

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2024-08 Passed May 21, 2024

AN ORDINANCE AMENDING CHAPTER 1353 OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE, OHIO.

WHEREAS, Chapter 1353 of Code of Ordinances regulates property maintenance within the City of Brookville; and

WHEREAS, the City of Brookville desires to revise and amend its property maintenance code to improve property maintenance in the City of Brookville.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO THAT:

SECTION I: Chapter 1353, Property Maintenance Code is hereby amended and replaced in its entirety by a new Property Maintenance Code, Chapter 1353, which is set forth in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION II: 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 were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION III: This Ordinance shall take effect thirty (30) days after passage by the Council of the City of Brookville as provided by the Charter of the City of Brookville.

PASSED this 21st day of May, 2024.

ATTEST:

Kimberly Duncan, Clerk

Charles Letner, Mayor

CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2024-08, passed by the Council of the City of Brookville, Ohio, on the 21st day of May, 2024.

Kimberly Duncan, Clerk

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2024-08 Passed May 21, 2024

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2024-08 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 22nd day of May, 2024, to the 20th day of June, 2024, both days inclusive.

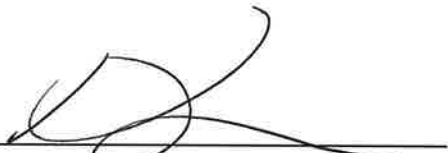

Kimberly Duncan, Clerk

EXHIBIT "A"

CHAPTER 1353 PROPERTY MAINTENANCE CODE

1353.01 PURPOSE.

The purpose of this property maintenance code is to establish standards for property maintenance in the City of Brookville and to prevent and eliminate the blighting effects and hazards to the health, safety, and welfare of the citizens of the City of Brookville that arise from substandard maintenance of structures and premises within the City of Brookville.

1353.02 DEFINITIONS

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

BUILDING CODE: The most current edition of the State of Ohio building code for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings and structures.

DRIVEWAY APPROACH: The area between the roadway of a public street and private driveway, intended to provide access for vehicles from the roadway of a public street to private property.

EXTERIOR PROPERTY AREAS: The open space on the premises and on adjoining property under the control of owners or operators of the premises.

JUNK OR INOPERABLE VEHICLE: A vehicle, including but not limited to cars, trucks, busses, trailers, and boats, shall be deemed a junk or inoperable vehicle whenever any of the following occur:

- (a) The vehicle is without a valid current registration and/or license plate;
- (b) The vehicle is apparently inoperable;
- (c) The vehicle is without fully inflated tires and/or has any type of support under it;
- (d) The vehicle has a substantially damaged or missing window, windshield, door, motor, transmission, or other similar major part.

PREMISES: A lot, plot, or parcel of land including the buildings or structures thereon.

PUBLIC NUISANCE: Includes the following:

- (a) The physical condition, or use of any premise regarded as a public nuisance at common law; or
- (b) Any physical condition, use, or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to, junk, inoperable or unlicensed vehicles, abandoned wells, shafts, basements, excavations, abandoned refrigerators, and unsafe fences or structures, or;
- (c) Any premises which have improperly working drainage facilities; or
- (d) Any premises designated as unsafe for human habitation or use; or
- (e) Any premises, which is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured as to endanger life, limb or property; or
- (f) Any premises which is unsanitary, or which is littered with rubbish or garbage; or
- (g) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; open, vacant, or abandoned; damaged by fire to the extent as not to provide shelter in danger of collapse or failure, and is dangerous to anyone on or near the premise.

RUBBISH: Rubbish is both combustible and non-combustible waste materials, including car parts, motors, and abandoned appliances. The term shall also include rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, and other similar materials, as well as the residue from the burning of wood, coal, and other combustible materials.

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

PROPERTY MAINTENANCE OFFICER: The person designated to by the City to enforce the Property Maintenance Code, Chapter 1353, or in his or her absence, the City Manager.

