

**ORDINANCE NO. 11-2018**

**AN ORDINANCE REGULATING WEED CONTROL AND  
LITTER WITHIN IN THE VILLAGE OF  
NEWCOMERSTOWN, OHIO, AND DECLARING AN EMERGENCY**

WHEREAS, the Village Council for the Village of Newcomerstown, have reviewed the existing ordinances in regard to weed control and litter control within the Village limits.

WHEREAS, after such examination, the Members of Council of the Village of Newcomerstown have determined that it is necessary to establish a new ordinance regulating weed control and litter within the Village.

Now therefore be it ordained by the Council of the Village as follows:

**SECTION 1. CUTTING REQUIRED:**

- A. The owner or occupant, or any other person, firm or corporation, having the care of any lot or land with the Village shall cut down and remove there from all offensive and noxious weeds, vines and grass of a height of six 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 six inches or more in height exist on any lot on any of the following dates: April 15, May 1, May 15, June 1, June 15, July 1, July 15, August 1, August 15, September 1, September 15, October 1 or October 15.
- C. The Village Mayor 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 ordinance.
- D. The provision 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 plant notwithstanding that such trees, bushes, flowers or other ornamental plants may exceed a height of six 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 Village 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 Village which are maintained and cultivated for agricultural purposes.

**SECTION 2. NOTICE TO CUT:**

- A. When the Village Mayor, Police Chief, or their designated agent determines that such weeds as described in Section 1(A), exist on one of the days set forth in Section 1(B), he/she shall 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) is required for a lot or parcel. If, after a notice has been served in accordance with this section, the Village Mayor or Police Chief, or their designated agent, determines that a subsequent violation has occurred, the Village may proceed with the remedy set forth in Section 1 without further notice.

### **SECTION 3. FAILURE TO COMPLY/ PENALTY:**

A. 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 2 within five (5) days from the receipt thereof.

B. Whoever violates any provision of this chapter is guilty of a minor misdemeanor on a first offense. If the violator has been previously convicted of or pleaded guilty to a violation of this Chapter, the violator shall be guilty of a fourth degree misdemeanor upon conviction. Sentencing shall be in accordance with Ohio Basic Code Chapter 130.09. A separate offense shall be deemed committed each day on which a violation occurs or continues.

C. Organization shall be held criminally liable pursuant to Ohio Basic Code 130.09.

### **SECTION 4. 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 1(A), fails to comply with the notice provided for in Section 2, the Village 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/her agent, either in person or left at the usual place of residence or sent by mail, and all assessments not paid within ten (10) days after the giving of such notice shall, after approval by Council, be certified by the fiscal officer to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected.

### **SECTION 5. 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.

### **SECTION 6. APPLICATION OF ORDINANCE:**

The provisions of this Chapter shall apply to those areas which are within seventy-five (75) feet of any property line which includes a residence or place of business, or within twenty-five (25) feet of the edge of the payment along any road frontage of any lot or parcel of land which does not include a residence or place of business.

### **SECTION 7. LITTER:**

A. Upon a finding by Village Officials that litter has been placed on lands in the municipality, and has not been removed, and constitutes a detriment to public health, the Mayor of the Village of Newcomerstown 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 fifteen (15) days after the service of the notice.

B. As used in this section, 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.

C. 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.

D. 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 junk yard, 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.

### **SECTION 8. WRITTEN RETURN TO COUNTY AUDITOR AMOUNT AS LIEN UPON PROPERTY:**

The Village Fiscal Officer shall make a written return to the County Auditor of the action taken pursuant to Sections above, with a statement of the charges for Village 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.

**SECTION 9. EFFECTIVE DATE:**

This Ordinance shall be effective from and after the earliest date allowed by law.

**SECTION 10.** Council finds and determines that all formal actions relative to the passage of this Ordinance were taken in an open meeting and that all deliberations of Council which resulted in the passage of this Ordinance were taken in meetings open to the public, in full compliance with all legal requirements including R. C. 121.22.

**SECTION 11.** This ordinance is deemed to be an emergency to protect the health, safety and welfare of the residents of the Village and shall go into full force and effect on the first day after its passage by the Village Council as an emergency measure, provided it receives the necessary votes.

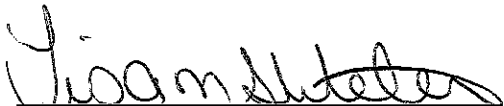
PASSED: July 2, 2018

APPROVED:

  
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PAT CADLE, MAYOR

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LISA STITELER  
FISCAL OFFICER

\_\_\_\_\_  
ROBERT R. STEPHENSON, II  
SOLICITOR

