

CODIFIED ORDINANCES OF BEREA

CHAPTER ONE OF TITLE ONE OF PART TEN-ZONING PLAN

CHAPTER 1329

Exterior Property Maintenance Code

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Section 1329.1 Title and Scope

- a. Title. This chapter shall be known as the Exterior Property Maintenance Code of the City.
- b. Scope. This chapter is strictly limited to the establishment of minimum standards for the maintenance of exterior surfaces and exterior functioning units of all structures and buildings within the City, including yard areas immediately contiguous thereto. No provisions of this chapter shall, in any way, directly or indirectly be interpreted to interfere with, or to limit the right of any owner or resident to inhabit real property owned or leased by them in such manner and form as they may determine appropriate, consonant with other applicable provisions of law. This chapter is directed to obvious visual problems which may occasion incipient blighting conditions within the City. All matters of the interior used, occupancy or habitation of any structure or building within the city specifically excluded from the provisions of this chapter. (Ord. 88-141. Passed 12/19/88)

Section 1329.2 Purposes

The purpose of this code is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance and exterior condition of all premises throughout the City: to fix certain responsibilities and duties upon owners, residents and managers of the same as to both separate and correlative responsibilities and duties: to authorize and establish procedures for the exterior inspection of such premises: to fix penalties for the violations of the Code and to provide for the repair, demolition or vacation of the premises unfit for human habitation, occupancy or use. This Code is hereby declared to be remedial and essential for the public interest, and it is intended that this Code be constructed and interpreted to effectuate the purposes as stated herein.

(Ord. 88-141. Passed 12/19/88)

Section 1329.3 Findings; Declarations of Policy

It is hereby found and declared that there exists in the City various and several structures, including yard areas immediately contiguous thereto, which are, or may become in the future, deteriorated or defective with respect to exterior maintenance, or further, that such condition, including but not limited to, structural deterioration, lack of maintenance and appearance of exterior premises, existence of exterior

fire hazards and unsanitary conditions, constitute an immediate threat to the health, safety, welfare and reasonable comfort of the residents and inhabitants of the City. It is further found and declared that, by reason of lack of maintenance and progressive deterioration, the exterior of appearance of certain properties have the further effect of creating blighting conditions and initiating depressed neighborhood groupings, and that if the same are not curtailed and corrected, the conditions are likely to grow and spread and necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of timely regulations and restrictions as herein contained, the growth of such blight may be prevented and the immediate neighborhood and property values thereby maintained.

(Ord. 88-141. Passed 12/19/88)

#### Section 1329.4 Applicability

Every residential, non-residential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial business or industrial occupancy shall comply with the provisions of this Code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code, and without regard to any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment of facilities prior to the effective date of this Code. This Code establishes minimum standards for the initial and continued occupancy and use of all such structures and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the buildings. Where there is a mixed occupancy, residential or non-residential use therein shall be nevertheless regulated by and subject to the provisions of this Code.

(Ord. 88-141. Passed 12/19/88)

#### Section 1329.5 Conflict of Laws

In any case where a provision of this Chapter imposes a higher standard than that set forth in any other Ordinance by the City or law of the State, then the standard set forth herein shall prevail, but if a provision of this Chapter imposes a lower standard than that imposed by any other Ordinance of the City or law of the State, then the higher standard contained in any such other Ordinance or law shall prevail.

(Ord. 88-141. Passed 12/19/88)

#### Section 1329.6 Enforcement

The enforcement of any and all provisions of this Chapter is placed with the Chief Building Official/Zoning Administrator, as designated by the Mayor, and such Chief Building Official/Zoning Administrator, together with such additional enforcement officers, including police officers as may be required, shall carry out and effectuate all of the provisions herein. The Building Department shall write rules and regulations and Departmental policies for the enforcement of this Code which shall be available to the public during business hours.

(Ord. 2002-28. Passed 6/17/2002)

a. Inspection. All buildings and premises within the City are subject to exterior inspections from time to time by the Chief Building Official/Zoning Administrator, or his designees, including the Department of Police as assigned by the Director of Public Safety. (Ord. 2002-28. Passed 6/17/2002)

b. Notice and Appeal.

