

Ordinance No. 22-07

Passed 12/11, 2007

AN ORDINANCE ADOPTING STANDARDS FOR THE MAINTENANCE OF PROPERTY WITHIN THE VILLAGE.

WHEREAS, the Village desires to maintain homes, businesses, and realty in a safe and attractive manner; and

WHEREAS, the Ohio Revised Code and other Ohio laws allows Villages to enact measures to manage and control the use of property within the Village; therefore

BE IT ORDAINED by the Council of the Village of Lithopolis, Fairfield County, Ohio:

Section 1.: Council hereby adopts a Property Maintenance Code, attached as Exhibit A and incorporated herein by reference.

Section 2.: This ordinance shall take effect on the earliest date provided by law.

DATE PASSED:

ATTEST: Sandy Casey
CLERK

SIGNED: [Signature]
MAYOR

DATE: 12/11/07

DATE: 12/11/07

APPROVED AS TO FORM:

[Signature]
Jon M. Browning
Village Solicitor

VILLAGE OF LITHOPOLIS HOUSING AND PROPERTY MAINTENANCE ORDINANCE

SECTION 1

GENERAL

1.1 TITLE.

This ordinance shall be known as the Housing and Property Maintenance Ordinance of the Village of Lithopolis hereinafter referred to as "this ordinance."

1.2 SCOPE.

The provisions of this ordinance shall apply uniformly to all existing and future residential and nonresidential buildings and structures and all existing premises within the Village of Lithopolis and constitute minimum requirements and standards for alteration, repair, equipment, use, occupancy and maintenance of all premises, buildings, and structures; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

1.3 INTENT.

The intent of this ordinance is to ensure and promote, protect and preserve the physical and mental health and social well being of the people, to reduce environmental hazards to health, and to protect the safety of people and promote the general welfare. It is further declared that the intent of this ordinance is to establish minimum standards for basic equipment and facilities for adequate level of maintenance; to determine the responsibility of owners, operators and occupants of dwellings; and to provide for the administration and enforcement thereof. This ordinance shall be complaint driven by residents and the village Inspector shall not be responsible for initiating complaints or taking action without a valid complaint.

1.4 SEVERABILITY.

If a section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 2

APPLICABILITY

2.1 GENERAL.

The provisions of this ordinance shall apply to all matters affecting or relating to structures and premises, as set forth in Section 1. Where, in a specific case, different sections of this regulation specify different requirements, the most restrictive shall govern.

2.2 MAINTENANCE.

Except as otherwise specified herein, the owner shall be responsible for the maintenance of buildings, structures and premises.

2.3 APPLICATION OF OTHER CODES OR REGULATIONS.

Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of any and all federal, state and local ordinances, codes and/or regulations which are in effect within the Village of Lithopolis.

2.4 EXISTING REMEDIES.

The provisions in this ordinance shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

2.5 WORKMANSHIP.

Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this ordinance shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

SECTION 3

DUTIES AND POWERS OF THE INSPECTOR

3.1 GENERAL.

The inspector shall be the Zoning Inspector of the Village of Lithopolis or any duly authorized representative. The inspector shall enforce the provisions of this ordinance.

3.2 APPOINTMENT OF INSPECTORS.

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Zoning Inspector shall have the authority to appoint other related technical officers, sanitarians, inspectors and other employees.

3.3 RESTRICTION OF EMPLOYEES.

An official or employee connected with the enforcement of this ordinance, except one whose only connection is that of a member of the board of appeals established under the provisions of Section 9, shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

3.4 LIABILITY.

The inspector, or employee charged with the enforcement of this ordinance, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this ordinance shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The inspector or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this ordinance; and any officer of the enforcing agency, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

3.5 INSPECTIONS.

The inspector shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The inspector is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

3.6 PROTECTION OF COMPLAINANT

An investigation shall be commenced only upon a written complaint with the complainant identified. All records pertaining to the identification of a complainant shall be kept together with the record of inspections and notice of violation in regard to any structure or premises, and shall be public record and available upon request.

3.7 RESPONSIBILITY OF THE INSPECTOR.

The inspector shall issue all necessary notices of violations and orders in accordance with this ordinance.

3.8 DEPARTMENT RECORDS.

The inspector shall keep official records of all business and activities of the department specified in the provisions of this regulation. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence.

SECTION 4 APPROVAL

4.1 MODIFICATIONS

Whenever there are practical difficulties involved in carrying out the provisions of this ordinance, the inspector shall have the authority to grant modifications for individual cases, provided the inspector shall first find that special individual reason makes the strict letter of this ordinance impractical. The details of action granting modifications shall be recorded and entered in the department files.

