

RECORD OF ORDINANCES

Dayton Legal Blank Co.—10116

Ordinance No. 1990-04

Passed June 19, 1990

AN ORDINANCE CREATING A PROPERTY MAINTENANCE CODE FOR THE CITIZENS OF THE MUNICIPALITY OF BROOKVILLE, OHIO.

WHEREAS, it has come to the attention of the Council of the Municipality of Brookville, Ohio, that it would be in the best interest of the citizens of the Municipality to have a property maintenance code governing the care and maintenance of property within the Municipality; and

WHEREAS, it is deemed necessary for the health, safety, and welfare of the citizens of the Municipality, Brookville, Ohio to have said property maintenance code;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE COUNCIL OF THE MUNICIPALITY OF BROOKVILLE, OHIO, THAT:

SECTION 1. PURPOSE.

The condition of all premises and the exterior of all buildings and structures thereon shall be maintained at a level in keeping with the standards of the Municipality of Brookville, Ohio. The purpose of these Ordinances shall be the elimination and prevention of blighting effects and hazards to health, safety, and welfare of the public citizens of the Municipality.

SECTION 2. DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. Where terms are not defined under the provisions of this chapter, they shall have ascribed to them their meaning as set forth in the definitions contained in the Zoning Ordinances of this Municipality. If such terms are not defined under the Zoning Ordinances, they shall have ascribed to them their ordinarily accepted meanings or such meanings as the context herein may imply. Where questions arise as to the meaning of terms not defined, the property maintenance officer shall determine the implied meaning. For further amplification and clarity of interpretation, the following rules of word use shall apply: words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural the singular.

"ACCESSORY STRUCTURE." A structure, whether temporary or permanent, the use of which is incidental and secondary to that of a principal building and which is located on the same premises.

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"BUILDING" or "STRUCTURE." Shall be deemed to include the word "premises."

"DETERIORATION." Refers to a diminution of quality, character, or value of a structure because of lack of maintenance. Such deterioration, if left unchecked, can lead to dilapidation. Deterioration is frequently the result of inadequate paint protection, faulty roofing, faulty gutters and downspouts, deteriorating screening, loose doors and windows, access by or infestation by vermin, blockage of drains, inadequate structural support systems, and the like.

"DILAPIDATION." Refers to structures evidencing a state of ruin, decay, or disrepair. The severity of dilapidation shall be judged by examination of major structural components like foundations, bearing walls, floor joints, rafters, and roofs, and by examination of minor structural components like windows, doors, siding, roofing, and guttering. The sources of dilapidation will not necessarily be included within the preceding lists of structural components. The term implies a hazard to life or property.

"PROPERTY MAINTENANCE OFFICER." Refers to the Municipal Manager or his designee for property maintenance code enforcement activity. The term may also refer to representatives of the Dayton-Montgomery County Combined General Health District when such personnel are acting on behalf of the village. P. M. O. shall be an abbreviation in referring back to Property Maintenance Officer.

"LOT." Includes the words "zoning lot," "piece," "parcel," and "plot."

"MAY." Is permissive.

"OWNER." The owner of record of the premises of fee or lesser estate therein, a mortgagee, vendee in possession, land contract purchaser, assignee of the rents, receiver, executor, administrator, trustee, or lessee, as determined by an examination of the public records of Montgomery County, Ohio, or any other person, firm, or corporation in control of a building or their duly authorized agents.

"PREMISES." A lot, plot, or parcel of land, including all buildings or structures thereon, and including the area known as the parkway, tree lawn, situated between the sidewalk and the street or the front, side, or rear lot line adjoining the street and extending along the front, back, or sides of such a lot, plot, or parcel of land.

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"REFUSE AND WASTE." Unused or discarded matter and material having no substantial market value, and which includes, among other items: rubbish, refuse, debris, and similar matter including but not limited to rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, building materials, crates, cartons, containers, boxes, machinery, or parts thereof, scrap metal and other pieces of metal (ferrous or non-ferrous), furniture, inoperative motor vehicles and parts, trimmings from plants and trees, cans, bottles, and barrels.

