

TITLE XV – LAND USAGE

CHAPTER 155:

PROPERTY MAINTENANCE CODE

( With **2017** Text Revisions )

**CHAPTER 155: PROPERTY MAINTENANCE CODE**

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**Cross reference:**

*Clandestine drug laboratories, see §§ 93.75 through 93.79*

**Statutory reference:**

*Power to Regulate Sanitary Conditions of Buildings, See R.C. §§ 715.26(A), 715.29*

**§ 155.001 PURPOSE.**

Within the scope of the Property Maintenance Code as hereinafter defined, the purpose of this code is to establish minimum standards necessary to make all buildings, structures and vacant property safe, sanitary, free from fire and health hazards, fit for human occupancy and beneficial

to the public welfare; to establish what will constitute a blighting or deteriorating influence on the neighborhood and community; to fix responsibilities for owners and occupants of all buildings, structures and spaces with respect to health, safety, sanitation, repair and maintenance; to authorize external inspection of all buildings, vacant properties, and all surrounding yard spaces; to establish enforcement procedures; to authorize the vacation or condemnation of any building or structure adjudged to be unsafe or unfit for human occupancy, and to fix penalties for violations. (Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017)

**§ 155.002 GENERAL SCOPE.**

(A) The provisions of this code shall be supplementary to all other provisions of the village ordinances relating to the repair and maintenance of both residential and non-residential buildings and structures or portions thereof.

(B) If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, ineffective, or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017)

**§ 155.003 EXISTING BUILDINGS.**

Existing buildings or portions thereof presently used for residential or non-residential purposes may continue to be occupied for their respective purposes as follows:

(A) The building complies with the provisions of this code, except as to any variance heretofore specifically granted by the village; and

(B) The use and occupancy of the building is not in violation of any village ordinance and applicable statutes of the state, including any rules and regulations adopted pursuant to such ordinances or statutes. (Ord. 2008-14, passed 7-14-2008)

**§ 155.004 CONFLICT.**

In the event of conflict between any provisions of this code, including any rules or regulations adopted pursuant to this code, any village ordinances, including any rules and regulations adopted pursuant to such ordinances, the provisions of which establish the highest standard for the protection of health, safety and welfare, shall prevail and nothing in this chapter shall be constructed to supersede, limit, modify or replace any of the powers or duties of the Board of Health, Fire Chief, Building Inspector, or Zoning Inspector.  
(Ord. 2008-14, passed 7-14-2008)

**§ 155.005 DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

**ACCESSORY BUILDING.** A secondary or appurtenant building, the use of which is incidental or accessory to that of the main building, and which is attached thereto or located on the same premises.

**APARTMENT BUILDING.** A multi-family dwelling comprised of two or more dwelling units, i.e. apartments, and each having a separate entrance or entrances.

**BUILDING ADMINISTRATOR.** The zoning inspector or his or her authorized representative.

**CODE.** The Property Maintenance Code, being Chapter 155 of the Codified Ordinances of the village.

**DUPLEX.** A building consisting of two dwelling units.

**DWELLING.** A building designed for and occupied exclusively for residential use including one-family, two-family, and multi-family dwellings, but not including hotels, motels, boarding houses, tourist homes, tents or camping trailers.

**FAILURE OF LANDLORD TO FULFILL OBLIGATIONS - REMEDIES OF TENANT.** See OAC 5321.07.

**FOUNDATION.** Construction primarily below grade which provides support for exterior walls or other structural parts of a building or structure.

**INTERPRETATION AND ENFORCEMENT.** The Zoning Administrator is authorized and directed to enforce the provisions of this code. The Zoning Administrator shall have the authority to render interpretations of this code and to adopt policies and procedures in order, to clarify the application of its provisions.

**LANDLORD OBLIGATIONS.** See R.C. § 5321.04

**LITTER.** Trash, wastepaper, garbage, liquid or solid waste containers or other untidy accumulation of objects.

**LOT WITH STRUCTURE.** Any lot within the village upon which a structure is located.

**MIXED-USE BUILDINGS.** Buildings designed to house both residential and non-residential uses shall be subject to the rules of this code.

**MULTIPLE FAMILY DWELLING.** A building or portion thereof consisting of four or more dwelling units, which may include apartment houses, town houses, flats, or row houses.

**NON-RESIDENTIAL BUILDINGS.** Buildings and structures not used as residential dwellings, including but not limited to uses such as: mercantile, business, institutional, assembly, educational, and similar uses.