1. Where a violation of any provision of this Chapter is found to exist, the Chief Building Official/Zoning Administrator or the Chief Building Official/Zoning Administrator's designee shall cause a written notice of such violation to be served upon the person responsible for the correction thereof. The notice shall specify the violation committed and shall provide for a reasonable period of time, not more than thirty (30) days, to correct or abate the violation. (Ord. 2002-28. Passed 6/17/2002)
2. Notice may be served personally, by certified mail or by regular mail with a certificate of mailing addressed to the last known address of the person to be served or by leaving a copy thereof at the usual residence of the person to be served. If the last known address cannot be ascertained, the notice shall be posted on the outside front entrance of the structure in alleged violation. (Ord. 2002-28. Passed 6/17/2002)

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

c. Appeal

1. Within ten (10) days of the date of service of notice, any person affected by the notice may request a hearing thereon before the Municipal Plan Commission by filing a written request with the Clerk of the Commission. The Chairman of the Commission, upon receipt of the request, shall, within forty-five (45) days therefrom, and upon at least five (5) days notice to the party and the Zoning Administrator, set the matter down for hearing. The Commission may sustain, modify or dismiss, in whole or in part, any action required to correct or abate the violation set forth in the notice and shall issue an order incorporating its determinations, and such order shall be a Final Order as to these administrative proceedings, provided, however, that any order of modification or dismissal shall be effective for two (2) years following the date of issuance of such order, and thereafter, the subject matter of such order of modification or dismissal may be amenable to further inspection, notice and appeal as set forth herein.
2. The Municipal Plan Commission shall consider only the following in determining appropriate action to be taken, to wit:
  - a. That any modification of the original order of the Chief Building Official or the Zoning Administrator shall not, in any material way, alter the standards of this Chapter, and shall not affect detrimentally the health or safety of occupants, or the health, safety or welfare of the occupants or owners of adjacent premises or of the immediate neighborhood: and
  - b. That strict enforcement would constitute an undue and unnecessary hardship on the owner, manager or resident, by reason of compelling an expenditure for repair of the premises which would be substantially disproportionate to any benefit to health, safety or welfare of the community that might be derived therefrom.

No license or permit or other certification of compliance with this Code shall constitute a defense against any violation of any other local ordinance applicable to any structure or premises, nor shall any provisions herein relieve any owner, manager or resident from complying with any such other provision, nor any official of the City from enforcing any such other provisions. (Ord. 88-141. Passed 12/19/88)

Section 1329.7 Maintenance Responsibility

- a. The owner and manager of every single or multiple residential, commercial or industrial unit structure within the City shall be responsible for maintaining the exterior surfaces of the same in conformance with the provisions of this Chapter. (Ord. 2002-28. Passed 6/17/2002)
- b. The owner and manager of every multiple unit structure within the City shall be responsible for maintaining the yard area contiguous thereto in conformance with the provisions of this Chapter.
- c. The owner, manager and any adult resident of a single dwelling structure within the City shall be responsible for maintaining the yard area immediately contiguous thereto in conformance with the provisions of Sections 1329.8 (b) and 1329.12 of this Chapter.
- d. Unless expressly provided to the contrary in this Chapter, the respective obligations and responsibilities imposed herein upon the owner and manager, as differentiates from those of the residents, shall not be altered or affected by an agreement or contract by and between any of the aforesaid, or between them and other parties. (Ord. 88-141. Passed 12/19/88)

Section 1329.8 General Exterior Maintenance Requirements

- a. The exterior surfaces of all structures within the City, be the same functional or aesthetic, shall be maintained in good repair. Any exterior part or feature thereof having functional use shall be capable of performing the use for which such part or feature was designed.
- b. The entire yard area contiguous to all structures within the City, and extending up to and including the lot line in all directions, shall be maintained in a safe, clean and sanitary condition. (Ord. 88-141. Passed 12/19/88)