"SHALL." Is mandatory and not discretionary.

"STRUCTURE." An assembly of materials forming a construction or occupancy or use including among other: buildings, stadiums, gospel and circus tents, reviewing stands, platforms, observation towers, radio towers, water tanks, swimming pools and their enclosures, domes such as plastic, geodesic, air-supported, etc., open sheds, coal bins, shelters, fences, and display signs.

SECTION 3. INTERPRETATION.

(A) Minimum requirements. The provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and general welfare. In the event provisions of this chapter impose the same requirement or obligation upon more than one person, each such person shall be equally responsible for the performance of such requirement or obligation.

(B) More restrictive requirement to govern. Where the conditions imposed by any provision of this chapter, upon the use or maintenance of land or buildings, are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or any other regulation, the regulations, laws, ordinances, etc., which are more restrictive or which impose higher standards or requirements shall govern.

(C) Status of private agreements. This chapter is not intended to repeal or interfere with any easement, covenant, or other private agreement, provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements than the easements, covenants or other private agreements, the requirements of this chapter shall govern.

(D) Municipal exemption. The provisions of this chapter shall not be deemed to apply to municipal operations or personnel, or contractors to the village when such personnel or

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contractors are acting in the performance of functions for the municipality.

SECTION 4. NUISANCES.

The following conditions, acts, and items are declared to be nuisances: It being expressly understood that all other definitions of nuisances under this property maintenance chapter or any other chapter of the Code of Ordinances in the Municipality of Brookville, Ohio shall be equally considered to be a nuisance;

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

(B) Hazardous obstructions. Landscaping or an obstacle or thing installed, or maintained in the zoning front yard setback area of a corner yard, reaching a height of higher than three feet above the adjoining curb at the applicable corner of the street intersection, or three feet above the nearest pavement surface where there is no curb, hazard obstructions neither mean existing nor future permanent buildings otherwise constructed or maintained in accordance with applicable zoning and building regulations nor public utility poles nor trees trimmed at the trunk at least eight feet above the level of the ground surface; provided trees are spaced so that trunks do not obstruct the vision of motorists.

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

(D) Refuse and waste. Refuse and waste matter which, by reason of its location and character, is unsightly and interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially interfere with the prevention or suppression of fire upon the premises.

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(E) Use of private property by vehicles. The use of private property by any form of motorized or motor-driven bicycle, bike, scooter, or vehicle.

(F) Improper motor vehicle and machinery storage. Inoperative, abandoned, wrecked, or dismantled motor vehicles and machinery, or any other machinery or motor vehicle determined by municipal authorities to be a danger or hazard to the general health and welfare of the public, or any parts thereof, stored outside a completely enclosed structure or visible from either the street, alley, or neighboring properties. This definition shall also include an inoperable, dismantled, partly dismantled, or wrecked motor vehicle, or parts thereof, or any motor vehicle which is of no value except for salvage or junk purposes, or any motor vehicle which is unlicensed or not currently licensed for a period of seven (7) days or more.

(G) Inadequate property maintenance. It is hereby declared a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises in this municipality to maintain such premises in such manner that any of the following conditions are found to exist thereon:

(1) Buildings which are abandoned, dilapidated, improperly secured, partially destroyed, or left in a state of partial construction.

(2) Unpainted buildings, resulting in dry rot, warping, and termite infestation.

(3) Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief.

(4) Noxious weeds, as determined by the State Director of Agriculture pursuant to the authority granted him by R.C. 907.10(B)(2), or other vegetation, including grasses, which is eight (8) inches or more in height, or any weed or vegetation growth causing a hazardous condition to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin, or other pests.

(5) Dead trees and litter which, for purposes herein, shall include garbage waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

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(6) Attractive nuisances, dangerous to children and other persons, in the form of abandoned and broken equipment, hazardous pools, ponds, and excavations, and neglected machinery.

(7) Broken or discarded furniture and household equipment in visible yard areas.