4.2 ALTERNATIVE MATERIALS, METHODS AND EQUIPMENT.

The provisions of this ordinance are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this ordinance, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the inspector finds that the proposed design is satisfactory and complies with the intent of the provisions of this ordinance, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this ordinance in quality, strength, effectiveness, fire resistance, durability and safety.

SECTION 5 ENFORCEMENT AND NOTICE

5.1 UNLAWFUL ACTS.

It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this ordinance.

5.2 NOTICE OF VIOLATION.

The inspector shall serve a notice of violation or order in accordance with this ordinance.

5.2 CONTENTS OF NOTICE OF VIOLATION.

Whenever the inspector determines that there has been a violation of this ordinance or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the following manner prescribed. Such notice shall:

- (A) Be in writing.
- (B) Include a description of the real estate sufficient for identification.
- (C) Include a statement of the violation(s) and why the notice is being issued.
- (D) Include a correction order and a reasonable time frame to make the necessary repairs and corrections to bring the structure or premises into compliance with this ordinance.
- (E) Inform the property owner of the right to appeal.
- (F) Inform the property owner of obligation upon transfer of ownership.
- (G) Be available to any person upon request upon payment of a reasonable fee.

5.3 METHOD OF SERVICE FOR NOTICE OF VIOLATION.

Notices of violation shall be deemed to be properly served if such notices are:

- (A) Delivered personally; or
- (B) Residence Service; or
- (C) Publication; or
- (D) Regular mail service to an address that is reasonably believed to be:
 - 1. A place of residence of the owner, or
 - 2. A location at which the owner regularly receives mail; or
- (E) Posting the notice of violation on or about the property in violation, the notice shall be posted on or about the property in violation and one (1) of the above stated methods of service shall also be used.
- (F) Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, or lessee a true copy of any compliance order or notice of violation issued by the inspector and shall furnish to the inspector a signed and notarized statement from the grantee, transferee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.
- (G) Date of service shall be considered the date personal service was received, regular mail (plus three days) was sent pursuant to d above or seven days after publication or posting was completed.
- (H) ABATEMENT OF VIOLATION. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

CHAPTER 6

UNFIT STRUCTURES AND EQUIPMENT

6.1 DESIGNATION OF STRUCTURES AND UNITS AS UNFIT.

A structure, dwelling unit, rooming house or rooming unit is unfit for human occupancy whenever the inspector 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 or other village ordinance, or if the structure constitutes a hazard to the health, safety or welfare of the occupants or to the public.

6.2 PLACARDING STRUCTURES OR UNITS.

When a structure or unit is designated to be unfit for human habitation, the inspector shall placard said structure or unit indicating that it unfit for human habitation; and, if occupied, shall order structure or unit vacated within a reasonable time.

6.2.1 No dwelling or unit designated as unfit for human habitation, placarded, and vacated shall be used again for human habitation until all defects and/or conditions that caused the structure or unit to be declared unfit for human habitation have been eliminated, written approval is received from the inspector and the placard removed by the inspector.

6.2.2 No person shall deface or remove the placard from any dwelling or unit that has been designated as unfit for human habitation, except as provided in Section 6.2.1.

6.3 TERMINATION OF UTILITIES AND SERVICES.

Whenever any dwelling or unit has been placarded and vacated, the inspector may order services and utilities to be turned off, disconnected, and discontinued, and all utility meters to be removed.

6.4 CLOSING AND/OR SECURING OF VACANT STRUCTURES.

If the structure is vacant and/or designated unfit for human habitation and occupancy, and is not in danger of structural collapse, the inspector is authorized to post a placard of condemnation on the premises and order the structure closed up and/or secured so as not to be an attractive nuisance. Upon failure of the owner to close up and/or secure the premises within the time specified in the order, the inspector shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

6.5 STANDARDS FOR SECURING AND MAINTAINING VACANT BUILDINGS

A vacant building shall be secured in accordance with all of the following requirements:

- (1) All windows, doors, openings or holes in the structure shall be covered with minimum one-half (1/2) inch weather protected CDX plywood tightly fitted to the exterior of the opening; and
- (2) The CDX plywood shall be attached with appropriate length galvanized bolts or two (2) inch galvanized screws; and shall be painted to be compatible with the exterior of the structure; and
- (3) The roof and flashing shall be sound, tight, and not have defects that admit water. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior of the structure. The use of sheets of plastic or tarpaulins or similar materials does not satisfy the requirements of this paragraph.

