

## **ORDINANCE 696-04-18**

### **AN ORDINANCE TO REPLACE AND AMEND CHAPTER 1351 – PROPERTY MAINTENANCE CODE OF THE VILLAGE OF ROAMING SHORES, OHIO CODIFIED ORDINANCES, ATTACHED HERETO AND MARKED “EXHIBIT A” AND NOT DECLARING AN EMERGENCY**

BE IT ORDAINED, by the Village of Roaming Shores, County of Ashtabula and State of Ohio:

**SECTION 1.** Chapter 1351 is hereby deleted and replaced with the following provisions.

#### **SECTION 2. DEFINITIONS.**

As used in this chapter:

(A) “Dangerous building or structure” means any building, structure or mobile home (on a foundation or otherwise) which contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible.

(B) “Unsafe equipment” means any boiler, heating equipment, elevator, moving stairway, electrical wiring or device on the premises which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety to the public or its inhabitants.

(C) “Building or structure unfit for human occupancy” means any building, structure or mobile home designed or used for human occupation which is unsanitary, vermin or rat infested, contains filth or contamination, or lacks potable water, ventilation, illumination or sanitary facilities.

(D) “Blighted building” means any building, structure or mobile home in a significant state of disrepair, including but not limited to, broken windows and doors, boarded windows or doors, crumbling foundations, missing siding or walls, etc.

(E) “Unsightly building” means any building, structure or mobile home with missing shingles or peeling paint; or with broken or unsafe stairway, porches, fences or retaining walls.

(F) “Dangerous landscaping” means trees, shrubs or other plants which extend out into sidewalks, the right of way or onto adjacent property in such a manner as to interfere with pedestrian or vehicular traffic or which presents a significant risk to human life or property. Dangerous landscape further includes residual debris and holes in the ground, including uncovered basements, left after the passage of thirty days from the beginning of a demolition.

(G) “Owner” means the owner of record of the premises in fee or any lesser estate therein, a mortgagee or vendee in possession, assignee of the rents, receiver, executor, administrator, trustee, lessee or other person in control of the premises or their duly authorized agents including but not limited to property managers.

(H) “Demolition material” means all material, including but not limited to, rock, stone, concrete, and asphalt which is used in construction, mining, building maintenance, or road or street maintenance.

(I) “Furniture and/or Other Materials” means those items manufactured to be used inside a building or structure, such as, but not limited to, couches and chairs (conventional or

overstuffed), mattresses, box springs, water closets, sinks, cabinets, tables, game tables, or other similar items manufactured to be used for interior purposes.

(J) “Garbage” means all putrescible matter, including but not limited to animal or vegetable wastes or feces, whether solid, liquid or mixed, which attends, exists, or is created or accumulates within the Village.

(K) “Litter” includes any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of vehicles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

(L) “Rubbish or refuse” means all natural or manmade matter, whether putrescible or nonputrescible, combustible or noncombustible and including but not limited to ashes, paper, tin, tin cans, bottles, glass, a non-permitted temporary sign, a temporary sign when its temporary sign permit has expired, vegetable material, brush, grass, leaves, wrappings, cardboard, trees, shrubs, crockery, dead animals, furniture or appliances (or parts thereof), industrial waste, waste of a dangerous or explosive nature, septic tank cleanings, demolition matter, rubber tires, rubber products, metal, motor vehicle parts or pieces, engines and motors or parts thereof, any upholstered furniture not manufactured, designed, and intended for exterior use, or any similar object which is not clearly intended for outdoor use on the premises.

