with Ohio R.C. 715.26. (Ord. 2018-02. Passed 4-25-18.)

**1321.03 SERVICE OF NOTICE.**

All notices shall be served as provided in Ohio R.C. 715.26. If services cannot be made by certified mail, then the notice may be served by personal service or by posting a copy on the subject premises. The period for compliance with the notice shall commence on the date the notice is delivered or, if service is by posting, the period for compliance shall commence on the date of posting. (Ord. 2018-02. Passed 4-25-18.)

**1321.04 POSTING OF SIGNS.**

(a) The Chief of Police or the Chief's Designee may cause to be posted at each entrance to such building, structure, or portion thereof a sign to read: "DO NOT ENTER, UNSAFE TO OCCUPY, VILLAGE OF FAYETTE, OHIO." Such sign shall remain posted until the required repairs are made or demolition is completed.

(b) It shall be unlawful for any person to remove such sign without permission of the Chief of Police or the Chief's Designee or for any person to enter the building, except for the purpose of making the required repairs or of demolishing same.  
(Ord. 2018-02. Passed 4-25-18.)

**1321.05 PERMITS FOR CONSTRUCTION OR REPAIRS PURSUANT TO ORDERS TO BE OBTAINED.**

In all cases of construction or repair pursuant to orders of the Chief of Police or the Chief's Designee, permits covering such work shall be obtained as required by other sections of the ordinances of the Municipality.  
(Ord. 2018-02. Passed 4-25-18.)

**1321.06 FAILURE TO REPAIR.**

In case the owner of record, or the purchaser under a land contract if that case may be, shall fail, neglect, or refuse to comply with the notice described in Section 1321.02, such party, either the owner of record or the purchaser under a land contract, shall be subject to the penalty provisions of this Chapter; and the Municipality may proceed to have the building, structure, or portion thereof removed, repaired, made secure, made safe, and otherwise abated and the total cost shall be collected by either or both of the remedies provided in Ohio R.C. 715.261, which includes commencement of a civil suit or certification of such total costs to the County Auditor for placement upon the tax duplicate. (Ord. 2018-02. Passed 4-25-18.)

**1321.07 APPEAL.**

(a) Any owner of record, purchasers under a recorded land contract, or person occupying, but not the owner, of a building declared by the Chief of Police or the Chief's Designee to be an unsafe building as provided within this Chapter shall have a right to appeal that decision within five days to a Board of Building Appeals. The Board of Building Appeals shall consist of the President of the Council, the Clerk of Council, and the Chairperson of the Safety Committee.

(b) Anyone wishing to appeal shall file notice thereof in writing within five days of delivery of the notice or if service by posting, within five days of posting, with the Clerk of Council, who shall act as the Secretary of the Board of Building Appeals. The Board of Building Appeals shall set a time and place for a hearing on the appeal, and notice of such hearing shall be given to the Chief of Police or the Chief's Designee, the Administrator and the appellant.

(c) Notice of the decision of the Board of Building Appeals, shall be filed in the office of the Clerk of Council, and shall be given to the Chief of Police or the Chief's Designee, the Administrator and the appellant, and such decision shall be final.  
(Ord. 2018-02. Passed 4-25-18.)

**1321.08 ENFORCEMENT BY INJUNCTION.**

The Municipality may also enforce this Chapter by injunction by the commencement of an action in the Court of Common Pleas of the county.  
(Ord. 2018-02. Passed 4-25-18.)

**1321.99 PENALTY.**

(a) The failure by the owner of record or the purchaser under a land contract to comply with the notice shall be a misdemeanor of the second degree. Each day of violation shall constitute a separate offense. It shall be an affirmative defense under this subsection that the particular defendant did not have the authority to correct the unsafe building or did not know of the unsafe building.

(b) Removal of any posted sign or entering any posted building as set forth in Section 1321.04 shall constitute a misdemeanor of the third degree. Each violation shall constitute a separate offense.  
(Ord. 2018-02. Passed 4-25-18.)