Section 1329.9 Exterior Surfaces

- a. All exterior surfaces of every structure within the City shall be maintained so as to resist decay or deterioration from any naturally occurring cause. All exterior surfaces shall be covered with paint, finish or other surface coating so as to prevent such decay or deterioration. An exterior wall segment, facing or other distinguishable surface area determined by the Chief Building Official/Zoning Administrator or the Chief Building Official/Zoning Administrator's designee to have more than fifteen percentum (15%) of its total area bare, peeling, flaking, pitted, corroded, unclean or otherwise deteriorated, shall be surface-coated in its entirety. If the surface to be coated is a portion of a larger structure, such surface coating shall be compatible in color, texture and design with the entire structure. If the entire exterior surface of a structure is to be surface-coated, such surface coating shall be compatible in color, texture and design with similar structures in the immediate neighborhood. (Ord. 2002-28. Passed 6/17/2002)
- b. All deteriorated or decayed exterior walls, doors, porches, floors, steps, railings, decks or parts of features thereof, shall be repaired or replaced. (Ord. 2002-28. Passed 6/17/2002)
- c. All damaged or broken windows, and deteriorated or decayed sill, sash, molding, lintel, frame or trim thereof shall be repaired or replaced. (Ord. 88-141. Passed 12/19/88)

Section 1329.10 Foundations

- a. The foundation of every structure within the City shall be maintained in such condition and repair as to prevent damage to the structural integrity of the same.
- b. The foundation exterior of every structure within the City shall be free of damage, loose or missing blocks, bricks, tile, stones or other deteriorated foundation material. All loose, missing or deteriorated mortar shall be repaired or replaced. (Ord. 2002-28. Passed 6/17/2002)

Section 1329.11 Roofs, Gutters, Downspouts and Chimneys

- a. The roof of every structure within the City shall be maintained weather-tight and free of debris, including moss and mildew. All missing shingles, or other roofing materials shall be replaced with materials of similar kind, nature, design and color as the original thereof. Any roof, or distinguishable portion thereof, determined by the Chief Building Official/Zoning Administrator or the Chief Building Official/Zoning Administrator's designee to have more than twenty-five percentum (25%) of its total area compromised of missing or deteriorated shingles, or other roofing material, shall be replaced in its entirety. (Ord. 2002-28. Passed 6/17/2002)
- b. Any structure with the City having gutters and/or downspouts in place shall have such gutters and downspouts properly mounted to such structure, maintained in good working condition and kept free of exterior rust and corrosion. Such rust and corrosion as may develop in the course of ordinary use of the same shall be removed, painted or otherwise surface-coated so as to keep such gutters and/or downspouts free of visible rust or corrosion. (Ord. 2002-28. Passed 6/17/2002)
- c. The chimney of every structure within the City shall be maintained structurally sound and in good repair, free of loose, missing or deteriorated mortar and bricks, or other chimney building materials. Any such loose, missing or deteriorated mortar or bricks shall be refitted, replaced or repaired. (Ord. 88-141. Passed 12/19/88)

Section 1329.12 Yard Area Maintenance

a. Refuse

1. No furniture, mattresses, household furnishings, rugs, appliances, dilapidated automobiles or automobile parts shall be placed or stored in any yard area contiguous to any structure within the City over a period in excess of twenty-four (24) hours, provided however, that such of the items as are set forth herein which are usually and ordinarily placed for municipal refuse hauling may be so placed for a period of time not to exceed the next regularly scheduled municipal refuse hauling date.
2. Exterior property areas of all premises shall be kept free of debris, objects, materials or conditions that, in the opinion of the Zoning Administrator or the Zoning Administrator's designee, create a health, accident or fire hazard, or are a public nuisance, or constitute a blighting or deteriorating influence on the neighborhood. Broken glass, stumps, filth, garbage, trash and debris shall not be permitted on any property. (Ord. 2002-28. Passed 6/17/2002)

b. Trees, grass and shrubbery

1. All trees, shrubs and plants shall be trimmed in the conformance with Chapter 327 of the Codified Ordinances of the City, and dead, decayed or broken portions thereof shall be removed. (Ord. 1994-38. Passed 4/4/94)
2. Grass and weeds shall be maintained, controlled and cut in conformance with Chapter 327 of the Codified Ordinances of the City. Where a violation of this provision of this Code is found to exist, a notice to remedy the violation shall specify that remedial action shall be taken in not more than five (5) days. (Ord. 1994-38. Passed 4/4/94)

c. Appurtenant Structures

1. All structures located in the yard area contiguous to any residential, commercial or industrial structure within the City, such as sheds, barns, garages, bins and the like, shall be maintained in good repair in conformance with other provisions of this Chapter having regard to foundations, roofs and exterior surfaces. (Ord. 2002-28. Passed 6/17/2002)
2. Any broken, deteriorated or decayed fence, yard enclosure or other device or structure located in the yard area contiguous to any residential, commercial or industrial structure within the City shall be repaired or removed. (Ord. 2002-28. Passed 6/17/2002)

