

ORDINANCE 2023-19

Ordinance 2023-19 is an ordinance amending the Village Exterior Property Maintenance Code to enact an administrative enforcement procedure.:

WHEREAS, it has been increasingly difficult to enforce the Village Exterior Property Maintenance Code using the current enforcement mechanism, resulting in violations of the Exterior Property Maintenance Code exiting for months and even years while the enforcement process progresses; and *existing*

WHEREAS, Village Council has determined that it is in the best in interest of the Village and the residents thereof to amend the Village Exterior Property Maintenance Code to enact an administrative enforcement procedure.

NOW, THEREFORE, be it ordained by the Council of the Village of New Middletown, State of Ohio:

SECTION 1: Section 1329.06 of the Village Ordinances is hereby amended to read as follows:

1329.06 ENFORCEMENT

The enforcement of any and all provisions of this chapter is placed with the ~~Fire Chief or~~ Building Inspector, together with such additional enforcement officers as may be required, as designated by the Mayor, and approved by Council, who shall carry out and effectuate all of the provisions herein.

- (a) Inspection. All buildings and premises within the Village are subject to exterior inspections from time to time by the ~~Fire Chief,~~ Building Inspector or other enforcement officer designated by the Mayor or approved by Council.
- (b) Notice and Appeal.
 - (1) Where a violation of any provision of this chapter is found to exist, the Enforcement Officer shall cause a written notice of such violation to be served upon the property owner and any other person responsible for the correction thereof. The notice shall specify the violation committed and shall provide for a reasonable period of time, not more than sixty days, to correct or abate the violation. In the event that weather is a major consideration in correcting or abating a violation, the Building Inspector may extend the time set out herein to not more than sixty days immediately following the occurrence of appropriate weather conditions.
 - (2) Notice may be served personally or by certified mail addressed to the last known address of the person to be served or by leaving a copy thereof at the usual residence of the person to be served. If the last known address cannot

be ascertained, the notice shall be posted on the outside front entrance of the structure in alleged violation.

- (3) In the absence of an appeal, as provided below, the completion of notice and the failure to comply, shall constitute a ~~F~~Final Order as to these administrative proceedings.

(c) Appeal.

- (1) Within ten days of the date of service of notice, any person affected by the notice may request a hearing thereon before the Board of Building Code Appeals by filing a written request with the Clerk of the Board together with a fee of two hundred fifty dollars (\$250.00). The Chairperson of the Board, upon receipt of the request, shall, within thirty days therefrom, and upon five days notice to the party and the Building Inspector set the matter down for hearing. The Board 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 ~~e~~Order as to these administrative proceedings, provided, however, that any order of modification or dismissal shall be effective for two years following the date of the issuance of such order, and thereafter, the subject matter of such order of modification or dismissal may be amenable to further inspection, notice and appeal as set forth herein.
- (2) The Board of Building Code Appeals shall consider only the following in determining appropriate action to be taken to wit:
 - A. That any modification of the original order of the Zoning Administrator shall not, in any material way, alter the standards of this chapter, 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
 - B. 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 be substantially disproportionate to any benefit to health, safety or welfare of the community that may be derived therefrom.

(3) The Planning and Zoning Board established pursuant to Chapter 1113 of the Codified Ordinances shall act as the Board of Building Code Appeals.

No license or permit or other certification of compliance with this chapter shall constitute a defense against any violation of any other local ordinance applicable to any structure or premises, nor shall any such other provision herein relieve any owner, manager, or resident from complying with any such other provision, nor any official of the Village from enforcing any such other provision.

(d) Authority and Administrative Citation Fines.

- (1) Whenever the person charged herein with the maintenance of a structure or premises fails to comply with any Final Order as provided in this chapter such person may be issued an administrative citation as provided in this Section.
- (2) An administrative fine shall be assessed by means of an administrative citation.
- (3) Administrative fines shall be assessed in the following amounts:
 - (a) One hundred dollars (\$100.00) for a first violation;
 - (b) Two hundred fifty dollars (\$250.00) for a second violation of the same ordinance within one year from the date of the prior violation;
 - (c) Five hundred dollars (\$500.00) for a third violation, or any subsequent violation, of the same ordinance within one year from the date of the prior violations.
 - (d) Each and every day that a violation exists constitutes a separate and distinct offense.
- (4) All fines imposed under this Section shall be payable directly to the Village within thirty (30) days from the service of an administrative citation.
- (5) Contents of Administrative Citations. Each administrative citation shall contain the following information:
 - (a) Date of the violation;
 - (b) Address of the property in violation of this Section;
 - (c) The code section(s) violated and a description of the violation;
 - (d) The amount of the fine for the violation(s);
 - (e) An explanation of how the fine shall be paid and the time period by which it shall be paid;
 - (f) A warning that the failure to pay any fine imposed pursuant to this Chapter by the deadline shall result in the assessment of an additional late fee in the amount of five dollars (\$5.00) per day and could result in the fine and late fee being certified to the County Auditor for collection as real estate taxes and assessments are collected;
 - (g) Explanation of the process for appeal; and
 - (h) The name and signature of the official issuing the citation.
- (6) Service of Administrative Citation. An administrative citation may be served by any of the following methods:
 - (a) By handing the citation to the property owner;