**ONE-, TWO-, AND THREE-FAMILY RESIDENTIAL DWELLING(S).** A building designed for and occupied exclusively for residential use including one-family, two-family, and three-family dwellings, but not including hotels, motels, boarding houses, tourist homes, tents or camping trailers.

**PRIVATE GARAGE.** A building or part thereof accessory to a main building providing for the storage of passenger vehicles and in which no occupation, business, or service for profit is carried on.

**RENTED/LEASED BUILDINGS.**

**NON-RESIDENTIAL.** All buildings and structures other than those used as dwellings. Typically these are businesses, mercantile, assemblies, places of worship, institutional, factories, educational, private and public spaces and uses.

**RESIDENTIAL.** All residential occupancies are subject to the rules of this code.  
(Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017)

**§ 155.006 REFUSE, RUBBISH AND GARBAGE DISPOSAL.**

All refuse, rubbish and garbage receptacles out of doors must be hard surface containers with a lid. The routine accumulation of two or more cubic yards of waste, from one address, stored out of doors must be placed in a dumpster with a lid.

(Ord. 2008-14, passed 7-14-2008) Penalty, see § 155.999

**§ 155.007 MAINTENANCE RESPONSIBILITIES.**

(A) *Owner.* The owner of every residential and every non-residential building or structure as defined herein shall be responsible for the exterior building maintenance thereof in good repair, safe condition and sanitary as required by the terms of this code. The owner shall also be responsible for maintaining, in a clean and sanitary condition, the shared or common areas of the premises which are to be available to the occupants at all reasonable times.

(B) *Occupant.* The occupant of any building or structure shall be responsible for maintaining in a clean and sanitary condition that part of the outside premises which he or she occupies and controls.

(Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017) Penalty, see § 155.999

**§ 155.008 GENERAL MAINTENANCE REQUIREMENTS.**

(A) All buildings and structures and all exterior parts thereof shall be maintained in good repair and shall be capable of performing the function for which such structure or part of any feature thereof was designed or intended to be used.

(B) The requirements of sections of this code inclusive shall be considered in determining the compliance of a dwelling structure with this section; when it is determined by the Zoning Inspector or other designated official that there exists any other condition which is contrary to the intent and purpose of this section, he or she shall have the authority to enforce other sections of the code not covered in this chapter.

(Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017) Penalty, see § 155.999

**§ 155.009 MAINTENANCE OF FOUNDATIONS.**

(A) All foundations of every building or structure shall be maintained in good repair and structurally sound. The following conditions are examples considered unsafe and must be repaired.

(1) Deteriorated, buckled, collapsed or missing foundation wall(s).

(B) All openings into the foundation of every building or structure shall be closed in a manner to protect against the entrance of rodents.

(Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017) Penalty, see § 155.999

**§ 155.010 MAINTENANCE OF ROOFS, GUTTERS AND DOWNSPOUTS.**

All roofs of every building and structure shall be maintained weather tight and structurally sound. The roof is to include gutters and downspouts connected to a public storm sewer wherever possible. If no storm sewer is available, the surface ground topography should drain the downspout water away from the foundation. No downspout or sump pump line shall be placed so as to drain onto neighboring properties.

(Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017) Penalty, see § 155.999

**§ 155.011 MAINTENANCE OF EXTERIOR BUILDING STRUCTURES AND ACCESSORY BUILDINGS.**

(A) All exterior surfaces of every building or structure shall be maintained in good repair, kept in a safe condition and structurally sound. The following conditions are considered unsafe and must be repaired.

(1) Missing, rotted or decaying wall surfaces.

(2) Missing window panes which allow water into the structure.

(3) Rotted or decaying window casements which allow water into the structure.

(4) Twisting, buckling or settling of walls which cause the structure to lean or be out of square.

(5) Rotted or decaying porch floors, steps, guardrails, handrails or gates which provide unsafe ingress and/or egress.

(6) Deteriorating awnings or roof eaves.

(7) Missing or deteriorating doors which do not allow the structure to be secured.

(B) All repairs are to be made in a timely manner to provide a safe structure and prevent further damage to the structure. The owner or occupant should consider the impact the repairs will have on neighborhood property before making the improvement.

(Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017) Penalty, see § 155.999

**§ 155.012 PEST CONTROL.**

All structures and premises shall be maintained free from sources of breeding, harborage and infestation by insects, vermin or rodents.

