

VILLAGE OF RIPLEY, OHIO

ORDINANCE NO. 1172

AN ORDINANCE AMENDING SECTIONS 93.40 - 93.46 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF RIPLEY TO REGULATE WEED CONTROL AND LITTER WITHIN THE VILLAGE OF RIPLEY, BROWN COUNTY, OHIO

BE IT ORDAINED by the Council of the Village of Ripley, Brown County, Ohio, a majority or more of all members thereof concurring as follows:

SECTION 1. That existing Subsections 93.40 through 93.46, inclusive, of the Codified Ordinances of the Village of Ripley be and the same are hereby repealed.

SECTION 2. That the Codified Ordinances of the Village of Ripley be amended to include new Subsections 93.40 through 93.50, which shall be a part of Title IX, GENERAL REGULATIONS, Chapter 93, Nuisances, as follows:

93.40 CUTTING REQUIRED.

(A) The owner or occupant, or any other person, firm or corporation, having the care of any lot or land within the Municipality shall cut down and remove therefrom all offensive and noxious weeds, vines and grass of a height of eight inches or more and any and all weeds, vines, and grass constituting a threat to the public health, safety, comfort or welfare.

(B) It is a prima-facie violation of this chapter if weeds or grass eight inches or more in height exist on any lot on any of the following dates: May 1, May 15, June 1, June 15, July 1, July 15, August 1, August 15, September 1, September 15 or October 1.

(C) The Village Administrator of the Municipality shall cause an annual notice to be published in a newspaper of general circulation in the Village notifying the residents of the requirement of this chapter.

(D) The provisions of this Ordinance shall not apply under the following circumstances:

(1) To vegetation such as trees, bushes, flowers or other ornamental plants maintained as a part of a landscaping plan notwithstanding that such trees, bushes, flowers or other ornamental plants may exceed a height of eight inches, provided however, that the words "maintained as a part of a landscaping plan" is intended to permit the cultivation of such vegetation in designated planting beds and areas for decorative purposes. It shall not be construed to permit the unregulated or unrestrained growth of such vegetation upon a property so as to create a nuisance to neighboring properties.

(2) To that portion of any lots or land within the Municipality which are naturally wooded and tree covered such that the existing trees, bushes and similar vegetation have the effect of shading out the noxious weeds and rank vegetation intended to be curtailed by the operation of the Ordinance;

(3) To that portion of any lots or land within the Municipality which are maintained and cultivated for agricultural purposes.

93.41 NOTICE TO CUT.

(A) When the Village Administrator or his designated agent determines that such weeds, as described in Section 93.40(A), exist on one of the days set forth in Section 93.40(B), he shall forthwith serve written notice upon the owner or occupant, or any other person, firm or corporation, having the care of such lot or land, ordering the cutting and removal of such weeds and noxious grasses.

(B) If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the notice once in a newspaper of general circulation in the Village.

(C) Only one notice per calendar year under subsections (A) or (B) hereof is required for a lot or parcel. If, after a notice has been served in accordance with this section, the Village Administrator, or his designated agent, determines that a subsequent violation has occurred, the Municipality may proceed with the remedy set forth in Section 93.43 without further notice.

93.43 FAILURE TO COMPLY.

No owner, occupant or any other person, firm or corporation, having the care of a lot or land, shall fail to comply with the notice provided for in Section 93.42 within five days from the receipt thereof.

93.44 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE TO CUT.

(A) If the owner, occupant or any other person, firm or corporation, having the care of the lands mentioned in Section 93.41(A), fails to comply with the notice provided for in Section 93.42, the Municipality shall cause such noxious weeds and grass to be cut and removed. Such cutting and removing shall be at the owner's expense and the cost together with an administrative fee of twenty percent (20%) shall be assessed against the lot or land. Such administrative fee shall not exceed two hundred dollars (\$200.00).

(B) Notice of such assessment shall be given to the owner of the lot or land charged therewith, or his agent, either in person or left at the usual place of residence or sent by mail, and all assessments not paid within ten days after the giving of such notice shall, after approval by Council, be certified by the Clerk of Council to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected.

93.45 RESPONSIBILITY OF ADJACENT OWNER.

The owner, occupant or custodian of each lot adjacent to a street or alley shall be responsible for the area between the curb and sidewalk, or between the edge of the street and the property line where there is no curb or sidewalk, and the area between the centerline of the alley and the property line or the center line of an unimproved street and the property line.

93.46 APPLICATION OF CHAPTER.

The provisions of this Chapter shall apply to those areas which are within seventy-five feet of any property line which includes a residence or place of business, or within twenty-five feet of the edge of the pavement along any road frontage of any lot or parcel of land which does not include a residence or place of business.

93.47 LITTER.

(A) Upon a finding by the Village Administrator that litter has been placed on lands in the municipality, and has not been removed, and constitutes a detriment to public health, the Village Administrator shall cause written notice to be served upon the owner and, if different, upon the lessee, agent, or tenant having charge of the littered land, notifying him or her that litter is on the land, and that it must be collected and removed within 15 days after the service of the notice.

(B) Form. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the reason or reasons why the notice is being issued;
- (4) Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this ordinance;
- (5) Inform the owner, or if different, the lessee, agent or tenant having charge of the littered land, of the right to file an appeal; and
- (6) Include a statement of the right of the Municipality to file a lien against the real estate in accordance with §93.50 of this ordinance.

(C) As used in this section and § 93.43, **LITTER** includes any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

(D) If the owner or other person having charge of the land is a nonresident of the municipality whose address is known, the notice shall be sent to his or her address by certified mail. If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the notice once in a newspaper of general circulation in the county.