## **CHAPTER 1327** **Flood Damage Prevention**

**1327.01 Definitions.**  
**1327.02 General provisions.**

**1327.03 Administration.**  
**1327.04 Provisions for flood hazard reduction.**

### **CROSS REFERENCES**

County flood control aid to governmental units - see Ohio R.C. 307.77  
 Basis of zoning districts - see Ohio R.C. 713.10  
 Construction permits and prohibitions for dams, dikes, or levees - see Ohio R.C. 1521.06  
 Flood hazards; marking flood areas - see Ohio R.C. 1521.14  
 Review of flood plain ordinances - see Ohio R.C. 1521.18

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### **1327.01 DEFINITIONS.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- (a) "Accessory structure" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) "Appeal" means a request for review of the Zoning Inspector's interpretation of any provision of this chapter or a request for a variance.
- (c) "Area of special flood hazard" means the land in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, AI-30 and A99.
- (d) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 100 year flood.
- (e) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- (f) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (g) "Federal Emergency Management Agency" (FEMA) means the agency with the overall responsibility for administering the National Flood Insurance Program.
- (h) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters, and/or
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.

- (i) "Flood Hazard Boundary Map" means the official map issued by the Federal Emergency Management Agency where the areas of special flood hazard have been designated as Zone A.
- (j) "Flood Insurance Rate Map" (FIRM) means an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.
- (k) "Flood Insurance Study" means the official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.
- (l) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (m) "Historic structure" means any structure that is:
  - (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
  - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - A. By an approved state program as determined by the Secretary of the Interior or
    - B. Directly by the Secretary of the Interior in states without approved programs.
- (n) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is built in accordance with the applicable design requirements specified in this chapter for enclosures below the lowest floor.
- (o) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- (p) "Manufactured home park" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent. This definition shall exclude any manufactured home park as defined in Ohio R.C. 3733.01, for which the Public Health Council has exclusive rule-making power.
- (q) "New construction" means structures for which the "start of construction" commenced on or after the initial effective date of the Village of Fayette's Flood Insurance Rate Map, April 4, 2011, and includes any subsequent improvements to such structures.

(r) "Recreational vehicle" means a vehicle which is:

- (1) Built on a single chassis,
- (2) 400 square feet or less when measured at the largest horizontal projection,
- (3) Designed to be self-propelled or permanently towable by a light duty truck, and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(s) "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

(t) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

(u) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(v) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure"; or
- (3) Any improvement to a structure which is considered new construction.

(w) "Variance" means a grant of relief from the standards of this chapter consistent with the variance conditions herein.

(x) "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

(Ord. 2011-09. Passed 4-4-11.)

**1327.02 GENERAL PROVISIONS.**

(a) Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Fayette as identified by the Federal Emergency Management Agency, including any additional flood hazard areas annexed by the Village of Fayette that are not identified on the effective Flood Insurance Rate Map.

(b) Basis for Establishing the Areas of Special Flood Hazard. For the purposes of these regulations, the following studies and I or maps are adopted:

- (1) Flood Insurance Rate Map, Fulton County, Ohio and Incorporated Areas and Flood Insurance Study, Fulton County, Ohio and Incorporated Areas both effective April 4, 2011
- (2) Other studies and /or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
- (3) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the Village of Fayette as required by Section 1327.04(b)(5) Subdivisions and Large Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at 125 West Maine Street, Fayette, OH 43251.

(c) Compliance. No structure or land shall hereafter be located, erected, constructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this chapter and all other applicable regulations which apply to uses within the jurisdiction of this chapter, unless specifically exempted from filing for a development permit as stated in Section 1327.03(b), Exemption from Filing a Development Permit.

(d) Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(e) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of this chapter may be in conflict with a state law, such state law shall take precedence over the chapter.

(f) Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the Village, or any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(g) Violations and Penalties. Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth degree. Any person who violates this chapter or fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall upon conviction thereof be fined or imprisoned as provided by the laws of the Village. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation. The Village shall prosecute any violation of this chapter in accordance with the penalties stated herein. (Ord. 2011-09. Passed 4-4-11.)

### **1327.03 ADMINISTRATION.**

(a) Establishment of Development Permit. A development permit shall be obtained from the Zoning Inspector before construction or development begins within any area of special flood hazard established in Section 1327.02(b), Basis for Establishing the Areas of Special Flood Hazard. Application for a development permit shall be made on forms furnished by the Zoning Inspector and may include, but not be limited to: site specific topographic plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. The following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in special flood hazard areas when base flood elevation data are utilized;
- (2) Elevation in relation to mean sea level to which any proposed structure will be floodproofed in accordance with Section 1327.04(b)(2)A. where base flood elevation data are utilized;
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 1327.04(b)(2)A. where base flood elevation data are utilized;
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.
- (5) Certification by a registered professional engineer, architect, or surveyor of the structure's as-built lowest floor or floodproofed elevation.

(b) Exemption from Filing a Development Permit. An application for a development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than one thousand dollars (\$1,000). Any proposed action exempt from filing for a development permit is also exempt from the standards of this chapter.