1353.03 PUBLIC NUISANCES

No person shall create, permit, or maintain a public nuisance. The following conditions, acts and items are public nuisances that shall violate this Property Maintenance Code:

(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 or 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 being installed, or maintained in the zoning front setback area of yard, reaching a height of higher than three feet above the adjoining curb at the street, or three feet above the nearest pavement surface where there is no curb, that obstructs the sight line of drivers on the street or entering or exiting the property.

(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, 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.

(e) Improper Motor Vehicle and Machinery Storage. Inoperative, abandoned, wrecked, or dismantled motor vehicles and machinery, or any other machinery or motor vehicle determined by the Property Maintenance Officer to be a danger or hazard to the general health and welfare of the public, or any parts, stored outside a completely enclosed structure or visible from either the street, alley, or neighboring properties. This definition includes an inoperable, dismantled, partly dismantled, or wrecked motor vehicle, or parts, 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.

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

(g) Inadequate Exterior Property Maintenance. The exterior of all premises and every structure thereon including but not limited to, walls, roofs, cornices, chimneys, drains, towers, porches, landings, fire escapes, stairs, windows, doors, awnings, and all surfaces thereof, shall be maintained so as to avoid any blighting effects on neighboring properties and shall be painted or protected where necessary for the purpose of preservation. All canopies, signs, awnings, exterior stairways, fire escapes, standpipes, exhaust ducts, porches, balconies and similar overhang extensions, where exposed to public view, shall be maintained in good condition and shall not show evidence of ripping, tearing, or deterioration. All fences, retaining walls, or similar structures shall be anchored firmly in the ground, shall be constructed in a workmanlike manner and maintained in that same manner so that such approved fences, retaining walls, or similar structures shall remain in a good state of repair.

1353.04 ABATEMENT OF PUBLIC NUISANCE BY CITY AND COST RECOVERY

(a) Public Nuisance and Order of Remediation. When the Property Maintenance Officer determines that a premises within the City constitutes a public nuisance as defined in Section 1353.03, the Property Maintenance Officer shall give notice to the owner, occupant or person having charge of the premises upon which the violation(s) occurs to cease such violations(s).

Such notice shall be in writing and shall be served upon the owner, occupant or person having charge of the premises either personally or by certified mail, return receipt requested, addressed to such person's last known place of residence, or the county auditor property tax mailing address for the property. In the event the certified mail envelope is returned, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed with the Property Maintenance Officer. The notice shall describe with reasonable certainty the premises deemed to be a public nuisance, specify the conditions constituting the public nuisance and the remediation necessary to abate the public nuisance, specify the conditions constituting the public nuisance and the remediation necessary to abate the public nuisance, specify that the owner, occupant, or person having charge of the premises has fourteen (14) days from the date the notice was issued to take all necessary actions to fully and completely abate the public nuisance, specify the actions to be taken by the City pursuant to subsection (c) if the public nuisance is not fully and completely abated within the compliance period, and advise of the right of appeal pursuant to subsection (d) hereof as well as the penalties which may be imposed for non-compliance pursuant to subsection (e) hereof.

(b) Compliance with Order of Remediation Required. No person served with the notice as provided in subsection (a) hereof, shall fail to cause such violation(s) to cease within fourteen (14) days from the date the notice was issued. For good cause shown, the Property Maintenance Officer may extend the fourteen (14) day compliance period once for a period not to exceed ten (10) days. Failure to fully and completely abate the public nuisance(s) within fourteen (14) days from the date of the notice was issued or any extension thereof granted is deemed a violation of this subsection (b) thereby subjecting the offender to the penalties in subsection (d) hereof.

