

**VILLAGE OF BOTKINS
ORDINANCE NO. 25-09**

**AN ORDINANCE AMENDING AND REPLACING CERTAIN PORTIONS
OF THE VILLAGE OF BOTKINS'S ("VILLAGE") ZONING CODE AS IT
PERTAINS TO NUISANCE ABATEMENTS AND DECLARING AN
EMERGENCY**

WHEREAS, the Village Council has determined that it is necessary and appropriate for the Village's health, safety, and welfare to amend and replace certain portions of the Village's Zoning Code namely, Ordinance 20-20 ("Nuisance Abatement Code"); and,

WHEREAS, the Village's health, safety, welfare, and aesthetics are furthered by amending and replacing the Nuisance Abatement Code insofar as said amendments promote a uniform and neat appearance in the Village and will help keep the Village safe and sanitary.


**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
VILLAGE OF BOTKINS, STATE OF OHIO, THAT:**

Section 1. The Nuisance Abatement Code (enacted as Ordinance 20-20 of the Village of Botkins' Code of Ordinances) shall be amended as set forth in the document entitled *Nuisance Abatement Code* which is attached hereto as Exhibit A and is incorporated herein by reference. The Zoning Code is not modified or repealed by the language in the document entitled *Nuisance Abatement Code* unless there is a direct conflict between the provisions of Exhibit A and the language contained within the Zoning Code. If there is such a direct conflict, the language in the *Nuisance Abatement Code* shall prevail.

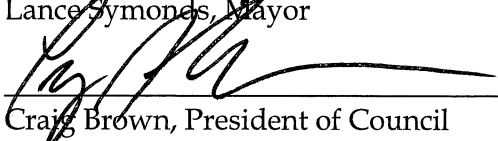
Section 2. The *Nuisance Abatement Code* repeals and replaces any prior legislation related to nuisances/property maintenance contained within the Zoning Code.

Section 3. This Ordinance is declared to be emergency legislation, necessary for the immediate preservation of the Village's health, safety, and welfare aimed at promoting a uniform and neat appearance in the Village and keeping the Village a safe and sanitary place for its citizens to reside.

Adopted this 11th day of June, 2025.



Lance Symonds, Mayor



Craig Brown, President of Council

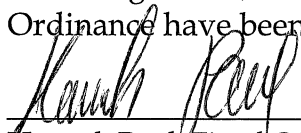
Attest:

CERTIFICATION

STATE OF OHIO

COUNTY OF SHELBY

I, Hannah Paul, as Fiscal Officer of the Village of Botkins, Ohio, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 25-09 passed by the Council of the Village of Botkins on the 11th day of June, 2025; that publication of such Ordinance has been made and certified of record according to law; and that no proceedings looking to a referendum upon such Ordinance have been taken.



Hannah Paul, Fiscal Officer

Exhibit A

NUISANCE ABATEMENT CODE FOR THE VILLAGE OF BOTKINS, OHIO

DEFINITIONS:

For the purpose of this Code, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural shall include the singular; the word "building" shall include the word "structure", and the word "shall" is mandatory and not directory.

- a. *DETERIORATION* means the condition or appearance of the exterior of the building, or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect, or lack of maintenance.
- b. *EXTERIOR OF THE PREMISES* means those portions of a building which are exposed to public view and the open space of any premises outside of any building.
- c. *FINAL ORDER* means that a Notice of Violation has been served according to this Code, and the persons named have failed to comply within the time allowed, and have either waived their right to appeal to the appropriate governmental body or their appeal has been denied by that body.
- d. *GARBAGE* means animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.
- e. *INFESTATION* means the presence of insects, rodents, vermin, or other pests on the premises which constitute a health hazard.
- f. *NUISANCE* means that which is defined by the statutes of the State of Ohio and declared thereby to be a nuisance, and also including conditions defined herein and all conditions dangerous to human life or detrimental to the health of persons on or near the premises where the condition exists and where the conditions are perilous by active and negligent operation thereof, and unsanitary conditions are anything offensive to the senses or dangerous to health.
- g. *OCCUPANT* means any person living and sleeping in a dwelling unit or having an actual possession of said dwelling unit or any person who leases or rents a non-residential building, structure, or any portion thereof.
- h. *OWNER* means any person who, along or jointly or severally with others, shall have legal or equitable title to any premises, with or without the accompanying actual possession thereof; or shall have charge, care, or control as owner or agent of the owner; or as executor, administrator, trustee, receiver, or guardian of the estate, or as a mortgagee in possession.
- i. *PERSON* includes any individual, corporation, association, partnership, trustee, lessee, agent, or assignee.
- J. *PREMISES* means a lot, plot, or parcel of land, including the buildings or structures thereon.
- k. *REFUSE* means all putrescible and non-putrescible solid wastes (except body wastes) including, but not limited to garbage, rubbish, ashes, dead animals, and industrial wastes; an accumulation of brush, broken glass, stumps, and roots that present a safety hazard and includes garbage, trash, and debris which present an unsanitary and/or safety hazard.