6.6 LIMITING BOARD-UPS OF STRUCTURES.

Board-ups shall be only permitted in unoccupied buildings and then only for sixty (60) days unless a building permit for reconstruction or a demolition permit is taken out and then for only sixty (60) additional days.

6.7 NOTICE.

Whenever the inspector has condemned a structure, unit or equipment under the provisions of this section, the owner shall be given notice as prescribed for in Section 5.4 and shall be posted in a conspicuous place in or about the structure affected by such notice. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 5.3.

SECTION 7 EMERGENCY MEASURES

7.1 IMMINENT DANGER.

When, in the judgment of the inspector, 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 materials, or operation of defective or dangerous equipment, the inspector is hereby authorized and empowered to order and require the occupants and /or any occupants of any adjacent affected areas to vacate the premises forthwith. The inspector shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Lithopolis Zoning Inspector". It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

7.2 TEMPORARY SAFEGUARDS.

Notwithstanding other provisions of this ordinance, whenever, in the opinion of the inspector, there is imminent danger due to an unsafe condition, the inspector shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the inspector deems necessary to meet such emergency.

7.3 CLOSING STREETS.

When necessary for public safety, the inspector shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

7.4 EMERGENCY REPAIRS.

For the purposes of this section, the inspector shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

7.5 COSTS OF EMERGENCY REPAIRS.

Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

7.6 HEARING.

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this ordinance.

SECTION 8 DEMOLITION

8.1 GENERAL.

The inspector shall order the owner of any premises upon which is located any structure or unit, which in the inspector's judgment is so dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary, or has been designated unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure or unit, to demolish and remove such structure or unit; or if such structure or unit is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure or unit.

8.2 NOTICES AND ORDERS.

All notices and orders shall comply with Section 5.

8.3 FAILURE TO COMPLY.

If the owner of a premises fails to comply with a demolition order within the time prescribed, the inspector may cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

8.4 SITE PREPARATION.

If a structure is demolished, whether carried out by the owner or by the inspector, such demolition shall include the filling in of the excavation on which the demolished structure or unit was located so as to eliminate all potential danger to the public health, safety, or welfare arising from such excavation.

8.4.1 Any demolition shall be preceded by an inspection of the premises by the inspector to determine whether or not extermination procedures are necessary. If the premises are found to be infested with rodents and/or insects, appropriate rodent/insect extermination procedures shall be instituted before, during, and after demolition to prevent the spread of rodents and/or insects to adjoining or other areas.

8.4.2 If a structure or unit has been demolished, such demolition shall include, if applicable, the proper abandonment of any water wells and/or private sewage treatment systems as required by the health department.

8.5 SALVAGE MATERIALS.

When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 9 APPEALS

9.1 HOUSING AND PROPERTY MAINTANENCE ORDINANCE BOARD OF APPEALS.

There is hereby created a Housing and Property Maintenance Ordinance Board of Appeals.

9.2 MEMBERSHIP OF BOARD OF APPEALS.

The board of appeals shall consist of Village Council and chaired by the President Pro-Tem of Council who shall be an ex-officio member but shall have no vote on any matter before the board.

Alternatively a five (5) member board may be appointed by the Mayor and confirmed by council and shall serve staggered and overlapping terms with a maximum term of 3 years.

9.2.1 SECRETARY.

One member of the Board shall be elected secretary and keep and provide minutes of all meetings to the Zoning Inspector for retention.

9.2.3 DISQUALIFICATION OF MEMBER.

A member shall not hear an appeal in which that member has a personal, professional or financial interest.

9.3 ADMINISTRATIVE CONFERENCE.

Any person aggrieved by a notice of the inspector issued in connection with any alleged violation of this ordinance, of any applicable rule or regulation issued pursuant thereto, or by any order requiring repair or demolition, may apply to the inspector for an administrative conference with the Mayor for reconsideration of such notice or order if such application is made within fourteen (14) days after the date the notice or order was served. If the inspector holds an administrative conference for reconsideration of notice or order, the inspector shall prepare a summary of the conference including a statement or decision reached. Such summary and statement shall become part of the public record. The inspector shall mail a copy of the decision to the person who requested the conference with the effective date of service 3 days after mailing.