(c) Authority of City to Enter and Abate Nuisance. If the person served with notice as provided in subsection (a) hereof, fails to cause such violation(s) to fully and completely cease within the compliance period stated in subsection (b) hereof, or any extension thereof granted, then the City and/or its authorized agent, may enter upon the premises and take all actions necessary to fully and completely abate the public nuisance, including but not limited to, removal and disposal of junk, inoperable or unlicensed vehicle(s), rubbish or garbage. The City may, but is not required, to store any items removed for a period of thirty (30) days. If any items are so stored, the Property Maintenance Officer shall serve written notice upon the owner, occupant, or person having charge of the premises of such storage and such notice shall include reasonable identification of the items stored and the date on which said items will be disposed or destroyed. Stored items may be retrieved by the owner, occupant, or person having charge of the premises within the above referenced thirty (30) day period. The owner, occupant, or person having charge of the premises shall be required to pay for all costs associated with storage in the manner described below.

- (1) The owner, occupant, or person having charge of the premises shall be required to pay for the entire costs of abatement, including but not limited to, costs of removal and disposal in the following manner:

(2) The owner, occupant or person having charge of the premises shall be billed directly by certified mail, return receipt requested. In the event the certified mail envelope is returned, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed with the Property Maintenance Officer.

(3) If the billed costs are not recovered within thirty (30) days of receipt of the mailing described herein, then the City may collect the costs in accordance with the Ohio Revised Code. The City may also direct the Law Director to institute legal action to collect the amounts owed.

(d) Right of Appeal. The owner, occupant, or person having charge of the premises may appeal a notice of violation issued hereunder by filing a timely appeal pursuant to Section 1353.09 and following the procedures as provided therein

(e) Penalty.

(1) Except as otherwise provided in this subsection, whoever violates subsection (b) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted or pleaded guilty to violation of subsection (b), whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree. If, within one year, the offender previously has been convicted of two or more violations of subsection (b), whoever violates subsection (b) hereof is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues beyond the fourteen (14) day compliance period or any extension thereof granted.

(2) The procedures set forth herein are not exclusive and are in addition to the procedures for abatement of a public nuisance conferred upon the City by other lawful authority, including, but not limited to, the Ohio Revised Code.

(f) 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 to another until the provisions of the 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 notice of violation issued by the Property Maintenance Officer and shall furnish to the Property Maintenance Officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation and fully accepting responsibility without condition for making the corrections or repairs required by such notice of violation.

1353.05 UNSAFE, ABANDONED, OR UNINHABITABLE STRUCTURES.

(a) SCOPE. This Section 1353.05 is intended to protect the public health, safety, and welfare in all existing structures or part thereof, residential as well as nonresidential, and on all existing premises as hereinafter provided, by:

- (i) Establishing minimum maintenance standards for structures and premises now in existence;
- (ii) Fixing the responsibilities of owners, operators, and occupants of all structures and premises; and
- (iii) Providing for the administration of this Section 1353.05 and enforcement and penalties.

(b) INTENT. This Section 1353.05 shall be construed liberally and justly to ensure the public health, safety, and general welfare insofar as they are affected by the maintenance of structures and premises.

(c) DEFINITIONS. All words used herein shall have their customary meanings, except those specifically defined as follows:

- (i) "Abandoned Structure" means vacant and exhibiting material deterioration. As used herein, "vacant" means not occupied for business, residence, government, or institutional use for a continuous period of more than ninety (90) days. To be considered occupied, a structure must have appropriate utility service and comply with all applicable building, zoning, and health codes. As used herein, "material deterioration" means any maintenance or structural deficiency that would diminish the value or usability of a structure including, but not limited to, any broken windows, loose or missing siding, missing roof materials or elements, peeling paint, deteriorated pavement, dead trees or other vegetation, or other problems visible beyond the property line that a reasonable person would deem a nuisance or eyesore of concern to the community.
- (ii) "Uninhabitable Structure" means a structure or any part thereof, is unfit for human occupancy whenever the Property Maintenance Officer finds that such structure is unsafe, unlawful, or because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
- (iii) "Unsafe Structure" means a structure or building or any part thereof which is found to be dangerous to life, health, property or the safety of the public or its occupants because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty

construction or unstable foundation that it creates a safety hazard and/or is likely to partially or completely collapse.