(8) Clothesline in front yards.

(9) Garbage cans stored in front or side yards and visible from public streets.

(10) Packing boxes and crates or other debris stored in visible yard areas.

(11) Property, such as building exteriors, which is maintained in such condition as to become so defective, unsightly, or in such condition of deterioration or disrepair that the same will probably cause diminution in values of surrounding property or is materially detrimental to proximal properties and improvements. This includes, but is not limited to, the keeping, disposing or scattering over the premises of lumber, junk, trash, debris; abandoned, discarded, or unused objects or equipment such as automobiles, or parts thereof, furniture, stoves, refrigerators, freezers, cans or containers; or any device, decoration, design, fence, or structure which is unsightly by reason of condition or inappropriate location.

(12) Materials used to build, maintain, and repair structures shall be like the materials used similarly elsewhere on the structure so as not to create a patchwork appearance. Intermediate construction materials, such as asphaltic-coated papers for roofing and masonite for siding, shall not be submitted for permanent construction materials customarily utilized in new finished construction.

SECTION 5.

No person shall create, permit, or maintain a public nuisance as described in Section 4. herein.

SECTION 6. STRUCTURAL DEFECTS.

Any building, structure, or paved area exhibiting any of the following conditions or defects to a significant degree shall be deemed a nuisance and shall be altered or repaired so as to abate the nuisance forthwith.

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(A) Whenever any exterior door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit, in case of fire or panic, for all persons housed or assembled therein who would be required to, or might use such door, aisle, passageway, stairway, or other means of exit.

(B) Whenever any portion thereof has been damaged by earthquake, wind, flood, or by any other cause, in such a manner that the structural strength or stability thereof is appreciable less than the minimum code requirements for a new building or similar structure.

(C) Whenever any portion, member, or appurtenance thereof is likely to fall, become detached or dislodged, or to collapse, and thereby injure person or persons or damage property.

(D) Whenever any building, portion thereof, or any member, appurtenance or ornamentation on the exterior that is not of sufficient strength or stability or is not anchored, attached, or fastened in place as to be capable of resisting the working stresses permitted in applicable building codes.

(E) Whenever any portion thereof has settled to such an extent that walls or other structural portions have materially less resistance to winds or design forces than is required in the case of new construction.

(F) Whenever the buildings or structure, or any portion thereof, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or some other cause, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fail or give way.

(G) Whenever, for any reason, a building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is used.

(H) Whenever a building or structure has been so damaged by fire, wind, earthquake, flood, or other cause, or has become so dilapidated or deteriorated, as to become an attractive nuisance.

(I) Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, or faulty construction or arrangement, or

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otherwise, is unsanitary, unfit for human habitation, or is in a condition that is likely to cause sickness or disease, when so determined by the Housing Officer, or is likely to work injury to the health, safety, or general welfare of those living within or nearby.

(J) Whenever a building or structure, used or intended to be used for dwelling purposes, has light, air, and sanitation facilities inadequate to protect the health, safety, or general welfare of persons living within.

(K) Whenever any building or structure, by reason of obsolescence, dilapidated condition, deterioration, damage, electric wiring, gas connections, heating apparatus, or other cause, is in such condition as to be a fire hazard and is so situated as to endanger life or other buildings or property in the vicinity or provide a ready fuel supply to augment the spread and intensity of fire arising from any cause.

(L) Any sidewalk or driveway which is debilitated, broken, damaged, or raised to such a degree as to be injurious to persons using said driveway or sidewalk.

SECTION 7. MAINTENANCE AFTER PROPERTY DAMAGE.

(A) Within thirty (30) days or any other reasonable time as determined by the Property Maintenance Officer, due to the severity of the damage to any real property, whichever time period is longer, the owner or person or persons having possession or control of such real property shall be responsible for providing the following:

(1) Contracted for the demolition and removal of any aspects of the premises not to be repaired or restored, and also for the removal of debris in connection therewith;

(2) Contracted for repair and restoration of damaged areas and the removal of debris in connection therewith;

(3) Arranged for dates of performance under such contracts which will result in the work being completed within 60 days from the contract date, except to the extent that delay is caused by weather, strikes, acts of God, or other events beyond the control of the owner and contractor.