9.4 BOARD OF APPEAL HEARING.

Any person aggrieved by a notice or order of the inspector issued in connection with any alleged violation of this ordinance, or any applicable rule issued pursuant thereto, or by any order requiring repair or demolition may apply to the Housing and Property Maintenance Ordinance Board of Appeals for a reconsideration of such notice or order provided such application is made within twenty-one (21) days after the notice or order was served or twenty-one (21) days after the date of the Administrative Hearing as provided for in Section 9.3. Said application shall be sent to the Board of Appeals.

9.4.1 Upon receipt of an appeal, the Housing and Property Maintenance Ordinance Board of Appeals shall set a time and place for the hearing. Said hearing shall be within thirty (30), days of receipt of such application for appeal. The Housing and Property Maintenance Ordinance Board of Appeals shall notify

the applicant in writing of such time and place of the hearing at least seven (14) days prior to the date of the hearing.

9.4.2 At the hearing, the applicant shall be given an opportunity to be heard and show good cause why such notice or order should be modified, extended, withdrawn, or a variance granted.

9.4.3 The Housing and Property Maintenance Ordinance Board of Appeals, by a majority vote, may sustain, modify, or withdraw the notice or order. In granting an extension or variance of any order, the Board of Appeals shall observe the following conditions:

9.4.3.1 The Housing and Property Maintenance Ordinance Board of Appeals may grant an extension (or variance) of time for the compliance with any order or provided that:

9.4.3.2 Such an extension is in harmony with the general purpose and intent of this ordinance in securing the public health, safety, and general welfare.

9.4.3.3 The applicant presents a detailed plan to the Board describing the steps to be taken and the estimated time to complete same along with these costs.

9.4.3.4 The applicant claims undue burden and/or financial reasons as part of the reason for requesting an extension, modification, or variance, the applicant must submit a detailed statement of said burden and/or financial reasons. The applicant still must have a plan and timeline to bring property into compliance.

9.4.3.5 The applicant claims there are characteristics of the subject property, which make it impractical or impossible or unreasonable to require the applicant to bring the property within compliance, the applicant must detail the facts and/or reasons for the same.

9.4.4 The Housing and Property Maintenance Ordinance Board of Appeals may grant a variance in a specific case and from a specific provision of this ordinance subject to appropriate conditions and provided the Board of Appeals makes specific findings of fact based on evidence related to the following:

9.4.4.1 That there are practical difficulties or unnecessary hardships in carrying out any notice or order; and

9.4.4.2 That the effect of the application of the provision would be arbitrary in the specific case; and

9.4.4.3 That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships and arbitrary and this effect; and

9.4.4.4 That the decision should not have been rendered or is incorrect.

9.5 NOTICE OF HEARING.

The board shall meet upon notice from the chairman, within 30 days of the filing of an appeal.

9.6 OPEN HEARING.

All hearings before the board shall be open to the public. The appellant, the appellant's representative, the inspector and any person whose interests are affected shall be given

an opportunity to be heard. A quorum of at least 3 members must be present and shall consist of not less than a majority of the board membership.

9.6.1 PROCEDURE.

The board shall adopt and make available to the public procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information pertinent to the issue at hand be received.

9.7 BOARD OF APPEALS DECISIONS.

The board shall modify or reverse the decision of the inspector only by a concurring vote of a majority of the total number of appointed board members.

9.7.1 RECORDS AND COPIES.

The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the inspector.

9.7.2 ADMINISTRATION.

The inspector shall take immediate action in accordance with the decision of the board.

9.8 COURT REVIEW.

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court of law pursuant to Ohio law.

9.9 STAYS OF ENFORCEMENT.

An appeal of a notice and/or order (other than Imminent Danger notices) shall stay the enforcement of the notice and/or order until the appeal is heard by the board of appeals.

SECTION 10 DEFINITIONS

10.1 SCOPE.

Unless otherwise expressly stated, the following terms shall, for the purposes of this ordinance, have the meanings shown in this Chapter 11.

10.2 INTERCHANGEABILITY.

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

10.3 TERMS DEFINED IN OTHER REGULATIONS OR CODES.

Where terms are not defined in this ordinance and are defined in any other regulation or code in force within the Village of Lithopolis, such terms shall have the meanings ascribed to them as in those regulations or codes.

10.4 TERMS NOT DEFINED.

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

10.5 PARTS.

Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

SECTION 11 GENERAL DEFINITIONS

11.1 DEFINITIONS.

ABANDONED VEHICLE

Any unregistered motor vehicle, motorcycle, watercraft, recreational vehicle, camper, trailer, aircraft, or substantial elements of which is an actual, or potential, rodent or vermin harborage.

ADMINISTRATOR

The Officer of the agency, division or department which is empowered to enforce this ordinance.