- (iv) "Structure" as used herein has the same meaning as defined in Section 1353.02 of this Code.

(d) OTHER REGULATIONS. The provisions in this Section 1353.05 shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided herein.

(e) APPLICATION OF OTHER LAWS. Any repairs or alterations to a structure which may be caused directly or indirectly by the enforcement of this Section 1353.05 shall be done in accordance with the procedures and provisions of all applicable laws, rules, and regulations, including but not limited to, the City of Brookville and Montgomery County Building Codes.

(f) EXISTING REMEDIES. The provisions of this Section 1353.05 shall not be deemed to abolish or impair existing remedies of the City or its officers or agencies relating to the repair or removal of any buildings which are deemed to dangerous, unsafe, or unsanitary.

(g) VALIDITY. If any section, subsection, paragraph, sentence, clause, or phrase of this Section 1353.05 shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter which shall continue in full force and effect, and, to this end, the provisions of this Chapter are hereby declared to be severable.

(h) SAVING CLAUSE. This Section 1353.05 shall not affect violations of any other ordinance, code, or regulation existing prior to the effective date hereof. Further, any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provision of those ordinances, codes, or regulations in effect at the time the violation was committed.

(i) NUISANCE: Any abandoned, uninhabitable, or unsafe structure is hereby deemed to be a nuisance affecting or endangering surrounding property values and detrimental to the public health, safety, and general welfare. Such nuisance shall be abated by repair and rehabilitation or by removal in accordance with the procedure of this Chapter.

(j) ENFORCEMENT AUTHORITY

(i) It shall be the duty and responsibility of the Property Maintenance Officer to enforce the provisions of this Section 1353.05 as herein provided. As used herein, the term "Property Maintenance Officer" shall have the same meaning as delineated in Section 1353.02 of this Code.

(ii) The Property Maintenance Officer, and any Code Official, officer, or employee who acts in good faith in the discharge of his or her duties of enforcement of this Chapter is relieved

of all personal liability for any damage that may accrue to persons or property as a result of such acts or alleged failure to act.

(k) DUTIES AND POWERS OF PROPERTY MAINTENANCE OFFICER

(i) General: The Property Maintenance Officer shall enforce all provisions of this Section 1353.05 relative to the maintenance of structures and premises, except as may otherwise be specifically provided for by other regulations.

(ii) Notices and Orders: The Property Maintenance Officer shall issue all necessary notices and orders to abate illegal or unsafe conditions to ensure compliance with this Chapter for the safety, health, and general welfare of the public, including but not limited to, orders of condemnation.

(iii) Inspections: In order to protect the safety, health, and general welfare of the public, the Property Maintenance Officer is authorized to enter any structure or premises at any reasonable time for the purpose of making inspections and performing his duties under this Section 1353.05.

(iv) Right of Entry: If any owner, occupant, or other person in charge of a structure or premises subject to the provisions of this Section 1353.05 refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the structure or premises where inspection authorized by this Section 1353.05 is sought, the administrative authority may seek, in a court of competent jurisdiction, an order that such owner, occupant, or other person in charge cease and desist with such interference.

(v) Credentials: The Property Maintenance Officer or his or her authorized representative shall disclose proper credentials of his or her respective office for the purpose of inspecting any and all structures and premises in the performance of his or her duties under this Section 1353.05.

(l) INSPECTION AND NOTICE.