(M) “Public nuisance” means any yard, land or lot, fence, wall, garage, shed, house, building, structure, sign, tree, pole, smoke stack, or any excavation, basement, cellar, well, cistern or sidewalk subspace or part thereof:

1) having an accumulation of demolition material, garbage, litter, rubbish or weeds, which accumulation creates a danger to health, life, limb or property;

(2) which will cause hurt, harm, discomfort, damage or injury to the public or to any considerable number of persons in the Village or to members of the public by reason of any one or more of the following:

- a) Being detrimental to the general health of the community,
- b) Being a fire hazard,
- c) Being unsafe for occupancy, or use,
- d) Being an attractive nuisance to children,
- e) Lack of reasonable or adequate maintenance of structures, and grounds, causing deterioration and blighting influence on nearby properties and thereby depreciating the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community,
- f) Having a condition which violates a provision of the Building and Housing Code adopted in Chapter Thirteen of the Codified Ordinances of the Village of Roaming Shores, Ohio,
- g) Being a bench billboard which has fallen into such a state of disrepair or has suffered such damage and wear so as to no longer be in compliance with the Village’s Housing and Building Code or is otherwise dangerous to use
- h) A sign which is prohibited under Section 1351.05 of the Codified Ordinances of the Village of Roaming Shores, Ohio.

(N) “Public nuisance” shall also mean any yard, land, or lot, or part thereof, other than a yard or lot zoned or legally used, for any use first permitted by Chapter Eleven of the Codified

Ordinances of the Village of Roaming Shores which has placed or stored thereupon any used washer, dryer, refrigerator, dishwasher, stove, range, oven, freezer, water heater or other like major appliance, including, but not limited to, any yard, land, or lot or part thereof, upon which any such major household appliance is placed for purposes of outdoor sales and/or outdoor display.

**SECTION 3 1351.02 NUISANCE DETERMINATION: PROHIBITION.**

(A) When a reasonable basis to believe that a public nuisance exists, the Police Chief or his/her designee shall inspect or cause the inspection of the premises on which such public nuisance is believed to exist. The Fire Chief may and, upon request of the Police Chief or his/her designee, shall inspect or cause the inspection of the premises on which a public nuisance is believed to exist.

(B) No owner or occupant of a premises shall permit the existence of a public nuisance to continue on such premises.

**SECTION 4 1351.03 NOTICE AND ABATEMENT.**

(A) If, upon inspection, it is determined that a public nuisance exists, then the Police Chief or his/her designee shall send or deliver a written notice in accordance with Section 1351.07 of this chapter to abate such public nuisance to each owner or occupant, or both, who caused or permitted the public nuisance to exist. Such notice shall identify the public nuisance and require the owner or occupant, or both, to abate the public nuisance within seven (7) days of such notice if the public nuisance is litter or rubbish and in all other cases within thirty (30) days of such notice either by the removal of the public nuisance or the repair of the public nuisance. Failure to abate the public nuisance within seven (7) or thirty (30) days of such notice, as provided herein, may cause the Village to abate the public nuisance at the expense of the owner or occupant, or both, who caused or permitted such public nuisance to exist.

(B) The Police Chief or his/her designee shall prepare or cause the preparation of a written report, including photographs, of every public nuisance for which a notice to abate is issued. All such reports shall remain on file with the Mayor's Office until the public nuisance is abated.

**SECTION 5. 1351.04 NOTICES.**

(A) Whenever the Police Chief or his designee determines that there has been a violation of any provision of this chapter, he/she, or his/her designee, may give notice of such violation to the person responsible therefor and order compliance with this chapter as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, refer to the section or sections of this chapter violated and order remedial action which, if taken, will effect compliance with the provisions of this chapter;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator or occupant of the procedure for appeal, except emergency orders issued pursuant to Section 1351.07(b);

(5) Be served on the owner or occupant in person or by certificate of mailing to his last known mailing address, residence, or place of business, and a copy is posted in a conspicuous place in or on the dwelling affected. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery.

(6) The notice and order may, in the alternative, be served by leaving it at his last known residence or place of business in the presence of a family member or other responsible person of suitable age and discretion who shall be informed of the general nature of the contents thereof. If service is not accomplished by any of the above means, then a notification of the existence of the notice and order may be published at least once in a local newspaper of general circulation.