- I. *RUBBISH* means non-putrescible solid waste consisting of both combustible and non-combustible wastes such as paper, wrappings, tin cans, yard clippings, leaves, wood, glass, crockery, plastics, and similar materials.

ENFORCEMENT:

The enforcement of any and all provisions of this Code is placed with the Village Administrator, the Village Police Department, and the Village Fire Department, as they believe may be required to carry out and effectuate all of the provisions herein.

INSPECTION:

All buildings, premises, and uses within the Village are subject to exterior inspections from time-to-time by the Village Administrator, Police Chief, or Fire Chief.

MAINTENANCE RESPONSIBILITY:

- a. The owner and/or manager of every structure or use within the Village shall be responsible for maintaining the exterior surfaces of the same in conformance with the provisions of this Code.
- b. The owner and/or manager of every structure or use within the Village shall be responsible for maintaining the yard area contiguous thereto in conformance with the provisions of this Code.
- c. The owner and/or manager of every yard or lot within the Village shall be responsible for maintaining their yard and/or lot area in conformance with the provisions of this Code.
- d. No owner or manager shall be relieved from the obligations of, nor be entitled to defend any violation by reason of any contract or agreement between them and any other person.

GENERAL EXTERIOR MAINTENANCE REQUIREMENTS:

- a. The exterior surfaces of all structures or uses within the Village, whether functional or aesthetic, shall be maintained in good repair. Any exterior part or feature thereof having functional use shall be capable of performing the use for which such part or feature was designed.
- b. The entire yard area extending up to and including the lot line in all directions shall be maintained in a safe, clean, and sanitary condition.

EXTERIOR SURFACES:

- a. All exterior surfaces of every structure or use within the Village shall be maintained so as to resist decay or deterioration from any naturally-occurring cause. All exterior surfaces shall be covered with paint, finish, or other surface-coating so as to prevent such decay and deterioration. An exterior wall segment, facing, or other distinguishable surface area determined by the Village Administrator to be substantially bare, peeling, flaking, pitted, corroded, or otherwise deteriorated, will require the wall segment, facing, or other distinguishable surface area to be surface-coated in its entirety. If the surface to be coated is a portion of a larger structure, such surface coating shall be compatible in color, texture, and design with the entire structure.
- b. Any deteriorated or decayed exterior walls, doors, porches, floors, steps, railings, or parts or features thereof, shall be repaired or replaced.

- c. Any damaged or broken windows, screens, or shutters and deteriorated or decayed sill, sash, molding, lintel, frame, or trim thereof, shall be repaired or replaced.

FOUNDATIONS:

- a. The foundation of every structure or use within the Village shall be maintained in such condition and repair as to prevent damage to the structural integrity of the same.

ROOFS, GUTTERS, DOWNSPOUTS, AND CHIMNEYS:

- a. The roof of every structure or use within the Village shall be maintained weather-tight. All missing shingles, or other roofing materials, shall be replaced with materials of similar kind, nature, design, and color as the original thereof. If it is determined by the Village Administrator that the total area of any roof segment, or distinguishable portion thereof, is comprised of missing or deteriorated shingles, or other roofing material, then the roof segment or distinguishable portion thereof shall be replaced or repaired with materials of similar kind, nature, design, and color as the original thereof.
- b. Any structure or use within the Village having gutters and/or downspouts in place shall be maintained in such a manner as to keep such gutters and/or downspouts free of exterior rust or corrosion. Such rust or corrosion, as may develop in the course of ordinary use of the same, shall be removed, painted, or otherwise surface-coated as to keep such gutters and/or downspouts free of visible rust or corrosion.