(A) **EXTERMINATION** means the control and elimination of insects, rodents or other pests by eliminating their harboring places, by removing or making inaccessible material that may serve as their food, by any recognized and legal pest elimination methods.

(B) **INFESTATION** means the presence within or around a building or structure of any insects, rodents or other pests.

(Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017) Penalty, see § 155.999

**§ 155.013 EXTERIOR PROPERTY AREAS.**

No owner of any premises shall permit the exterior property areas to deteriorate or debase the appearance of the neighborhood, reduce property values in the neighborhood, adversely alter the appearance and general character of the neighborhood, create a fire, safety or health hazard, or to allow, it to become a public nuisance. Such conditions include but are not limited to the following:

(A) Accumulation of litter;

(B) Broken or dilapidated fences, walls or other structures;

(C) Out of use or non-usable appliances or machinery;

(D) Rugs, rags or other materials hung on lines or in other places on the premises, which materials are not being used for general household or housekeeping purposes;

(E) Broken, dilapidated or unusable furniture, mattresses or other household furniture, broken glass, plastic material, paints, miscellaneous coverings and/or any other materials, including those described in this section, placed at or on the premises in such a manner as to be patently unsightly, grotesque or offensive to the senses;

(F) Lawns and landscaping shall be so maintained so as not to constitute a blighting or deteriorating effect on the neighborhood;

(G) Lots with structures shall maintain grass, brush, briars, burrs, Russian and Canadian thistles at a height not to exceed ten inches; Out-lots and vacant lots are governed by § 93.40;

(H) No building material or materials, earth, sand or dirt intended for use in landscaping, gardening or construction shall be left standing open or covered upon any premises after the project is complete without specific written authorization from the Zoning Inspector or other designated official;

(I) Drainage swales are to be maintained by the owners of the parcels on which they are located, and at no time will anyone plant shrubs and/or trees, or discharge, empty, or place any material, fill or waste into any swale so as to divert or impede drainage flow. Small swales can be mowed as part of the yard. Larger swales in meadow situations should be mowed less frequently in order to allow grasses to grow taller to retard runoff and prevent erosion. Swales in woodland areas should be left in their natural condition leaving understory to retard runoff and prevent erosion.

(Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017) Penalty, see § 155.999

**§ 155.014 ACCESSORY BUILDINGS.**

All accessory buildings shall be safe and structurally sound and in good repair.

(Ord. 2008-14, passed 7-14-2008) Penalty, see § 155.999

**§ 155.015 SWIMMING POOL FENCING REQUIRED.**

No person shall locate, construct, use, operate, repair or maintain any permanent swimming pool or permit or suffer water to accumulate in any permanent swimming pool to a depth of 18 inches at any point, unless there is constructed immediately surrounding and completely enclosing such swimming pool with a fence as follows:

(A) *In-ground pool.* Fencing shall be a minimum 36 inches in height as measured from grade along the line of the fence installed.

(B) *Above-ground pool.* Fencing shall be a minimum 36 inches in height as measured from grade along the line of the fence installed. If the sides of the pool are 42 inches or more above the minimum adjacent grade and the pool is equipped with a removable ladder or a ladder that folds up and locks in an upright position when the pool is not in use, then additional fencing shall not be required. A 36-inch minimum guardrail conforming to the Wayne County Building Code is required for any porch, balcony or raised floor surface surrounding the pool.

(C) All gates within fencing surrounding swimming pools shall be equipped with a key or combination lock.

(D) Fencing shall be designed to prevent unauthorized entrance of children and animals into any pool. (Ord. 2008-14, passed 7-14-2008) Penalty, see § 155.999

**§ 155.016 RESPONSIBILITY FOR COMPLIANCE.**

The owner as defined in this code shall be responsible for compliance with all provisions of this code. (Ord. 2008-14, passed 7-14-2008) Penalty, see § 155.999

**§ 155.017 INSPECTION, RIGHT OF ENTRY, AND ENFORCEMENT OF ORDERS AUTHORIZED.**

(A) The Zoning Administrator or other designated official is authorized to enforce all sections of this chapter in any manner consistent with the laws of the Village of Smithville, Wayne County, and the State of Ohio. Inspections may be made when, for reason or cause, a violation of this chapter is believed to exist. Inspections may be made at any reasonable time, and only with the expressed permission of the owner or an adult occupant. If entry is denied, the inspector may apply for an administrative warrant from any court of competent jurisdiction to gain

access to such property, for the purposes of inspection and/or enforcing an order of the Zoning Administrator or other designated official.