(l) Whenever the Property Maintenance Officer has probable cause to believe a structure or premises is abandoned, uninhabitable, or unsafe, as defined in Section 1353.05(c), he shall make an inspection of such structure or premises. If, in the opinion of the Property Maintenance Officer, arrived at by following the applicable provisions of 1353.05, he decides such structure or premises is abandoned, uninhabitable, or unsafe, he shall cause written notice of an order to repair or remove the subject structure or premises to be given to the owner of such structure or premises and to all holders of legal or equitable liens of record as listed in the records of the County Recorder and County Clerk of Courts advising them of his determination. Such owner shall be given a period of thirty (30) days from the date the notice of order is received to repair or remove said structure or premises as ordered by the Property Maintenance Officer. A copy of the notice of order shall also be conspicuously posted on the

structure or premises. An extension of this time may be given to such owner by the Property Maintenance Officer if a bona fide effort has been made to correct the condition of such structure or premises or if the Property Maintenance Officer determines extenuating circumstances exist. No person shall fail to comply with such notice of order within the stipulated period.

(II) Proper service of the notice of order required by Section 1353.05 shall be made by certified mail, return receipt requested. The thirty (30) day period within which such owner is required to comply with the order of the Property Maintenance Officer shall begin as of the date he or she received such notice as evidenced by the return receipt. If certified mail service is refused or unclaimed as evidenced by the return of such certified mail with an endorsement showing such refusal or that the envelope was unclaimed, the Property Maintenance Officer shall reissue the notice of order by ordinary mail retaining the certified mail envelope and endorsement as evidence of such failure of certified mail service and service of the notice shall be deemed completed upon mailing of the ordinary mail notice. The Property Maintenance Officer shall note the fact of the ordinary mail services and the date in the records of such enforcement proceedings.

(m) Posting of Signs.

The Property Maintenance Officer shall cause to be posted at each entrance to any structure or premises determined by the Property Maintenance Officer to be abandoned, uninhabitable, or unsafe hereunder a notice to read:

"DO NOT ENTER, UNSAFE TO OCCUPY
CITY OF BROOKVILLE, OHIO

Said notice shall remain posted until the required repairs are made or removal is completed. No person shall remove such notice without the permission of the Property Maintenance Officer, or enter the structure or premises, except for the purpose of making the required repairs or of removing same.

(n) Permits.

In all cases of construction or repair pursuant to orders of a Property Maintenance Officer hereunder, permits cover such work shall be obtained as required by the City's Building Code and any other applicable laws, rules or regulations, including but not limited to, any and all permits required by the Montgomery County Building Code.

(o) REPAIR OR REMOVAL AND HEARING

(I) If the property owner does not comply with the notice of order to repair or remove provided for in Section 1353.05, the Property Maintenance Officer shall prepare a written report of this lack of compliance and serve a copy of said written report to the property owner and to all holders of legal or equitable liens of record as listed in the records of the County

Recorder and County Clerk of Courts with notice therein that the structure or premises may be ordered repaired or removed within thirty (30) days of the date of said notice. Such notice shall be sent by certified mail, return receipt requested, to the address shown on such records. If certified mail service is refused or unclaimed as evidenced by the return of such certified mail with an endorsement showing such refusal or unclaimed as evidenced by the return of such certified mail with an endorsement showing such refusal or that the envelope was unclaimed, the Property Maintenance Officer shall reissue the notice by ordinary mail retaining the certified mail envelope and endorsement as evidence of such failure of certified mail service and service of the notice shall be deemed completed upon mailing of the ordinary mail notice. The Property Maintenance Officer shall note the fact of ordinary mail service and the date thereof in the records of such enforcement proceedings. A copy of said written report of non-compliance shall also be conspicuously posted on the structure or premises.

(II) The property owner and/or any holders of legal or equitable liens of record as listed in the records of the County Recorder and County Clerk of Courts on the affected property may appeal the determination of the Enforcement Officer that said structure is abandoned, uninhabitable, or unsafe by filing an Administrative Appeal with the Board of Zoning Appeals within twenty (20) after the date stated on the report of non-compliance provided in subsection (a) hereof and following the Administrative Appeal procedures enumerated in this Code. In hearing the matter and deciding the issue, the Board of Zoning Appeals shall consider the testimony and evidence of any persons appearing pursuant to notice, or their authorized representatives, the testimony and evidence of any witnesses appearing on behalf of such persons, the Property Maintenance Officer's report, testimony and evidence, and any other evidence pertinent to the matter. If the Board of Zoning Appeals thereupon determines that the structure or premises is abandoned, uninhabitable, or unsafe so as to constitute a danger to the public health, safety, or general welfare it shall order the satisfactory repair or removal of the structure or premises and its appurtenances and restoration of the property, within such period of time, not less than thirty (30) days, as the Board of Zoning Appeals thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required to be notified by Section (a) hereof in the same manner as provided in that Section.