(B) Any damaged property posing an immediate threat to the general health and safety because of property damage shall be closed securely or as necessary, rendered safe through

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additional support to prevent collapse or threat to life and property.

(C) In addition to other remedies provided by law, failure to comply with provisions of this section may result in the Municipality taking action to remove, repair, or secure structures pursuant to authority derived from R.C. 3929.86.

SECTION 8. CLOSING OF VACANT STRUCTURES.

(A) Structures which are vacant or unfit for human habitation, occupancy, or use, but not in danger of structural collapse, may be ordered closed by the Property Maintenance Officer. The order for closure shall be conveyed to the owner of the property at the address most recently on file with the County Auditor's office, or to the person or persons having control of the real estate or via a placard of condemnation posted on the premises. Having received the order for closure, structures shall be secured with sturdy plywood, or other materials approved by the Property Maintenance Officer within the time specified in the order.

(B) Vacant or condemned structures, with or without a closure order from the Municipality, shall have at least one "no trespassing" sign posted on a prominent place on each outside wall.

(C) Plywood or other approved materials, used to close up vacant or condemned structures shall be painted a color compatible with the color of the structure to which such materials are attached.

SECTION 9. FENCES AND WALLS.

(A) All fences, walls, or similar structures shall be anchored firmly to the ground, shall be constructed in a workmanlike manner, and shall be maintained in a manner that such fences, walls, or similar structures shall always be in a state of good structural repair. All wooden and metal fences shall be treated periodically with such chemicals and paint as will retard deterioration.

(B) Fences, walls, and similar structures not in a state of good structural repair shall be rehabilitated or removed as necessary.

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SECTION 10. NOTICES AND ORDERS.

(A) Notice: Whenever the Property Maintenance Officer determines that there has been a violation of this chapter or has reasonable grounds to believe that a violation has occurred, or whenever any structure or equipment has been condemned under the provisions of this chapter, the Property Maintenance Officer or other designee of the Municipality of Brookville, Ohio shall give notice to the owner or person or persons responsible for said property in the manner prescribed herein. If the property has been condemned in whole or in part, the Property Maintenance Officer or his designee shall give notice to the owner or to the occupants of the intention of the Municipality of Brookville, Ohio to placard and to vacate the property, or to order equipment out of service.

(B) Form: All notices as set forth herein shall be in writing and shall include the following:

1. A description of the real estate which is sufficient for necessary identification.

2. A statement of the reason or reasons why the notice is being issued, including specific references to the Ordinance or Ordinances so violated.

3. A correction order allowing a reasonable time for any necessary repairs and improvements which will bring the dwelling unit or structure or equipment into compliance with the provisions of this chapter.

4. An explanation of the rights of the owner or persons in possession to seek modification or withdrawal of the notice by petition to the Planning Commission.

(C) Service: Service shall be deemed to be properly served upon any owner or person in possession of any property in violation of this chapter if a copy thereof is delivered to that person or owner personally; or by leaving the notice at the usual place of abode in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof; or by certified or registered mail addressed to the owner or person in possession at their last known address with return receipt requested; or if the certified mail or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice, and publishing such notice in a local newspaper of general circulation at least once a week for two (2) consecutive weeks.

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(D) Service on Occupants: When a condemnation order is served on an occupant other than the owner or person responsible for such compliance, a reasonable time to vacate the property after non-compliance shall be stated. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is a failure of compliance.

SECTION 11. PERMITS REQUIRED.

(A) Remodeling, rehabilitation, and new construction activities shall require the same permits from the village, county, or other authorizing source, and the payment of the same fees, as would be required on a new structure or undeveloped premises. This requirement shall pertain to structural and building support systems and shall not pertain to superficial structural embellishments like new siding, roofing, and the like.