YARD MAINTENANCE:

- a. Refuse
 - (1) No furniture, mattresses, household furnishings, rugs, appliances, dilapidated vehicles or vehicle parts, discarded or abandoned machinery, and construction equipment shall be placed or stored in any yard area or use within the Village over a period in excess of ten (10) days. Said ten (10) day period may be extended as a result of extenuating circumstances if approved by the Village Administrator, Police Chief, or Fire Chief.
 - (2) Exterior property areas of all premises or uses shall be kept free of debris, objects, materials, or conditions that, in the opinion of the Village Administrator, create a health, accident, or fire hazard, or are a public nuisance, or constitute a blighting or deteriorating influence on the neighborhood. All debris shall be removed within ten (10) days. Said ten (10) day period may be extended as a result of extenuating circumstances if approved by the Village Administrator, Police Chief, or Fire Chief.
- b. Grass and Weed Control, Surface Condition
 - (1) Removal of Noxious and Excessively High Grass and Weeds Constituting a Public Nuisance
 - (a) It is hereby deemed that weeds or grass growing at a height of nine (9) inches or higher upon any property within the Village are a public nuisance.

All lots shall be provided with grass or other appropriate ground cover or landscaping material so as to assure absorption of rainfall and prevent erosion and rapid runoff of surface water.

c. Accessory Structures

- (1) All structures or uses located in the yard areas within the Village, such as sheds, barns, garages, bins, and the like, shall be maintained in good repair in conformance with other provisions of this Code having regard to foundations, roofs, and exterior surfaces.
- (2) Any broken, rusted, deteriorated, or decayed fence, yard enclosure, or other device or structure located in the yard area contiguous to any structure or use within the Village shall be repaired or removed.

d. Ground Surface Hazards

Holes, cracks, excavations, breaks, projections, and obstructions at any place on the premises which, in the opinion of the Zoning Inspector, are a hazard to persons using the premises shall not be permitted.

e. Motor Vehicles

A nuisance is hereby declared to exist when a person, firm, or corporation keeps, stores, places, or allows to remain, unlicensed motor vehicles, motor vehicles in an inoperative condition, motor vehicles unfit for further use, automobile or motor vehicle parts on any parcel of land, street, or alley, within the corporate limits of the Village of Botkins.

- (1) "Motor vehicle in an inoperative condition" means and includes any style or type of motor driven vehicle used or useful for the conveyance of persons or property which is unable to move under its own power due to defective or missing parts and which has remained in such condition for a period in excess often (10) consecutive days.
- (2) "Motor vehicle unfit for further use" means and includes any style or type of motor driven vehicle used for the conveyance of persons or property which is in a dangerous condition, has defective or missing parts, or is in such a condition generally as to be unfit for further use as a conveyance.
- (3) "Automobile and motor vehicle parts" shall mean and include any portion or parts of any motor driven vehicle as detached from the vehicle as a whole.

INFESTATION:

All structures, and the premises thereof, shall be maintained free of vermin, rodents, and other pests, and free of sources of breeding, harborage, and infestation by such vermin, rodents, and other pests.

NOTICE OF VIOLATION:

- a. Where a violation of any provision of this Code is found to exist, the Village, through its Village Administrator, Police Chief, or Fire Chief, shall cause a written notice of such violation to be served upon the owner, manager, occupant, or other person responsible for the correction thereof. The Notice shall specify the violation committed, and shall provide a reasonable period of time, not more than thirty (30) days, to correct or abate the violation. When the nuisance involves a motor vehicle, a period of 72 hours is considered a reasonable period of time to correct or abate the violation. The Notice shall state that, if the violation is not corrected or abated within the time allowed, the Village may enter upon the premises and perform the correction or abatement, may impound a motor vehicle found to be a nuisance, and charge the cost thereof to the person

named in a Final Order.

- b. Notice shall be served by certified mail to the current address, as recorded with the County Auditor or Bureau of Motor Vehicles, as the case may be, as to the owner, and the property address as to the occupant.
- c. When the nuisance involves a motor vehicle, a copy of the Notice shall also be conspicuously affixed to the motor vehicle if the surrounding facts and circumstances make it practicable to do so.
- d. In the absence of appeal, as provided below, the completion of Notice and Failure to Comply shall constitute a Final Order as to administrative proceedings.

APPEAL:

- a. Within fourteen (14-) days of the date of receipt of Notice of Violation, the person may request a hearing before the Board of Zoning Appeals by filing a written request with the Village Administrator. The appeal shall be heard at the next regularly scheduled meeting of the Board of Zoning Appeals; allowing at least five (5) days' notice to the party and the Village Administrator. The Board of Zoning Appeals may sustain, modify, or dismiss, in whole or in part, any action required to correct or abate the violation set forth in the Notice and shall issue an Order incorporating its determinations, and such Order shall be a Final Order as to these administrative proceedings.
- b. The Board of Zoning Appeals shall consider the following in determining appropriate action to be taken, to-wit:
 - (1) That any modification of the original order of the Village Administrator, Police Chief, or Fire Chief, shall not, in any material way, alter the standards of this Code and shall not affect detrimentally the health or safety of occupants, or the health, safety, or welfare of the occupants or owners of adjacent premises or of the immediate neighborhood; and
 - (2) That strict enforcement would constitute an undue and unnecessary hardship on the owner, manager, or resident by reason of compelling an expenditure for repair of the premises which would substantially disproportionate any benefit to the health, safety, or welfare of the community that might be derived therefrom.
- c. Further appeal may proceed according to R.C. Chapter 2506.