(c) Designation of the Flood Damage Prevention Administrator. The Zoning Inspector is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(d) Duties and Responsibilities of the Zoning Inspector. The duties and responsibilities of the Zoning Inspector shall include but are not limited to:

- (1) Permit review.
  - A. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
  - B. Review all development permits to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the Department of the Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. If necessary permits from federal, state or local government will not be issued until the Zoning Inspector issues this development permit, the Zoning Inspector may issue the development permit on the condition that the applicant subsequently obtains all necessary permits from those federal, state and local governmental agencies from which approval is required.
  - C. Review all development permits to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map of the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section 1327.04(c)(1) is met.
  - D. Inspect all development projects before, during, and after construction to ensure proper elevation of the structure and to ensure compliance with all provisions of this chapter.
- (2) Use of other base flood elevation and floodway data. Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section 1327.02(b), Basis for Establishing the Areas of Special Flood Hazard, are designated as Zone A on the community's Flood Insurance Rate Map (or Flood Hazard Boundary Map). Within these areas, the Zoning Inspector shall obtain review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, including data obtained under Section 1327.04(b)(5), Subdivisions and Large Developments, in order to administer Section 1327.04(b)(1), Specific Standards, Residential Construction; Section 1327.04(b)(2), Specific Standards, Nonresidential Construction; and Section 1327.04(c), Floodways.
- (3) Information to be obtained and maintained. Where base flood elevation data are utilized within areas of special flood hazard on a community's Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:
  - A. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and record whether or not such structures contain an enclosure below the lowest floor;

- B. For all new or substantially-improved floodproofed nonresidential structures:
  1. Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and,
  2. Maintain the floodproofing certifications required in subsection (a)(3) hereof.
- C. Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) Alteration of watercourses.

- A. Notify adjacent communities and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse is considered to be altered if any change occurs within its banks.
- B. Maintain engineering documentation required in Section 1327.03(a)(4) that the flood carrying capacity of the altered or relocated portion of said watercourse will not be diminished.
- C. Require that necessary maintenance will be provided for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished.

(5) Interpretation of flood boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Where a map boundary and field elevations disagree, the elevations delineated in the flood elevation profile shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (e) hereof, Variance Procedure.

(e) Variance Procedure.

(1) Appeal Board.

- A. The Zoning Board of Appeals as established by the Village shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination by the Zoning Inspector in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals or any taxpayer, may appeal such decision to the Fulton Court of Common Pleas, as provided in Ohio R.C. Chapter 2506.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  1. The danger that material may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
6. The necessity to the facility of a waterfront location, where applicable;
7. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
11. The compatibility of the proposed use with existing and anticipated development;

E. Upon consideration of the factors of subsection (e)(1) and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The Zoning Inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(2) Conditions for variances.

- A. Variances shall not be issued within any designated floodway if any increase in base flood levels would result.
- B. Variances shall be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1. to 10. in subsection (e)(1)D. have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- D. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- E. Variances shall only be issued upon:
  - 1. A showing of good and sufficient cause;
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
  - 3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (e)(l)D. hereof, or conflict with existing local laws or ordinances.
  - 4. A determination that the structure or other development is protected by methods to minimize flood damages.
- F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- G. Variances may only be issued where due to physical characteristics of the property compliance with the requirements of this chapter creates an exceptional hardship. Increased cost or inconvenience of meeting the requirements of this chapter do not constitute an exceptional hardship.

(Ord. 2011-09. Passed 4-4-11.)

#### **1327.04 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

(a) General Standards. In all areas of special flood hazard the following standards are required:

- (1) Anchoring.
  - A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - B. All manufactured homes, not otherwise regulated by the Ohio Revised Code pertaining to manufactured home parks, shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (2) Construction materials and methods.
  - A. All new construction and substantial improvement shall be constructed with materials resistant to flood damage;
  - B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and

- C. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) Utilities. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:
  - A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
  - B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
  - C. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Subdivision proposals.
  - A. All subdivision proposals, including manufactured home subdivisions shall be consistent with the need to minimize flood damage;
  - B. All subdivision proposals, including manufactured home subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - C. All subdivision proposals, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and
  - D. All subdivision proposals, including manufactured home subdivisions, shall meet the specific standards of subsection (b)(5) hereof, Subdivisions and Large Developments.