(III) If an abandoned, uninhabitable, or unsafe structure is not satisfactorily repaired or removed within the period of time provided in an order made under division (b) of this Section, the City may enter the land and complete the repair, if repair was ordered, or remove the structure or premises and its appurtenances, if removal was ordered, and restore the property. Total costs incurred by the City shall be charges to the owner and certified to the County Auditor for collection. Total costs include, but are not limited to, any costs incurred due to use of employees, materials, or equipment of the City and/or its agents and costs associated with service of notices required hereunder.

(IV) If a property owner and/or lienholder files an Administrative Appeal with the Board of Zoning Appeals and fails to appear for the hearing of same before the Board of Zoning Appeals, the City may proceed as provided in Section (c) hereof.

(V) Any person aggrieved by an order made under division (b) of this section, may appeal as provided in Chapter 2506 of the Ohio Revised Code.

(VI) The remedies specified herein shall be in addition to the penalty provided in Section 1353.99.

1353.06 EMERGENCY MEASURES

(a) Imminent Danger:

When, in the opinion of the Property Maintenance Officer, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases, or similar materials, or operation of defective or dangerous equipment, the Property Maintenance Officer is authorized and empowered to order and require the occupants of such structure or building to vacate the premises.

The Property Maintenance Officer shall cause to be posted at each entrance to such structure a notice which reads as follows:

**DO NOT ENTER, UNSAFE TO OCCUPY.
CITY OF BROOKVILLE, OHIO.**

It shall be unlawful for any person to enter such structure or building except for the purpose of securing the building or structure, making the required repairs, removing the hazardous conditions or demolishing the building or structure.

Notwithstanding other provisions of this code, when, in the Property Maintenance Officer, there is imminent danger due to an unsafe condition, the Property Maintenance Officer is hereby authorized and empowered to order the necessary work to be done to render such structure or building safe and is hereby authorized and empowered to cause such other action to be taken as the Property Maintenance Officer deems necessary to meet the emergency.

(b) Closing Streets:

When the Property Maintenance Officer deems it necessary, for public safety, the Property Maintenance Officer is hereby authorized and empowered to close, temporarily, structures or buildings, and to close, temporarily, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to or affected by unsafe structures or buildings, and prohibit same for being used.

(c) Emergency Repairs:

The Property Maintenance Officer, for purposes of this section, is hereby authorized and empowered to employ, subject to compliance with the City Charter and other ordinances and applicable requirements, the necessary labor and materials to perform the required work as expeditiously as possible.

(d) Cost of Emergency Repairs:

Costs incurred in the performance of emergency work may be paid by the City on approval of the Property Maintenance Officer, subject to compliance with the City Charter and other ordinances and applicable requirements. The City's legal counsel may institute appropriate action against the owner of the premises where the unsafe building or structure is or was located for recovery of such costs. The costs of such emergency work shall be certified by the Finance Director of the City to the Montgomery County Auditor as a tax lien upon the premises in the manner provided in Ohio Revised Code 715.261. Based on the emergency nature of such costs, notice to owners as provided in Chapter 1353 of the emergency work may be given by means other than prescribed in Chapter 1353 or may be dispensed with entirely. If no advanced notice is given at all, however, the lien authorized by Ohio Revised Code 715.261 for such costs shall be subordinate to any liens of prior record.