(B) Any person aggrieved by the determination of the Police Chief or his/her designee shall have a period of ten (10) days from receipt of the notice to file a written appeal to the Village Planning Commission. There shall be a \$50.00 filing fee paid by the aggrieved party to the Village for any appeal filed. Said appeal shall provide the name, address and phone number of the appealing party, the address of the violation, and the basis for disputing the Village determination that the property violates Chapter 1351. Said appeal shall be heard by the Village Planning Commission within forty-five (45) days, and the Administrator shall insure that the person filing the appeal has at least five (5) days' notice of said hearing. The Commission shall take testimony from the party appealing and from the Village, shall make written findings and shall issue a written decision. Any party aggrieved by the Planning Commission shall have thirty (30) days from receipt of the date of decision to appeal to the Ashtabula County Common Pleas Court.

(C) In instances where a dangerous building or dangerous landscape becomes an imminent threat and danger to the occupant or to the public, and, in the case of a dangerous building, the same is supported by an affidavit from a registered engineer, county health official, State Fire Marshal or certified Building Official, the Police Chief or his/her designee may take immediate steps to eliminate the imminent threat to the public without waiting for the remedial period or an appeal, including demolition, removing occupants from the dwelling and any other measures necessary to protect the public.

(D) Upon failure of the owner to comply with the provisions of this chapter within the time limit following service of the "Notice of Violation", the Village may remediate dangerous landscaping, remove trash and rubbish, make repairs or demolish a building in order to abate the public nuisance.

(E) If the Village makes such remediation, repairs, removal or demolition pursuant to this section, the costs shall be borne by the owner, which shall include all costs incurred by the Village, including cost of performing the work, engineering or other experts and costs, if any, of borrowing funds to complete the work, together with an administrative fee of twenty percent (20%) of the total costs.

(F) The expenses of the abatement shall be determined and billed to the property owner by regular mail. If the bill is not paid within ten (10) days following the date of mailing, the Village Clerk shall certify to the County Auditor the action taken under this chapter, a statement of the charges for such action, and a proper description of the premises, for the purpose of making the same a lien upon such land to be collected as other taxes and returned to the Village General Fund in accordance with Ohio R.C. 731.54.

## **SECTION 6 1351.05 REQUIRED SCHEDULE FOR BOARDED STRUCTURES.**

- (A) The owner of a structure known to have been boarded up for one hundred eighty (180) days shall receive from the Police Chief or his/her designee a "Notice to Elect Whether to Rehabilitate, Sell, or Demolish the Structure." Within ninety (90) days after the aforesaid Notice to Elect is sent to the owner, the owner of the structure (hereafter termed "owner") shall prepare a proposal to sell, demolish, or rehabilitate said structure including a timetable for completing said proposal. Police Chief or his/her designee shall examine the owner's proposal and timetable to see if it is a reasonable response to the condition of the structure. Provided there is a timely start and adequate progress, a timetable of as long as fifteen (15) months can be approved by the Police Chief or his/her designee.
- (B) If the Police Chief or his/her designee determines that the proposed timetable to sell, demolish, or rehabilitate the structure is reasonable, and the proposed work program will result in bringing the structure into compliance with law, then the owner's proposal shall be approved by the Police Chief or his/her designee, and further Village enforcement shall be withheld as long as the property remains secure, and the timetable and work program are fulfilled.
- (C) If the Police Chief or his/her designee determines that the timetable is unreasonable, or that the proposed work program will not bring the structure into compliance with the law, then the Police Chief or his/her designee shall disapprove the proposal, state the reasons therefor in writing, and continue enforcement action to require the repair or demolition of the structure.
- (D) Sale. If the approved proposal calls for sale of the property, then the property shall be continuously listed on the Multiple Listing Service at a price deemed reasonable by the Police Chief or his/her designee, considering the conditions of the structure and the value of the underlying property. The listing must commence within thirty (30) days of the approval of the proposal.
- (E) Demolition. If the approved proposal calls for demolition of the property, then the necessary approvals (historical or other) must be sought in a timely manner, all necessary submissions being completed within thirty (30) days of the approval of the proposal. Once all needed approvals have been received, the structure's demolition must begin within thirty (30) days and be continuously pursued.

