

ORDINANCE 12-2017

AN ORDINANCE TO AMEND SECTION 665, OF THE CODIFIED ORDINANCES REGARDING WEEDS AND GRASS

WHEREAS, the codified ordinances of Minerva Park includes a section specifying the rules and regulations governing trees, weeds, and grass (Chapter 665, Weeds and Grass); and

WHEREAS, it is necessary and appropriate to revisit, clarify, and update regulations from time to time; and

WHEREAS, the Planning and Zoning Commission recommended that the ordinance language be clarified regarding ;

NOW, THEREFORE, be it ordained by the Council of the Village of Minerva Park, Franklin County, State of Ohio, that:

Section 1. Section 665 is hereby amended to read as follows:

665.01 CUTTING OF WEEDS AND GRASS REQUIRED.

The owner, lessee, agent, tenant or other such person having charge or care of any land, parcel or lot within the Municipality shall maintain the premises and exterior property free from weeds or plant growth including grass in excess of six (6) inches. Ornamental grasses in landscaped beds are exempt. All noxious weeds as defined by the United States Department of Agriculture and the Ohio Administrative Code 901.5-37-01 are prohibited.

(1) Noxious weeds defined. Poison ivy; poison oak; poison sumac; any and all additional noxious weeds included in the Ohio Administrative Code's list of prohibited noxious weeds and/or the Ohio noxious weed list maintained by the US Department of Agriculture Natural Resources Conservation Service.

(2) Plant growth defined. All grasses, annual plants, and vegetation, other than trees or shrubs. This term does not include cultivated flowers and gardens. Natural plantings of native wild plants and accepted cultivars of wild plants are a recognized type of landscaping. These areas must be tended, cultivated in a manner consistent with natural plantings, and confined to a definite area.

665.02 TRIMMING OF TREES AND SHRUBS REQUIRED.

The owner, lessee, agent, tenant or other such person having charge or care of any lot or parcel of land fronting on any street, alley, avenue or public grounds in the Municipality, in which trees are planted and growing, shall trim or cause to be trimmed, all trees or shrubbery in front of the respective lots or lands when so ordered or directed by the Mayor/Village Administrator. All trees shall be trimmed so as to have a clear height of ten feet above the surface of sidewalks and twelve feet above the surface of the street or roadway. The branches of all trees or shrubs in front and along lots or lands near which public lamps are placed shall be trimmed so as not to obstruct the free passage of light from the lamps to the street and sidewalks. Trees and shrubs shall be maintained so as to allow unobstructed views of street signs and unobstructed access to fire hydrants.

665.03 REMOVAL OF DANGEROUS TREES.

All dead, decaying and broken limbs or branches that overhang a sidewalk or street, or that area liable to fall thereon, shall be removed from said trees. When any of said trees are dead, the owner of the premises or the agent of the owner shall take up or cause to be taken up said dead trees and remove the same from said lot or parcel of land. The Mayor/Village Administrator is hereby authorized to remove trees within the limits of the Municipal streets that have been determined to be dangerous to the public.

665.04 PLANTING OF TREES AND SHRUBS REGULATED.

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No owner, lessee, agent, tenant or other such person having charge or care of any land, parcel or lot within the Municipality shall plant or cause to be planted any tree, bush or shrub in or upon any street, alley, right of way or any other land owned by the Municipality.

665.05 NOTICE TO CUT, TRIM OR REMOVE.

(a) When determined through inspection by the Mayor/Village Administrator or his/her designee, that weeds, grass or other undesirable vegetation exceeding the height specified in Section [665.01](#) or that trees or shrubs exceeding the clear height specified in Section [665.02](#) or that the accumulation of dead, fallen or cut tree branches, limbs or trimmings as specified in Section [665.03](#) or Section [665.09](#) exist upon any land within the corporate limits of the Municipality, the Mayor/Village Administrator shall cause notice to be served to the owner, lessee, agent, tenant or other such person having charge or care of such land to abate the violation. Such notice shall include the following:

(1) An order to cut or destroy the weeds, grass or vegetation or trim such trees or shrubs or remove such fallen limbs, branches or trimmings within five days of being given notice to do so.

(2) A statement that the Village of Minerva Park or designated contractor will complete the work requested after the fifth day, the cost of which shall be assessed to the property owner as outlined in Sections [665.07](#) and [665.08](#). Such notice shall also state that the failure of such owner, occupant or person to remedy the violation as required by such notice shall be deemed an implied consent for the Village to abate or remove such violation. Such implied consent shall be deemed to form a contract between such owner, occupant or person and the Village.

(b) Written notice shall be served by either of the following methods:

(1) Delivering notice by the United States First Class mail to any of the owners, lessees, tenants or other persons or entities having charge or care of land and posting the notice by affixing it to the front of the building in clear view from the street or affixing it to a free-standing post or stake in clear view from the street, service being effective upon posting;

(2) Publishing the notice once in a local newspaper of general circulation.

665.06 FAILURE TO COMPLY; REMEDY OF MUNICIPALITY.

(a) In the event the owner, lessee, agent, tenant or other such person having charge or care of any land, parcel or lot within the Municipality does not comply with the order to cut or destroy the weeds, grass or undesirable vegetation or trim the trees or shrubs within the time limit specified in Section [665.05](#) after a proper notice to abate the violation has been issued by the Village Mayor/Administrator, the Mayor/Village Administrator shall cause such undesirable vegetation to be cut and destroyed or trees or shrubs to be trimmed, and may employ the necessary labor and equipment to perform such task, together with any cleanup work required, within appropriations previously made by Council. This remedy is in addition to the penalty provided in Section [665.99](#). The Village of Minerva Park shall not be responsible for damage done to the premises under the authorization provided in herein unless said damage is done negligently, recklessly, or intentionally.