(E) This section does not apply to land being used under a municipal building or construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junkyard, scrap metal processing facility, or similar business, or a permit or license issued pursuant to R.C. Chapter 3734, §§ 4737.05 to 4737.12, or R.C. Chapter 6111.

93.48 RIGHT TO APPEAL.

(A) Application for Appeal. Any person directly affected by a finding and notice issued by the Village Administrator under §93.47(A) shall have right to appeal the finding and notice to the Litter Control Board of Appeals, provided that a written application for appeal is filed with the Fiscal Officer of the Municipality before the expiration of the period of time provided for in said §93.47(A). An Application for Appeal shall be based on a claim that the finding of the Village Administrator is in error, that the true intent of said §93.47 has been incorrectly interpreted, that the provisions said §93.47 do not fully apply, or the requirements of said §93.47 are adequately satisfied by other means.

(B) Membership of Board. The Litter Control Board of Appeals shall consist of three members who residents of the Village of Ripley. The Board shall be appointed by the Mayor of the Municipality with approval of the Council. The initial appointment shall be for terms as follows:

- one (1) member for a term of one (1) year;
- one (1) members for a term of two (2) years; and
- one (1) members for a term of three (3) years,

Subsequent appointments shall be for a term of three (3) years each with all members so appointed to serve until their successors are duly appointed and approved. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

(1) Alternate Members. The Mayor of this Municipality shall appoint two or more alternate members who shall be called by the Board Chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

(2) Chairman. The Litter Control Board of Appeals shall annually select one of its members to serve as Chairman.

(3) Disqualification of Member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(4) Secretary. The Mayor of this Municipality shall designate a qualified person to serve as Secretary to the Litter Control Board of Appeals. The Secretary shall file a detailed record of all proceedings in the office of the Mayor of this Municipality.

(5) Compensation of Members. Compensation of Members shall be determined by the legislative authority of this Municipality.

(C) Notice of Meeting. The Litter Control Board of Appeals shall meet upon notice from the Chairman, within 10 days of the filing of an appeal, or at stated periodic meetings.

(D) Open Hearing. All hearings before the Litter Control Board of Appeals shall be open to the public. The appellant, the appellant's representative, the Village Administrator and any person

whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership.

(1) Procedure. The Litter Control Board of Appeals shall adopt and make available to the public through the Secretary 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 be received.

(E) Postponed Hearing. When the full Litter Control Board of Appeals is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(F) Board Decision. The Litter Control Board of Appeals shall modify or reverse the finding of the Village Administrator only by a concurring vote of a majority of the total number of appointed Board members.

(1) Records and Copies. The decision of the Litter Control Board of Appeals shall be recorded. Copies shall be furnished to the appellant and to the Village Administrator.

(2) Administration. The Village Administrator may take immediate action in accordance with the decision of the Litter Control Board of Appeals.

(G) Administrative Appeal. Any person, whether or not a previous party of the appeal, shall have the right to appeal a final Decision of the Litter Control Board of Appeals to the Court of Common Pleas of Brown County, Ohio pursuant to the provisions of Chapter 2506 of the Ohio Revised Code.

(H) Stays of Enforcement. Appeals of notice issued by the Village Administrator under §93.47 shall stay the enforcement of the thereof until the appeal is heard by the Litter Control Board of Appeals.

(I) Relief from Personal Liability. The Litter Control Board of Appeals, its Secretary and staff, who act in good faith in the discharge of their duties of review of the enforcement of this ordinance are relieved of all personal liability for any damage accruing to persons or property as a result of any acts or alleged failure to act. Any suit instituted against said Board of Appeals, its Secretary and staff because of an act or failure to act by the Litter Control Board of Appeals, its Secretary or staff in the lawful discharge of their duties and under the provisions of this ordinance shall be defended or represented by the Municipality's attorney-at-law until the final termination of the proceedings. Further, neither the Litter Control Board of Appeals, its Secretary nor its staff shall be held liable for any costs in any action, suit or proceeding that is instituted in the enforcement of this ordinance.

93.49 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE TO REMOVE LITTER.

If the owner, lessee, agent, or tenant having charge of the lands mentioned in § 93.47 fails to comply with the notice required by such section, the Village Administrator shall cause such litter removed and employ the necessary labor or contract for the necessary labor and/or machinery to

perform the task. All expenses incurred shall, when approved by the Village Administrator, be paid out of the money in the treasury of the municipality not otherwise appropriated.

93.50 WRITTEN RETURN TO COUNTY AUDITOR; AMOUNT AS LIEN UPON PROPERTY.

The Village Administrator shall make a written return to the County Auditor of his action under §§ 93.47 and 93.49, with a statement of the charges for his services and costs, amount paid for labor and/or machinery, the fees of the officers serving the notices, and a proper description of the premises. These amounts, when allowed, shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of entry and be collected as other taxes and returned to the municipality with the general fund.

93.51 PENALTY

(A) Whoever violates any provision of this Ordinance shall be punished by a fine not exceeding \$ 25.00. A separate offense shall be committed each day during or on which a violation continues or occurs.

(B) The failure of any officer or employee of the municipality to perform any official duty imposed by this Ordinance shall not subject the officer or employee to the penalty imposed for a violation.

SECTION 3. Ordinance No. 1172, enacted by the Council of the Village of Ripley on October 25, 2005 shall be and hereby is repealed as being in conflict with the provisions of this Ordinance.


SECTION 4. This ordinance shall be effective from and after the earliest date allowed by law.

PASSED: 9-11-, 2018



Tom Leonard, Mayor

ATTEST:



Brooke Butcher, Fiscal Officer