- (b) By leaving the citation at the property owner's usual residence with a person or suitable age and discretion residing with the property owner;
- (c) By sending the citation by certified mail to the last known address of the property owner and receiving a return receipt showing delivering of the mailing; or
- (d) If service cannot be accomplished under subsections (d)(6)(a), (b) or (c) hereof, by posting the citation conspicuously on the subject property.

(7) Failure to Pay Administrative Fine.

- (a) The amount of any fine or late fee imposed pursuant to this Section shall be deemed a debt owed to the Village.
- (b) The failure of any person to pay any fine imposed pursuant to this Section by the deadline shall result in the assessment of an additional late fee in the amount of five dollars (\$5.00) per day.
- (c) The Village may pursue any and all legal and equitable remedies to collect unpaid fines or late fees imposed pursuant to this Section. Pursuit of one remedy does not preclude the pursuit of any other remedy. Remedies available to the Village to collect unpaid fines or late fees include, but are not limited to, the following:
 - (1) Referring the delinquent account to collection;
 - (2) Certifying the fine or late fee to the County Auditor for collection as other taxes and assessments are collected; and/or
 - (3) Filing a civil action in a court of competent jurisdiction.

(8) Appeal of Administrative Citation or Fine.

- (a) The property owner or other person responsible for the property may appeal the issuance of an administrative citation with Village Council by filing a written petition with the Board of Building Code Appeals requesting a hearing and setting forth the name, address and phone number of the petitioner and a brief statement of the grounds for such hearing.
- (b) The petition shall be filed within fourteen (14) days of the date of the citation and shall be accompanied by a non-refundable fee of twenty-five dollars (\$25.00).
- (c) Upon receipt of the petition, the Building Inspector shall set a date for a hearing before Board of Building Code Appeals. Upon setting the hearing, the Building Inspector shall notify the petitioner of the date, time and place by sending written notice of the hearing at least seven (7) days prior to the hearing by United States regular mail to the address for petitioner contained in the petition. At the hearing, the petitioner shall be given the opportunity to be heard and to show cause as to why the administrative citation should be denied or modified.

(d) If the petitioner does not appear for the hearing, the appeal shall be dismissed, the administrative citation shall be upheld.

(e) The provisions and procedures set forth in this Chapter shall not expressly or by implication repeal or supersede any other provisions or procedures of the City's Codified Ordinances or any other applicable law on the same or related matters. This Chapter shall supplement existing procedures and will provide an alternative, non-exclusive procedure for the enforcement of property code violations. Nothing in this Chapter shall preclude or prohibit the City from resorting to any appropriate legal remedy, and the fines imposed under this Chapter shall be in addition to any other fines, penalties and/or fees imposed for violations of the City's Codified Ordinances and/or state and/or federal law.

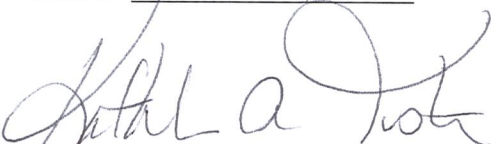
SECTION 2: All other portions of Chapter 1329 of the Codified Village Ordinances shall remain in full force and effect and are hereby ratified and affirmed as though set forth at length herein. All ordinances or resolutions or parts thereof that are in conflict with this Ordinance are hereby repealed. Those ordinances and resolutions and parts thereof that are not in conflict with this Ordinance are to remain in full force and effect.

SECTION 3: That due to the immediate need to address enforcement of the exterior property maintenance code, which code enforcement has a corresponding immediate impact on property values in the Village and the financial wellbeing of the residents of the Village, this ordinance is hereby declared to be an emergency measure necessary for the public health, welfare, and safety, the three readings of this ordinance having been waived by a three-fourths vote of the Village Council, and this ordinance shall be effective immediately.

Dated: December 11, 2023



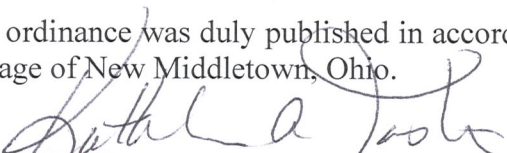
MAYOR HARRY P. KALE



KATHLEEN A. FOSTER, VILLAGE FISCAL OFFICER

CERTIFICATION

I hereby certify that a copy of the foregoing ordinance was duly published in accord with the mandates of the Codified Ordinances of the Village of New Middletown, Ohio.



Kathleen A. Foster, Village Fiscal Officer