(B) Whenever it comes to the attention of the Property Maintenance Officer that work is being performed contrary to this chapter, a stop-work order shall be promptly issued to the owner of the premises involved, the agent of such owner, or the person doing the work. The Property Maintenance Officer shall also post a placard at the site of the work informing the public and all concerned that work at the site has been stopped by official order. Such order may be oral or written and shall, in any case, state the conditions under which the work may be resumed. Such order shall also direct the performance of such work as may be necessary to remove any violations of the Municipal Code of Ordinances of the Municipality of Brookville, Ohio. A stop-work order shall not obviate the need for nuisance abatement in accord with schedules specified elsewhere in this chapter.

SECTION 12. ABATEMENT EXPENSES.

The Municipality shall keep an itemized account of those expenses it incurs to abate nuisances on behalf of a private property owner or tenant. The total cost incurred for administration, labor, personnel, materials, and equipment shall either be collected through civil litigation directed against the property owner or shall be certified by the Director of Finance to the County Auditor, and by the Auditor placed upon the tax duplicate to be a lien upon the duplicate and to be collected as other taxes and returned to the Municipality, with the effect that the total cost of such work constitutes a lien on the property which has priority ahead of any and all mortgages on the premises. Such collection proceedings or certification to the Auditor shall only be initiated by the

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Municipality after property owners, or others with an interest in the property, have been offered at least 30 days to remit full payment for charges incurred.

SECTION 13. ADMINISTRATIVE LIABILITY.

No officer, agent, or employee of the Municipality shall be personally liable for any damage resulting from any official determination, order, or action required or permitted in the discharge of duties under the provisions of this chapter. The Municipality shall defend and indemnify the Property Maintenance Officer and any other employee or official specifically designated and authorized to make official determinations, orders, and actions, against any judgments or liabilities that may arise as a result of official action taken by them in the discharge of their duties under this chapter.

SECTION 14. RESPONSIBILITIES OF OWNERS, OPERATORS, LESSEES AND OCCUPANTS.

(A) Responsibilities of Owners.

(1) Owners of premises shall be responsible to the Municipality for compliance with all provisions of this chapter, and shall remain responsible to the Municipality therefore regardless of the fact that this chapter may also place certain responsibilities on operators or lessees or occupants. The provisions of this chapter are not intended to prohibit owners entering into private financial arrangements with operators or lessees or occupants.

(2) Owners of premises shall be responsible to the Municipality for the condition of the premises being such that all dwellings, dwelling units, rooming units, and residential buildings have available adequate heat, electricity, and hot water supply.

(B) Responsibilities of Rooming House Operators or Lessees.

(1) Limiting occupancy to the maximum permitted by all applicable ordinances and laws;

(2) Maintenance of safe and sanitary conditions in all parts of rooming house premises;

(3) Maintenance and operation of all required service facilities;

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(4) Maintenance of cooking and refrigeration appliances and any other fixtures and appliances within their control, and all plumbing and other building equipment and facilities, in an operative, clean, and sanitary condition;

(5) Sanitary maintenance of walls, floors, and ceilings;

(6) Keeping exits clean and unencumbered;

(7) Disposal of building garbage and rubbish in a clean and sanitary manner;

(8) Extermination of insects, rodents, or other pests on the premises; and

(9) Installation and maintenance of required screens and other protective or sanitary devices.

(C) Responsibility of Dwelling Occupants. Occupants of dwelling units shall be responsible for:

(1) Limiting occupancy of that part of the premises which they occupy or control to the maximum permitted by applicable ordinances or law;

(2) Maintaining that part of the premises which they occupy or control in a clean, sanitary, and safe condition;

(3) Maintaining in a sanitary condition all plumbing, cooking, and refrigeration fixtures and appliances, as well as other building equipment and storage facilities in that part of the premises which they occupy or control, in a clean and sanitary condition, and providing reasonable care in the operation and use thereof;

(4) Keeping exits from their dwelling unit clear and unencumbered;

(5) Disposal of garbage and rubbish into provided facilities in a clean and sanitary manner;

(6) Extermination of insects, rodents, or other pests within their dwelling unit if their unit is the only one infested in the premises;

(7) Keeping domestic animals and pets in an appropriate manner and under control, and disposing of excrement with reasonable frequency; and

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(8) Insuring that no service, facility, equipment or utility which is required to be supplied by the provisions of applicable housing codes, is removed, shut off from, or discontinued for an occupied dwelling unit except for necessary repairs, alterations, or emergencies.