(B) The Zoning Administrator or other designated official is also authorized to cause to be performed by third parties, whatever work is necessary to bring nonconforming property into conformity to the provisions of the code and recoup the costs therefrom pursuant to §155.018.

(C) Nothing contained in this section shall limit the right of immediate entry by the Zoning Administrator or other designated official onto any property in the village when he or she determines a condition: by definition of the "Emergency Doctrine" does exist. All appropriate emergency personnel must be immediately informed. (Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017)

**§ 155.018 COSTS CERTIFIED TO THE COUNTY AUDITOR.**

The Zoning Inspector or other designated official shall make a written account and take all steps necessary to certify all costs of enforcement to the County Auditor including a proper description of the premises involved. Such amounts shall be entered upon the tax duplicate and be a lien upon the lots or land from and after entry and be collected as other taxes and returned to the General Fund of the village. (Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017)

**§ 155.019 NOTICE OF VIOLATION; LEGAL SERVICE.**

(A) Whenever the Zoning Inspector or other designated official finds any building, dwelling structure or premises, or any part thereof, to be in violation of the provisions of this code, notice shall be given in the following manner:

- (1) Be in writing, and
- (2) Include a description of the real estate sufficient for identification, and
- (3) Include a statement of the violation, or violations and why the notice is being issued, and

(4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the property into compliance with the provisions of this code, and

(5) Inform the property owner, and/or, the violating party of the right to appeal, and

(6) Include a statement of the right to file a lien in accordance with §155.018.

(B) *Service of notice.* The notice may be served by delivering it personally to an owner, leaving it at the owner's usual place of business or residence, posting it in a conspicuous place on such real estate, mailing it to the owner at his or her last known address by certified mail or certificate of mailing, or by publishing it once in a newspaper of general circulation within the village, if it cannot be served in any of the above mentioned ways. (Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017)

**§ 155.020 COST OF CITY REMOVAL.**

(A) If the Zoning Inspector finds it necessary to enforce this code as provided in §§ 155.017 and 155.019, a statement of the costs thereof shall be mailed to the owner of such land by certified mail, return receipt requested. Such statement of cost may include the following:

- (1) Administration and supervision;
- (2) Transportation of equipment;
- (3) Equipment rental;
- (4) Equipment operator;
- (5) Incidental labor;
- (6) Contractor labor.

(B) The minimum fee to be charged shall be in no case less than \$75 for the first hour or portion thereof and \$50 for each additional hour or portion thereafter. (Ord. 2008-14, passed 7-14-2008)

**§ 155.021 PENALTY DOES NOT PRECLUDE OTHER REMEDIAL ACTION.**

The imposition of any penalty shall not preclude the Zoning Inspector from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance; to restrain, correct or abate a violation; to prevent the occupancy of a building, structure or premises; or to require compliance with the provisions of this code or other applicable laws, ordinances, rules and regulations, or orders or determinations of the Zoning Inspector or other designated official. (Ord. 2008-14, passed 7-14-2008)

**§ 155.022 GENERAL CHANGES AND ORDINANCE AMENDMENTS.**

Whenever the public necessity, convenience, general welfare or property maintenance enforcement requires, the Council may by ordinance, after receipt of recommendation thereon from the Village Planning Commission and subject to the procedure provided by law, amend, supplement or change the regulations affecting properties, buildings and structures, new or hereafter established by this chapter or amendments thereof. It shall be the duty of the Commission to submit its recommendations regarding all applications or proposals for amendments or supplements to the Council. (Ord. 2017-4, passed 3-27-2017)

**§ 155.999 PENALTY.**

Whoever violates any provisions of this code, or any rules and regulation promulgated thereunder, or fails to comply therewith, or with any written notice, or order issued hereunder, or whoever interferes with, obstructs or hinders the Zoning Inspector or other designated official while attempting to lawfully enforce the regulations herein contained is guilty of a minor misdemeanor as defined by the Ohio Revised Code. Each day such violation occurs or continues shall constitute a separate offense, and for any subsequent offense after a prior conviction for the same violation, the degree of the misdemeanor shall escalate by one degree as follows: a second offense shall be a fourth degree misdemeanor; a third offense shall be a third degree misdemeanor; a fourth offense shall be a second degree misdemeanor; and a fourth offense or more shall be a first degree misdemeanor. (Ord. 2008-14, passed 7-14-2008; Am. Ord. 2017-4, passed 3-27-2017)