ACCESSORY BUILDING OR STRUCTURE

A detached building or structure in a secondary capacity or subordinate to the main or principal building or structure on the same premises.

APPROVED

Approved by the Administrator of this ordinance.

ATTIC

Any story situated wholly or partly within the roof and designed for business, storage, or habitation.

BASEMENT

That portion of a building which is partly below grade but having less than one-half (1/2) of its clear floor to ceiling height below the average grade of the adjoining ground.

BATHROOM

A room containing plumbing fixtures including a bathtub or shower and/or commode

BEDROOM

Any room or space used or intended to be used for sleeping purposes.

BOARD-UP

The temporary installation of plywood (or other similar material) over a window, door or other opening of a structure so to exclude non-authorized persons and vermin from entering and/or to protect the structure and its contents from the weather until permanent repairs can be made.

BUILDING

Any structure that is affixed to the land and used for the support, shelter, or enclosure of persons, animals, or movable property including residential, mercantile, industrial, and other use.

BULK CONTAINER

Any rigid garbage, rubbish, and/or refuse container that is more than forty inches (40") in height, has a capacity of more than two (2) cubic yards, and is equipped with fittings for hydraulic and/or mechanical emptying, unloading, and/or removal.

CELLAR

That space in a building located partly or wholly below grade which has one-half (1/2) or more of its floor to ceiling height below the average grade of the adjoining ground.

CLUTTER

(Litter and Debris) Ordinary household or business items such as

1. Paper, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets and tires.
2. Lumber, brick, stone and other building materials no longer intended or in condition for ordinary use.
3. Any and all tangible personal property not intended for normal residential or pedestrian use.

CONDEMN

To designate unfit for occupancy.

DELAPIIDATED

A general condition of decay or extensive disrepair.

DOWNSPOUT

A conduit used to carry water from the gutter.

DWELLING

Any enclosed space wholly or partly used or intended to be used for living, sleeping, cooking, sanitation and eating; provided that temporary housing as hereinafter defined shall not be classified as a dwelling.

DWELLING UNIT

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

EXTERIOR PROPERTY

The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION

The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible, materials that serve as their food; by poison application, trapping or by any other approved methods.

FENCE

An independent object that forms a barrier at grade.

FLUE

A conduit of masonry materials or other approved non-combustible heat-resistant material that is used to remove the products of combustion from solid, liquid, or gaseous fuel.

GARBAGE

The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food. Garbage does not include legitimate composting for use on premises.

GRADE

The average finished ground level adjoining a building at all exterior walls.

GUARD

A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

GUTTER

A trough usually under an eave to carry off rainwater from the roof.

HABITABLE SPACE

Space in a structure used or intended for use for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, laundries, furnace rooms, pantries, foyers or communicating corridors, stairways, storage spaces, workshops, hobby and recreation areas, and similar areas are not considered habitable rooms.

IMMINENT DANGER

A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION

The presence, within or contiguous to, a structure or premises of insects, rodents, vermin, or other pests.

INSPECTOR

The Zoning Inspector of the Village of Lithopolis or any duly authorized representative.

JUNK VEHICLE

A motor vehicle, motorcycle, watercraft, trailer, airplane, recreational vehicle, all terrain vehicle which is located on private property for more than seventy-two (72) hours and which meets any one or more of the following requirements:

- A. Is dismantled, partly dismantled, partly constructed, inoperative or abandoned condition.
- B. Is extensively damaged; such damage including but not limited to broken windows or windshield, missing wheels, tires, motor, transmission, hood, deck lid, or body parts.
- C. Is without valid license or registration.

LABELED

Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with the produce evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

LET FOR OCCUPANCY OR LET

To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land, whether or not for compensation.

OCCUPANCY

The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT

Any individual living or sleeping in a building, or having possession of a space within a building, dwelling, dwelling unit or rooming unit.

OPENABLE AREA

That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR

Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER

Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the

property, including the guardian of the estate of any such person, and the executor, administrator, trustee, or receiver of the estate of such person if ordered to take possession of real property by a court.

PERSON

An individual, corporation, partnership or any other group acting as a unit.

PREMISES

A lot, plot or parcel of land including any structures thereon.

PUBLIC NUISANCE

Any structure which is permitted to be or remain in any of the following conditions:

- (A) In a dilapidated, decayed, unsafe or unsanitary condition detrimental to the public health, safety, and/or welfare, or well being of the surrounding area; or
- (B) A fire hazard; or
- (C) Any vacant building that is not secured and maintained in compliance with Section 7; or
- (D) Land, real estate, houses, buildings, residences, apartments, or premises of any kind which are used in violation of any division of the Basic Code or of Section 2925.13 of the Ohio Revised Code.