SECTION 15. EMERGENCY NUISANCE ABATEMENT.

(A) When the conditions which constitute a nuisance pose an immediate threat to the public health, safety, or welfare, the Property Maintenance Officer may require correction of the nuisance situation within seven days after serving proper notice on the owners or persons in possession of the property.

(B) Recognizing the expediency required under this section, the Clerk of Council is authorized to set a public hearing date for the Planning Commission to hear an appeal from an order issued under this section.

SECTION 16. SEPARABILITY.

It is hereby declared to be the intention of Council that the several provisions of this chapter are separable in accordance with the following:

(A) Invalidation Provision. If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgment shall not affect any other provision of this chapter not specifically included in such judgment.

(B) Application to Particular Property. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building, or other structure, such judgment shall not affect the application not specifically included in the judgment.

SECTION 17. AUTHORITY OF THE PROPERTY MAINTENANCE OFFICER AND NECESSARY APPEALS PROCEDURE.

(A) The Property Maintenance Officer shall bear responsibility for interpretation of this chapter and the issuance of all notices pursuant thereto.

(B) Determinations of the Property Maintenance Officer in conjunction with administration of this chapter may be appealed to the Planning Commission of the Municipality of Brookville,

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Ohio. The Planning Commission of the Municipality of Brookville, Ohio should be the local administrative body hearing appeals from rulings of the Property Maintenance Officer. An appeal to the Planning Commission must be made within 14 days of the ruling being appealed. Such local appeal shall stay all rulings and actions being appealed, pending a decision by the Planning Commission unless it has been certified by the Property Maintenance Officer that there is an imminent and substantial danger to life and property. Under the circumstance of imminent and substantial danger, proceedings shall not be stayed other than by a court of record on application of due cause shown. Appeals shall not be deemed to confer authority upon the appellant to resume actions held to the contrary to the Code of Ordinances of the Municipality of Brookville, Ohio, by the Property Maintenance Officer.

(C) Appeals from decisions of the Property Maintenance Officer shall be submitted for consideration on forms provided therefore by the Municipality, and shall be accompanied by a non-refundable fee of \$50.00 to defray administrative costs of processing, including either notices to be sent to affected property owners within 200 feet of the property in question or a public hearing announcement in a local newspaper of general circulation, and other expenses of perfecting the record of the appeals process.

SECTION 18. PERIODIC CUTTING OF WEEDS.

No person, firm, or corporation having any legal or equitable title to land within the Municipality of Brookville, Ohio shall fail to keep their property free and clear of all noxious weeds and rank vegetation or fail to cut all such weeds and vegetation on land owned or in possession of said person, firm, or corporation, whenever such weeds or vegetation have grown to a height of eight (8) inches. It is understood that real estate that is currently listed for zoning purposes as agricultural and is currently being used for agricultural cultivation and pasture shall be exempted from this section unless deemed a hazard to the general health and well being of the citizens of the community.

SECTION 19. NOTICE TO CUT WEEDS; ACTION OF OWNER OR TENANT

Upon information that noxious weeds or rank vegetation exists in violation of Section 18. above, the Property Maintenance Officer shall cause written notice to be served on the owner or other person, firm, or corporation having legal or equitable title or possession of the property upon which such violation is occurring. All weeds and vegetation shall be cut

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and destroyed within five days after service of notice. Should the owner or other person or entity having charge of the land be a nonresident of the Municipality and should their address be known, notice shall be sent to their address by certified mail. Should the address of the owner or such other person or entity having charge of the land be unknown, it shall be sufficient to publish the notice once in any newspaper of general circulation in the Municipality.