- (F) Rehabilitation. If the approved proposal calls for the rehabilitation and repair of the structure, then all trash, debris, and other contents impeding the necessary examinations by contractors and inspectors, shall be removed within thirty (30) days of the approval of the proposal. Thereafter the approved timetable and work program shall be fulfilled on schedule, or the Police Chief or his/her designee shall commence an action to force repair or demolition. The approved rehabilitation program shall be subject to the same requirements for building permits, zoning approvals, and such other regulatory approvals as apply to other structures within the Village.

**SECTION 7. 1351.06 NONCOMPLIANT BOARDED STRUCTURES A NUISANCE.**

It is hereby found that structures which have been boarded up for more than one hundred eighty (180) days, have been the subject of a "Notice to Elect" pursuant to Section 1351.08 for longer than ninety (90) days, yet still have no approved proposal, are in fact public nuisances. This finding reflects the blighting influence of such structures, their tendency to become attractive nuisances, their tendency to harbor rats and vermin, and the accelerated decay common to such structures. Therefore, while noncompliant owners are subject to the penalties referenced in Section 1351.13, the structures themselves are to be the subject of appropriate proceedings to mandate the abatement of the public nuisance.

**SECTION 8. 1351.07 COOPERATING OWNERS; SPECIAL NOTICE; AND ABATEMENT.**

When, upon inspection, it is determined that a public nuisance exists in the form of litter, rubbish, or refuse as defined in Section 1351.01 at a single-family dwelling unit, then the Police Chief or his/her designee shall send or deliver a written notice to abate such public nuisance to each owner and to the tenant who caused or permitted the public nuisance to exist. Such notice served on the tenant shall identify the public nuisance and require the tenant to abate the public nuisance within seven (7) days of such notice and such notice served on the owner shall identify the public nuisance and require the owner to abate the public nuisance within seven (7) days of such notice either by the removal of the public nuisance or the repair of the public nuisance. Failure to abate the public nuisance within seven (7) days of such notice being served on both the owner and tenant, as provided herein, may cause the Village to abate the public nuisance at the expense of the owner or tenant, or both, who caused or permitted such public nuisance to exist.

**SECTION 9 1351.09 CHAPTER NOT EXCLUSIVE.**

This chapter shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the Village, but shall be deemed as an enlargement of any authority existing by virtue of the statutes of the State of Ohio, or any ordinance heretofore enacted by Council.

**SECTION 10 SEVERABILITY.**

Should any section or provision of this chapter be held by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**SECTION 11 1351.11 CIVIL PENALTY FOR FAILURE TO PAY.**

In the event any person fails to pay a sum, required to be paid to the Village under this Chapter (hereinafter the “principal sum”), within ninety (90) days after the sum becomes due and owing to the Village, a civil penalty is imposed on such person equal to thirty-three and thirty-three one-hundredths percent (33.33 %) of the sum of the following two items:

- (a) the unpaid principal sum due and owing to the Village under this Chapter,
- (b) court costs incurred in obtaining a judgment against such person for the unpaid principal sum due and owing to the Village under this Chapter.

**SECTION 12 1351.12 TRANSFER OF OWNERSHIP**

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Police Chief or his/her designee and shall furnish to the Police Chief or his/her designee a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

**SECTION 13 1351.13 PENALTY.**

- (a) Whoever violates or fails to comply with any provision of this chapter shall be fined not more than one hundred fifty dollars (\$150) on a first offense and for a second offense, shall be fined not more two hundred fifty dollars (\$250.00) or imprisoned not exceeding thirty (30) days, or both.

**SECTION 14.** That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council or any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION 15.** That this Ordinance is not declared to be an emergency measure in the interests of public peace, health and safety, and shall take effect thirty (30) days after passage.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Jennie D’Amicone, Mayor

ATTEST:

\_\_\_\_\_  
Leeann Moses, Clerk/Treasurer

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Kyle B. Smith, Solicitor



Exhibit A