(b) Specific Standards. In all areas of special flood hazard where base flood elevation data have been provided as set forth in Section 1327.02(b), Basis for Establishing the Areas of Special Flood Hazard; Section 1327.03(d)(2), Use of Other Base Flood Elevation and Floodway Data; subsection (b)(5) hereof, Subdivisions and Large Developments, the following provisions are required:

- (1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to two feet (2') above the base flood elevation.
- (2) Nonresidential construction.
  - A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to two feet (2') above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
    - B. Be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of two feet (2') above the base flood elevation.
    - C. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

D. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. Such certification shall be provided to the official as set for in Section 1327.03(a)(3).

(3) Manufactured homes and recreational vehicles. The following standards shall apply to all new and substantially improved manufactured homes not subject to the manufactured home requirements of Ohio R.C. 1733.01:

A. Manufactured homes shall be anchored in accordance with subsection (a)(1)B. hereof.

B. Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at the base flood elevation.

These standards also apply to recreational vehicles that are either located on sites for 180 days or more, or are not fully licensed and ready for highway use.

(4) Enclosures below the lowest floor. The following standards apply to all new and substantially improved residential and nonresidential structures which are elevated to two feet (2') above elevation using piling, columns, or posts. Fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must:

A. Be certified by a registered professional engineer or architect; or,

B. Must meet or exceed the following criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
2. The bottom of all openings shall be no higher than one foot above the grade. Openings may be equipped with screens, louvers, valves or other openings provided that they permit the automatic entry and exit of floodwaters.

(5) Subdivisions and large developments. In all areas of special flood hazard where base flood elevation data have not been provided in accordance with Section 1327.02(b), Basis for Establishing the Areas of Special Flood Hazard, or Section 1327.03(d)(2), Use of Other Base Flood Elevation and Floodway Data, the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least fifty lots or five acres (whichever is less):

A. The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;

B. If subsection (b)(5) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection (a) hereof, General Standards, and subsection (b) hereof, Specific Standards.

(6) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:

- A. They shall not be used for human habitation;
- B. They shall be constructed of flood resistant materials;
- C. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- D. They shall be firmly anchored to prevent flotation;
- E. Service facilities such as electrical and heating equipment shall be elevated or flood proofed to or above the level of the flood protection elevation; and
- F. They shall meet the opening requirements of Section 1327.04(b)(4)

(c) Floodways. A floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. The Flood Insurance Rate Map (or Flood Hazard Boundary Map) does not designate a floodway. However, floodways may be delineated in other sources of flood information as specified in Section 1327.03(d)(2). The following provisions apply within all delineated floodway areas.

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If subsection (c)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection (b) hereof, Specific Standards.
- (3) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon the prior approval by the Federal Emergency Management Agency. Such request must be submitted by the Zoning Inspector to the Federal Emergency Management Agency and must meet the requirements of the National Flood Insurance Program.

(d) Areas without Floodways. In all areas of special flood hazard where the Flood Insurance Study provides base flood elevation data, but no floodways have been designated, the following provisions apply:

- (1) New construction, substantial improvements, or other development (including fill) shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 1.0 (one) foot at any point.
- (2) If Section 1327.04(c) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.

(e) Standards in Areas of Special Flood Hazard Without Base Flood Elevation Data. In all areas of special flood hazard identified as Zone A on the Flood Insurance Rate Map where base flood elevation data are not available from any source, including Section 1327.04(d)(2), the following provisions apply:

- (1) New construction and substantial improvement of any residential (including manufactured homes), commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to the flood of record or at least two feet above the highest adjacent natural grade, whichever is greater.

(Ord. 2011-09. Passed 4-4-11.)

**CHAPTER 1339**  
**Ohio Building Codes**

**1339.01 Adoption of codes.**

**1339.02 Building department established.**

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**1339.01 ADOPTION OF CODES.**

The Ohio Administrative Code 4101:1 - the Building Code; 4101:2 - the Mechanical Code; and 4101:3 - the Plumbing Code, as promulgated by the Ohio Board of Building Standards, are hereby adopted as the Building Code of the Village of Fayette, Ohio for all construction within the jurisdiction of such code.

(Ord. 2015-06. Passed 8-9-16.)

**1339.02 BUILDING DEPARTMENT ESTABLISHED.**

(a) The Village of Fayette Building Department is hereby established.

(b) Said Department shall have full authority to enforce all laws, statutes and regulations as provided and authorized in the Ohio Revised Code and the Ohio Administrative Code pursuant to the Certification approved by and Certification rule adopted by the Ohio Board of Building Standards. (Ord. 2015-06. Passed 8-9-16.)