RODENT

Any species of the order Rodentia including, but not limited to field and wood mice, wood rats, squirrels, woodchucks, gophers, Norway rats (*Rattus norvegicus*), roof rats (*Rattus rattus*), and house mice (*Mus musculus*).

RODENT HARBORAGE

Any condition(s) or place(s) where rodents can live, nest, or seek shelter.

RODENT PROOFING

A form of construction that will prevent the ingress of rodents to or from a given space or building, or from gaining access to food or water, or harborage. It consists of the closing and keeping closed every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rodents by climbing, burrowing, or other methods, by use of materials impervious to rodent gnawing and other methods approved by the inspector.

ROOMING HOUSE

A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one or two family dwelling.

ROOMING UNIT

Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes. Specifically

excluded from this definition is any room or group of rooms that is used for custodial care of persons and hotel/motel rooms.

RUBBISH

Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

STRUCTURE

That which is built or constructed or a portion thereof.

TENANT

A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof.

TOILET ROOM

A room containing a water closet but not a bathtub or shower.

TREAD

The horizontal surface of a step or stair.

VENTILATION

The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WEEDS

Vegetation including but not limited to grass which has attained a height of ten (10) inches or more.

WORKMANLIKE

Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD

An open space on the same lot with a structure.

SECTION 12 GENERAL REQUIREMENTS

12.1 SCOPE.

The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

12.2 RESPONSIBILITY OF OWNER AND TENANT.

All owners and tenants, if there exists any that have a written lease allocating responsibility to the tenants shall maintain all structures and accessory structures and exterior property in compliance with this code. It will be the owner's responsibility to enforce this with his tenant if there is a violation.

12.3 VACANT STRUCTURES AND LAND

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 13 EXTERIOR PROPERTY AREAS

13.1 SANITATION.

All exterior property and premises shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish, garbage, demolition material, animal feces, or any other solid waste.

13.2 GRADING AND DRAINAGE.

All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon except at approved recreation areas, ornamental ponds, lakes and reservoirs. Water shall not remain beneath or under buildings. All premises shall be graded and drained so not to have an adverse or detrimental effect on any adjacent property.

13.3 SIDEWALKS AND DRIVEWAYS.

All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

13.4 WEEDS.

All premises and exterior property, less than 1 acres and not maintained for agricultural purposes, shall be maintained free from weeds or plant growth in excess of 10 inches (254 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens or oriental or ornamental grasses.

13.5 RODENT HARBORAGE.

All structures and exterior property shall be kept free from rodent harborage and infestation.

13.6 EXHAUST VENTS.

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

13.7 ACCESSORY STRUCTURES.

All accessory structures, including, but not limited to detached garages, sheds, playhouses, benches, fences and walls, shall be maintained structurally sound and in good repair. All accessory structures shall have protective coating as required in Section 14.2.

13.7.1. SWIMMING POOLS, SPAS, HOT TUBS AND PONDS

Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. All swimming pools shall be surrounded by a fence at least forty-two inches (42") in height. All gates shall be self-closing and locked. Fencing requirements shall be waived for above ground pools which are at least forty-two inches (42") in height above grade and the stairs are removed and stored off-site, or locked in an upright/unusable position.

13.8 MOTOR VEHICLES.

Except as provided for in other regulations; junk vehicle vehicles shall be housed in an enclosed garage or other structure consisting of a structurally sound roof and permanent walls, any of which may be temporarily opened. No vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled unless necessary for restoration provided that such vehicle is stored in an enclosed garage or other suitable structure. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

EXCEPTION: A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

EXCEPTION: Auto repair facilities shall be permitted one (1) junk vehicle for each four hundred (400) Square feet of service area. Licensed auto sale facilities shall be permitted any number of vehicles, provided they are not in violation of parts A, B, and C of the definition of junk vehicle in Section 11.

13.9 DEFACEMENT OF PROPERTY.

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

13.10 TREES.

All trees shall be maintained free of dead limbs and branches and trunks which in the opinion of the inspector pose a potential safety hazard to any person or structure located on or adjacent to the property said tree is located. Trees shall be maintained so not to come in contact with any structure located on adjacent property.

13.11 EXTERIOR STORAGE.

No stacking or piling of material shall take place against the exterior walls of the primary structure.