(e) Expedited Hearing:

(i) Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall have the right to an expedited appeal of such order to the City Manager. Upon notice of such an appeal, the City Manager shall fix a time and place, not more than 10 days after receipt of notice of such an appeal for a hearing to determine whether emergency measures are required. The City Manager shall send written notice of the place and date of the hearing, to the owner of the structure, and to all persons occupying such building, if they are not the owners thereof, and to all persons listed in the records of the County Recorder or County Clerk of Courts as holding a lien on the affected property. Such notice shall be sent by certified mail and ordinary U.S. mail to the address shown on such records.

(ii) In hearing the matter and deciding the issue, the City Manager shall consider the testimony of any persons appearing pursuant to the notice, or their authorized representatives, the testimony of any witnesses appearing on behalf of such persons, the Property Maintenance Officer's report or testimony, or both, and any other evidence pertinent to the matter. If the City Manager thereupon determines that emergency measures are required to protect the public health, welfare, safety, or morals, he shall order the satisfactory repair, or removal, of the structure and its appurtenances, and restoration of the property, within such period of time as the City Manager thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required by subsection (a) hereof in the same manner as provided in that division.

(iii) Any person aggrieved by an order made under subsection (b) hereof, may appeal as provided in Chapter 2506 of the Ohio Revised Code within thirty days of the mailing of notice of the order.

(iv) Such remedies shall be in addition to the penalty provided in Section 1357.99.

1353.07 ABATEMENT OF BULK ITEMS BY CITY.

All bulk items not removed by the City's waste disposal contractor or commercial waste disposal contractor on the scheduled pick up day shall be removed from the curb or authorized alley location within forty-eight (48) hours of the scheduled pick up day by the property owner, occupant, or person having charge of the premises or his or her designee.

(a) Order of Remediation. When the Property Maintenance Officer determines a violation of this Section 1353.07 exists, the Property Maintenance Officer shall give a Notice of an Order of Remediation ("Notice") to the owner, occupant, or person having charge of the premises upon which the violation exists to remedy such violation. Said Notice shall be in writing and conspicuously posted at the subject property. The owner, occupant, or person having charge of the premises shall be advised in the Notice of the specific violation and that the violation must be remedied within forty-eight (48) hours of the date the Notice was posted. The Notice shall also contain the date it was posted.

(b) Failure to Comply. If the owner, occupant, or person having charge of the premises fails to comply with the Notice specified subsection (a) hereof, then the Property Maintenance Officer or his or her designee may cause the bulk items to be removed either by the City or by an authorized designee of the City as determined by the City Manager.

(c) Statement of Costs. The owner, occupant, or person having charge of the premises shall pay for all costs incurred by the City for removal and disposal of the bulk items, including but not limited to, dumping fees, plus a ten percent (10%) fee for administration. All fees and expenses shall be paid to the City in full within twenty (20) days of receipt of the statement of costs. If all fees and expenses are not paid in full when due, then the City shall certify to the County Auditor the proceedings taken hereunder together with a statement of the charges and a legal description of the property to be assessed by the County Auditor as an assessment upon the property.

(d) Right of Appeal. The owner, occupant, or person having charge of the premises may appeal the Notice of Order of Abatement by filing an appeal within ten (10) days from the date of said Notice pursuant to Section 1353.09 and following the procedures provided therein.

1353.08 MAINTENANCE OF DETENTION BASINS, RETENTION PONDS, AND OTHER DRAINAGE IMPROVEMENTS.

(a) The owner of any lot which contains a detention basin, retention pond or other drainage improvement shall maintain that drainage improvement to provide for adequate disposal of subsurface and surface water. Maintenance of the detention basin, retention pond or other drainage improvement shall include the following items:

- (1) Erosion control of the slopes of the detention basin or retention pond to maintain the original slope design;
- (2) Removal of any trash or debris from the detention basin or retention pond.
- (3) Management of vegetation and mowing of grass adjacent to the detention basin or retention pond;
- (4) Inspection and cleaning of any inlet or outlet pipes or concrete channel;
- (5) Removal of algae or other vegetation growth from the surface of the water;
- (6) Removal of sedimentation in the detention basin or retention pond or other drainage improvement if it accumulates to a level that is greater than 25% of the original design depth;
- (7) Maintenance of any mechanical pumps, fountains, or other mechanical equipment that were included in the original design of the detention basin, retention pond, or other drainage improvement.