SECTION 20. FAILURE TO COMPLY WITH NOTICE.

Should the owner of person or entity in possession of the land fail to comply with the notices provided under this chapter, the Property Maintenance Officer may cause the noxious weeds and rank vegetation to be cut and destroyed at the prevailing rate.

SECTION 21. CERTIFICATION OF COSTS.

Should the Property Maintenance Officer cause weeds and vegetation to be cut and destroyed as provided in this chapter, the expense of cutting shall be billed to the property owner, person, firm, or corporation having legal or equitable title to the property. Upon failure to reimburse the Municipality within thirty (30) days, the Director of Finance shall make a written return to the Montgomery County Auditor of the action for this Municipality under this chapter with a statement of the charges for the services of this Municipality in cutting the weeds and vegetation including the amount charged hereunder, fees for serving notice, and a proper description of the premises including the Parcel Identification Number for Montgomery County and the Municipal Lot Number. These amounts shall be entered upon the tax duplicate and shall be a lien upon the land from and after the date of the entry, to be collected with other taxes and returned to this Municipality with other items of the general fund.

SECTION 22. TREES DEFINED.

The word "TREES" as used in this section shall be construed not to include shrubs which do not grow higher than twelve (12) feet.

SECTION 23. OVERHANGING TREES.

The owner of each lot or parcel of land within the Municipality upon which a tree stands with any part of the tree upon or overhanging a public thoroughfare, and the owner of each

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such lot or parcel of land abutting a public thoroughfare upon which thoroughfare and in front of which lot or parcel of land a tree stands, shall conform to the following regulations:

(A) The owner shall trim or cause to be trimmed, the tree, so that it shall not obstruct the free passage of light from any streetlight to the immediately subjacent street, sidewalk, or public thoroughfare.

(B) The owner shall trim or cause to be trimmed, the tree, so that a clear height of $13\frac{1}{2}$ feet between its lowest branches and the street, alley, or public thoroughfare is maintained. Trees overhanging sidewalk shall be trimmed so as not to obstruct normal passage on sidewalk.

(C) The owner shall trim or remove, as the case may require, every dead, decayed, or broken tree or part thereof, so that it shall not fall to the street, alley, sidewalk, or public thoroughfare.

SECTION 24. RIGHT OF MUNICIPALITY TO TRIM TREES.

The Municipality shall have the right to cause any tree standing in violation of this chapter to be trimmed as determined by the Proper Maintenance Officer.

SECTION 25. PLANTING OF TREES AND SHRUBS.

No trees or shrubs shall be planted between the sidewalk and the curbline within the Municipality.

SECTION 26. PENALTY.

(A) Failure to comply with the provisions of this chapter shall be punishable as a minor misdemeanor. Whoever violates or fails to comply with any of the provisions of these Sections shall be fined not less than \$10.00 nor more than \$100.00.

(B) A separate offense shall be deemed committed each day during or on which a violation of this chapter occurs or continues.

RECORD OF ORDINANCES

Dayton Legal Blank Co.—10116

Ordinance No. 1990-04

Passed June 19, 1990

SECTION 27.

This Ordinance shall take effect upon passage by the Council of the Municipality of Brookville, Ohio as provided for by the Charter of the Municipality of Brookville, Ohio.

E. Eugene Roeser
E. EUGENE ROESER, Clerk

Michael A. Duncan
MICHAEL DUNCAN, Mayor

CERTIFICATE

The undersigned, Clerk of the Municipality of Brookville, Ohio, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 1990-04 passed by the Council of said Municipality on the 19th day of June, 1990.

E. Eugene Roeser
E. Eugene Roeser, Clerk

CERTIFICATION OF POSTING

The undersigned, Clerk of Council of the Municipality of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 1990-04 was posted at the Municipal Building, U. S. Post Office and the Brookville National Bank, Brookville, Ohio on the 21st day of June, 1990 to the 20th day of July, 1990, both days inclusive.

E. Eugene Roeser
E. Eugene Roeser, Clerk