13.12 YARDS

Clutter, Litter and Debris Prohibited

In order to preserve and promote reasonable quality of environment and aesthetics and to prohibit actions and conduct which offend the sensibilities and tend to debase the community and reduce real estate values, the deposit, accumulation, or maintenance of clutter, litter or debris regardless of quantity in any or the following areas is hereby prohibited: a) in the front or side yards of lots improved with a building, or b) anywhere within sight of persons lawfully traveling the public highways and streets. The provisions of this section shall be applicable to existing conditions.

SECTION 14 EXTERIOR STRUCTURE

14.1 GENERAL.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

14.2 PROTECTIVE TREATMENT.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, fences and accessory structures shall be maintained in good condition.

14.3 PREMISES IDENTIFICATION.

Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

14.4 STRUCTURAL MEMBERS.

All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the reasonably expected dead and live loads. All structural members shall be kept in sound condition and good repair.

14.5 FOUNDATION WALLS.

All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests. All foundations shall be capable of supporting reasonably expected weights.

14.6 DECORATIVE FEATURES.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

14.7 OVERHANG EXTENSIONS.

All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored and in sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

14.8 STAIRWAYS, DECKS, PORCHES AND BALCONIES.

Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

14.9 CHIMNEYS, STACKS AND TOWERS.

All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal, masonry, or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

14.10 HANDRAILS AND GUARDS.

Porches, screened porches and decks, decks, balconies or raised floor surfaces located more than 30 inches (762 mm) above the floor or grade below shall have guardrails not less than 36 inches (914mm) in height. Required guards shall have intermediate rails or ornamental closures which do not allow the passage of an object 4 inches (102 mm) or larger. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. Structurally sound handrails shall be provided on at least one side of stairways containing three or more risers.

SECTION 15 RUBBISH AND GARBAGE

16.1 ACCUMULATION OF RUBBISH AND/OR GARBAGE.

All exterior property and premises, and the interior of every structure, dwelling, or dwelling unit shall be free from any/all accumulation of rubbish or garbage.

16.2 DISPOSAL OF RUBBISH AND/OR GARBAGE.

Every occupant of a structure, dwelling, or dwelling unit shall dispose of all rubbish and/or garbage in a clean and sanitary manner.

16.3 RUBBISH STORAGE FACILITIES.

The owner or occupant of every occupied structure, dwelling, or dwelling unit shall supply approved covered containers for rubbish and garbage, and the owner of the premises shall be responsible for the removal of rubbish.

16.4 CONTAINERS.

The owner or occupant of every structure, dwelling, or dwelling unit that is producing rubbish and/or garbage shall provide, and at all times cause to be utilized, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

16.5 BULK STORAGE CONTAINERS.

Bulk storage containers which are used for the storage of garbage and/or rubbish shall be placed on a cleanable surface that is constructed to minimize spillage onto adjacent areas. All bulk storage containers shall be equipped with insect, bird, and rodent resistant covers and shall be closed except when filling or emptying. The owner(s) of a structure, dwelling, or dwelling unit shall be responsible for the regular and thorough cleaning of all bulk storage containers and adjacent areas.

16.6 ADEQUACY.

The total capacity of all provided garbage and/or rubbish containers and/or bulk storage containers shall be sufficient to meet the needs of all of the occupants of the structures, dwellings, and dwelling units and from one scheduled collection time until the next scheduled collection time.

SECTION 16 EXTERMINATION

17.1 INFESTATION.

All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

17.2 RESPONSIBILITY.

Every occupant of a structure or dwelling containing a single dwelling unit shall be responsible for the control of vermin, insects, and or rodents on the premises; and every occupant of a structure or dwelling containing more than one (1) dwelling unit shall be responsible for such control if his dwelling unit is the only unit infested. Notwithstanding the foregoing provisions of this section, if infestation is caused by failure of the owner to maintain a structure or dwelling rodent proof or insect proof, pest control and extermination shall be the responsibility of the owner. If infestation exists in two (2) or more of the dwelling units in any structure or dwelling, or in shared or common areas of any structure or dwelling containing two (2) or more dwelling units, pest control and /or extermination shall be the responsibility of the owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure when necessary, dwelling or dwelling units contained in the structure prior to renting or leasing the structure, dwelling or dwelling unit.