(b) If the owner, lessee, agent, tenant or other such person having charge of such lots or land fails or refuses to cut or destroy the weeds, grass or undesirable vegetation or trim the trees or shrubs and it becomes necessary for the Village of Minerva Park to abate the violation more than one time during any calendar year, the Mayor/Village Administrator may charge an additional administrative fee at the time of notification for the second violation. The Mayor/Village Administrator may abate subsequent violations without the necessity of further notice.

665.07 FEES CHARGED BY MUNICIPALITY.

(a) Upon completion of abatement of the violation, the Mayor/Village Administrator shall invoice the owner for all such work performed at a liquidated cost of \$125 per on-site labor-hour including all equipment, equipment maintenance, supplies, and overhead costs, with a minimum charge of \$300. If a contractor performs the work, the Mayor/Village Administrator will invoice the owner for the costs of

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such cutting and removal shall be immediately due and payable to the Municipality provided, however, that the administrative fee shall not exceed \$500.00. The cost and administrative fee shall be assessed against the lot or land. All fees are subject to the fee schedule established by the Village of Minerva Park.

(b) Notice of such assessment shall be given to the owner of the lot of land charged therewith, and the occupant by mailing such notice to the address utilized by the County Treasurer for tax billing purposes and by posting a Notice of Assessment at the subject premises. All assessments not paid within thirty days after such mailing and posting, after approval by the Village Mayor/Administrator, shall 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. Such assessments are in addition to the penalties provided for in Section 665.99 of this section.

665.08 PAYMENT OF FEES.

The owner shall pay such fees as are charged in accordance with Section 605.07 to the Fiscal Officer within thirty days after receipt of such statement of costs to avoid further cost or penalty. If the fee is not paid when due, the Fiscal Officer shall certify to the County Auditor the proceedings taken under this chapter, together with a statement of the charges for such services as listed in Section 605.07 and a legal description of the premises. Such amounts shall be entered upon the tax duplicate and shall be a lien upon such lands from the date of entry and shall be collected as other taxes and returned to the General Fund as provided by Ohio R.C. 731.54.

665.09 REMOVAL OF FALLEN BRANCHES, LIMBS, ETC.

No owner, agent, lessee, tenant or other having charge of property within the Municipality, shall cause, or allow to cause, the accumulation of dead, fallen or cut tree branches, limbs or trimmings on such lands as to constitute a public nuisance or hazard or which may be considered dangerous to the public as determined through inspection by the Mayor/Village Administrator or his/her designee.

665.10 CUTTING OF WEEDS AND GRASSES IN ADJACENT RIGHTS-OF-WAY.

(a) No person owning, having charge of or being in possession of land within the Village shall fail to keep the adjacent right-of-way between his/her property and the curb, or edge of street or alley where there is no curb, free from all weeds.

(1) Noxious weeds defined. Poison ivy; poison oak; poison sumac; any and all additional noxious weeds included in the Ohio Administrative Code's list of prohibited noxious weeds and/or the Ohio noxious weed list maintained by the US Department of Agriculture Natural Resources Conservation Service.

(2) Plant growth defined. All grasses, annual plants, and vegetation, other than trees or shrubs. This term does not include cultivated flowers and gardens. Natural plantings of native wild plants and accepted cultivars of wild plants are a recognized type of landscaping. These areas must be tended, cultivated in a manner consistent with natural plantings, and confined to a definite area.

(b) No person owning, having charge of or being in possession of land within this Village shall fail to keep tended the adjacent right-of-way between such property and the curb, or edge of the street or alley where there is no curb, by allowing grass and weeds to grow to a height in excess of 6" or to mature their seeds thereon pursuant to Section 665.01 of the Codified Ordinances.

(c) The Mayor/Village Administrator or his/her designee is hereby granted authority to notify the property owner in writing who is in violation of subsection (a) or (b) of this section to cut such weeds or grass and if such weeds or grass have not been cut within five (5) calendar days of the date of mailing such notice the Mayor/Village Administrator or his/her designee may cause the weeds to be removed. The notification shall include a statement that the Village of Minerva Park or designated contractor will complete the work requested after the fifth day, the cost of which shall be assessed to the property owner as outlined in Sections 665.07 and 665.08.

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(d) Whoever violates this section is guilty of a minor misdemeanor. Each calendar day that a violation of this section is repeated or continued shall constitute a separate offense.

665.11 GRASS CLIPPINGS ON PUBLIC SIDEWALKS AND PUBLIC STREETS.

(a) No grass clippings or foliage shall be deposited onto public sidewalks or public streets. Grass clippings or foliage are to be removed from the public street and/or public sidewalk immediately following mowing or trimming.

(b) Grass clippings or foliage shall not be dumped or washed into municipal storm drains or into the municipal storm sewer system.

(c) The property owner shall be responsible for ensuring all tenants, vendors, or third parties comply with this Section.

665.99 PENALTY.

(a) 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 Section [698](#) of the Codified Ordinances. A separate offense shall be deemed committed each day on which a violation occurs or continues.

(b) Organizations shall be held criminally liable pursuant to Section [606](#).

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements of the laws of the State of Ohio.

Section 3. All prior legislation, or any parts thereof, which is/are inconsistent with this Ordinance is/are hereby repealed as to the inconsistent parts thereof.

Section 4. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

/S/ Lynn Eisentrout

Lynn Eisentrout, Mayor

First Reading: May 22, 2017
Second Reading: October 9, 2017
Third Reading: October 23, 2017
Passed: October 23, 2017

ATTEST

APPROVED AS TO FORM

/S/ Kimberly Pulley

Kimberly Pulley, Fiscal Officer

/S/ Eugene Hollins

Solicitor