(b) Any detention basin, retention pond or other drainage improvement that is not properly maintained in accordance with the standards set forth in Section 1353.08(a) shall be deemed to be a nuisance, and the Property Maintenance Officer may take action to seek abatement of the nuisance.

(c) The Fiscal Officer shall keep an itemized account of expenses incurred for abatement of any nuisance arising from the failure to maintain any detention basin, retention pond, or other drainage improvement. The total cost incurred for administration, labor, personnel, materials and equipment in abatement of the nuisance may be collected by the Finance Director by one of the following methods of collection:

- (1) The Finance Director may commence civil litigation against the property owner to collect the costs; or
- (2) The Finance Director may assess the costs to the owner of the property where the detention basin, retention pond or other drainage improvement is located, and the property owner shall have thirty (30) days after the receipt of the proposed assessment to pay the assessment directly to the City. In the event the assessment remains unpaid after thirty (30) days, the Finance Director may certify the costs to the County Auditor to be placed upon the tax duplicate of the property to be a lien upon the property and to be collected as other property taxes and returned to the city, with the effect that the total cost of the work constitutes a lien on the property

- which has priority ahead of any and all mortgages and other liens on the property.
- (3) The Finance Director may assess the costs to all property owners of lots in the recorded subdivision plat in which the detention basin, retention pond or drainage improvement is located. This cost shall be divided equally between all lots in the subdivision, and the property owners of the lot shall be responsible for payment of the assessed cost for each lot. The Finance Director shall provide written notice to each property owner of the proposed assessment, and the property owners shall have thirty (30) days after receipt of the notice of proposed assessment to pay the assessment directly to the City. In the event the assessment remains unpaid after thirty (30) days, the Finance Director may certify the costs to the County Auditor to be placed upon the tax duplicate of the property to be a lien upon the property and to be collected as other property taxes and returned to the City, with the effect that the assessment constitutes a lien upon the property which has priority ahead of any and all mortgages and other liens on the property.

1353.09 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, the Property Maintenance Officer shall give notice to the owner or person or persons responsible for the property in the manner prescribed.

(b) Form. All notices 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 possess to appeal the order to the Board of Zoning Appeals.

(c) Service. Services 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 of the Order is personally served to that owner or person in possession, or by certified mail addressed to the owner at the tax mailing address or their last known address with return receipt requested, and in the event the certified mail is unclaimed or refused, by sending notice by ordinary mail to the same address. In the event the address of the owner is unknown, service can be made by publication of notice in a local newspaper of general circulation once a week for two weeks, and notice shall be posted in a conspicuous place in or about the structure affected by the notice.

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

the Property Maintenance Officer in conjunction with administration of this chapter may be appealed to the Board of Zoning Appeals of the City. An appeal to the Board of Zoning Appeals shall be made within fourteen days of the ruling being appealed. The appeal to the Board of Zoning Appeals shall stay all rulings and actions being appealed pending a decision by the Board of Zoning Appeals unless it has been certified by the Property Maintenance Officer that there is an imminent and substantial danger to life and property. Under the circumstances 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 be contrary to the Codified Ordinances of the City, by the Property Maintenance Officer. Appeals from decisions of the Property Maintenance Officer shall be submitted on forms provided by the City, and shall be accompanied by a nonrefundable fee of One Hundred Fifty (\$150.00) to defray administrative costs, including notices to affected property owners within 200 feet of the property in question and a public hearing announcement in a local newspaper of general circulation, and other expenses of perfecting the record of the appeals process.

1353.99 PENALTY.

(a) In addition to any other penalty specified in this Chapter, failure to comply with the provisions of this Chapter shall be punishable as a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.