SECTION 17 CERTIFICATION OF A PROPERTY

17.1 Certification of a property.

The Village Inspector may certify as "noncompliant" with the provisions of this code a property, if any of the following occur:

17.1.1. Said property is not brought into compliance with the contents and provisions of any notice of violation provided for in Chapter 5 and no request for an administration hearing has been filed pursuant to Chapter 5, or

17.1.2. Said property is not brought into compliance with the decision rendered as a result of an administrative hearing and no application for appeal to the Board of Appeals has been made pursuant to Chapter 5, or

17.1.3. Said property is not brought into compliance with any decision of the Board of Appeals and no judicial review is sought within the time allowed, or

17.1.4. Said property is not brought into compliance with any court decision or order rendered by a court of competent jurisdiction and all appellate remedies have expired or have been exhausted.

17.1.5. The Health Dept shall maintain appropriate files on all properties covered by this Chapter, which will be public record.

17.2 Once a property is found to be non-compliant as provided for above, said finding shall be reduced to writing and retained in the file of said property for a period of five (5) years.

17.3. If a property is certified as "non compliant" the Village Inspector may take any and all of the following actions:

17.3.1 File an affidavit of "non compliance" with the Fairfield County Recorders Office which affidavit it shall contain the legal description of the property and street address thereof. The effective beginning and ending dates of said non compliance, the name of the owner of record of the property at the time of said non compliance and on the date of filing said affidavit, an address where copies of the file concerning said property may be obtained, a statement that any costs incurred by the city needed to enforce the provisions of the ordinance concerning said property and that any future costs to bring the property into compliance will become a lien on said property effective on the date of filing of said affidavit, and

17.3.2 Cause the property to be brought into compliance and assess the costs thereof against the property and certify the costs thereof to the Country Treasurer,

17.3.3 Subordinate any lien created to bring the property into compliance to any mechanics lien, mortgages, or other liens the need thereof were created to bring the property into compliance, and,

17.3.4 Contract with private persons to do the work and/or supply the materials to bring the property into compliance, including the demolition and removal of any structures located on the property.

17.3.5 The costs for taking any of the above steps may include, but not limited to, any costs incurred due to the use of employees, materials or equipment of Lithopolis, any costs arising out of contracts for labor, materials, or equipment, costs of service of notice, filing of affidavit, title searches or any other necessary costs, and

17.3.6 The Village Inspector may cause a civil action to be commenced to recover the total costs from the owner. All attorney fees and court costs shall be considered "costs" as provided for in the above.

17.3.7 Any contract entered into to enforce this chapter may contain the provision that some or all of the consideration to be paid under said contract, may be deferred and payable only upon collection of same from the owner and/or other responsible person and/or other collection after being certified to the treasurer and collected. Any interest and/or penalties attributable to said deferred payments shall bear the same rates allowed by law for delinquent real property taxes and shall be added to said deferred payments.

17.4. REMEDIES

The above remedies may be taken only after giving 3 days written notice to the owner of record at the time of certifying said property as non compliant. The notice shall be sent by 1st class U.S. mail to the real estate billing address of record. Said notice shall contain the following information:

17.4.1 A description of the violation for which the property was certified non-compliant.

17.4.2 A time by which all stated violations must be corrected to the Health Dept satisfaction. Said time shall not exceed 3 days from the date of mailing of the notice and shall state that this time limit may not be extended.

17.4.3 A statement that confirms the property has not been brought into compliance within the time limit and shall be considered consent by the owner or responsible person for the Village Inspector to certify the property.

17.4.4 A statement that during the certified non compliant period of five (5) years the property must be maintained so as to be complaint with this code. Failure to do so will authorize the Health Dept to undertake the actions state above without any further notice to the owner or responsible person.

17.4.5 Transfer of ownership shall not effect the non- compliance certification. The new owner must contact the Health Dept. in writing as to a new address for any notice to be sent.

SECTION 18 STORM DRAINAGE

18.1 Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance or adversely affects adjacent property.

SECTION 19 PENALTIES

5.6 PENALTIES.

Any person failing to comply with a notice of violation or order served in accordance with this ordinance shall, upon conviction thereof, shall be guilty of;

- A minor misdemeanor on a first and second offense, and shall be subject to a fine at not more than one hundred and fifty dollars (\$100.00);
- On a third offense such person shall be guilty of a misdemeanor of the fourth degree and shall be subject to a fine of not more than two hundred fifty dollars (250.00) or imprisonment for a term not to exceed thirty (30) days, or both;
- On each subsequent offense, such person shall be guilty of a misdemeanor of the third degree and shall be subject to a fine of not more than five hundred dollars (\$500.00), or imprisonment for a term not to exceed sixty (60) days, or both.

Each day such violation continues, after receipt of a notice of violation or order, shall be considered a separate offense. The owner of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violations.