MISDEMEANOR FOR FAILURE TO CORRECT OR ABATE:

It shall be unlawful for any person, manager, or occupant to fail to correct or abate a violation, as determined by a Final Order entered into under this Code.

Prosecution for criminal violations of this Code shall be in either the Shelby County Common Pleas Court or the Sidney Municipal Court. The Final Order shall be prima facie evidence of the violation of this Code.

PENALTY:

Whoever fails to comply with any Final Order, as provided herein, shall be upon conviction of the same, be guilty of a misdemeanor of the fourth degree.

A separate offense shall be deemed committed each day on which a violation occurs or continues.

VILLAGE RIGHT OF ABATEMENT:

In the event a violation is not corrected or abated as required by a Final Order, the Village of Botkins shall have the right to enter upon the premises and make the correction or abatement and recover the actual cost thereof, plus fifteen percent for inspections and administrative fees, from the owner and/or other person named in the Final Order.

ABATEMENT PROCEDURE FOR YARD & WEED NUISANCES:

- a. Upon information that a Final Order has not been complied with, the Legislative Authority may cause written notice to be served on the owner, lessee, manager, or occupant of the premises; giving notice that the Village of Botkins will enter the premises five days thereafter to make correction or abatement.

After the passage of five days with the continued failure to abate or correct, the Village Administrator shall hire the necessary machinery and labor to perform the required task.

Expenses incurred shall, when approved by Council, be paid out of the money in the treasury not otherwise appropriated.

ABATEMENT PROCEDURE FOR GENERAL DISORDERLINESS:

- a. Upon information that a Final Order has not been complied with, the Legislative Authority may cause written notice to be served on the owner, lessee, manager, or occupant of the premises; giving notice that the Village of Botkins will issue fines on the property for each day the property remains non-compliant.

After the passage of five days with the continued failure to abate or correct, the Village Administrator shall issue fines for each day the nuisance is not abated. Notice of fines shall be served to the property owner via certified mail weekly. Uncollected fines will be recorded as a lien on the property in accordance with this Ordinance.

Fines for general disorderliness shall be \$100.00 per day that nuisance remains unabated following a Final Order and Written Notice.

ABATEMENT PROCEDURE FOR MOTOR VEHICLE NUISANCE:

- a. Upon information that a Final Order involving a motor vehicle nuisance has not been complied with, a police officer is authorized to remove or direct the removal of the motor vehicle for purposes of impounding the motor vehicle.
- b. Whenever a police officer impounds a motor vehicle, as authorized herein, and the officer knows or is able to ascertain from the registration records in the vehicle, the name and address of the owner thereof, the officer shall, in a timely manner, give or cause to be given notice in writing to the owner of the fact of such impoundment and the reasons therefore and of the place to which the vehicle has been removed.
- c. Whenever a police officer impounds a vehicle under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as provided above, the officer shall cause a search of the records of the Bureau of Motor Vehicles to be made within three days of the removal to ascertain the name of the owner. Notice by certified mail, with the return receipt requested, shall be sent to the owner of the motor vehicle at his or her last known address within three days after the results of the search are received. The officer shall mail, to the Bureau of Motor Vehicles and file with the proprietor of any place where the vehicle may be stored, a copy of the notice. The notice shall include a complete description of the vehicle, the date and time of the removal, the place from which removed, the reasons for removal, and the name of the place where the vehicle is stored.

FEES FOR SERVICE AND RETURN:

The Chief of Police, or any police officer, may make service and return of the Notice provided for in this Ordinance, and shall be allowed the same fees as provided for service and return of summons in civil cases.

CERTIFICATION TO COUNTY AUDITOR:

If the bill for abatement or correction is not paid within thirty 30 days after submission, then the Fiscal Officer shall certify said costs, together with a ten percent 10% penalty, to the Shelby County Auditor for placement on a tax duplicate to be collected as other taxes for return to the Village, and shall be a lien upon the premises from the date of certification.