d. Automobile Parking

1. The parking or storage of all motor vehicles, trailers and other equipment shall be in accordance with the provisions of Chapter 202 of Article III, and Chapter 402 of Article IV of Chapter One of Title One of Part Ten of the Codified Ordinances of the City of Berea, generally known as the Zoning Code. (Ord. 88-141. Passed 12/19/88)

e. Driveways

1. A driveway is that area giving access and egress to motor vehicles from the street to the garage, and having a surface of concrete, asphalt, or other suitable material, and shall be constructed in accordance with specifications of the Building Code of the City of Berea, Ohio, and Sections 202.4, 302.4, 402.2 and 402.6 of the Zoning Plan.

f. Ground Surface Hazards

1. Holes, cracks, excavations, breaks, projections and obstructions at any place on the premises which, in the opinion of the Chief Building Official/Zoning Administrator or the Chief Building Official/Zoning Administrator's designee are a hazard to persons using the premises, shall not be permitted. Wells, cisterns and other similar structures which are abandoned and no longer in use on the premises shall be filled and totally covered in a manner subject to the approval of the Chief Building Official/Zoning Administrator to eliminate any hazard to persons on the premises. (Ord. 2002-28. Passed 6/17/2002)

- g. Wood Piles: All wood stored outside in any R-SF-A, R-SF-B, R-O, MF-HD or MF-MD zoning district shall be arranged in stacks and shall:
1. not be stacked closer than five (5) feet from any lot line;
  2. not be stacked higher than five (5) feet in height;
  3. be elevated at least nine (9) inches off the ground, except when stored on any asphalt, concrete or other suitable hard surface;
  4. not be stacked closer than three (3) feet from the main dwelling; and
  5. not be stacked in front of the front building line.

(Ord.2002-28. Passed 6/17/2002)

#### Section 1329.13 Abandoned Structures and Unoccupied Lots

If any structure shall become abandoned, such structure shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property or general welfare of the community and shall be abated.

Whenever the Zoning Administrator shall find any structure to be abandoned within the meaning of this Section 1329.13, he shall give notice in the same manner as service of summons in civil cases or by certified mail addressed to the owner of record of the premises at his last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods, to abate such abandoned condition within thirty (30) days by placing the structure in operation in accordance with this Section 1329.13, adapting and using the structure for another use permitted in the Zoning District, or by razing the structure, removing all debris, any signs, goods, supplies and equipment, and filling depressions to the grade level of the lot, provided however, that if the structure is in use at the time notice is given and remains in operation for ninety (90) consecutive days, the provisions of this Section 1329.13 shall not apply.

Upon the failure, neglect or refusal of any owner to comply with the notice to abate such abandonment, the Zoning Administrator shall advise the Director of Law of all the facts and the Director of Law shall proceed to exercise on behalf of the City any remedy which shall then be available to it to secure an abatement of such abandonment, including any that pertains to the abatement of a public nuisance, and to recover any damages or enforce any penalties which may be recovered or imposed at the instance of the City.

Unoccupied or inoperative structures, whether or not abandoned, the lot upon which any such structure is located, with any other unoccupied lot, shall be maintained in accordance with the provisions of this Chapter. Any such lot shall be provided with grass or other appropriate ground cover or landscaping material so as to assure absorption of rainfall and prevent erosion and rapid run-off of surface water. The owner shall cut and maintain all grass or other ground cover and remove all rubbish and weeds from the premises. The parking of motor vehicles upon said premises shall be prohibited, and the Zoning Administrator may order the owner of the premises to install fencing approved by the Zoning Administrator which will be sufficient to block motor vehicles access to said property. (Ord. 88-141. Passed 12/19/98)

#### Section 1329.14 Penalty

- a. Whenever the person charges herein with the maintenance of a structure or premises fails to comply with any Final Order as provided in this chapter, the Director of Law shall institute appropriate action at law.
- b. Whoever violates any provisions of this Chapter, or fails to comply with any Final Order as provided herein shall be, upon conviction of the same, guilty of a misdemeanor of the fourth degree, and have sentence imposed pursuant to ORC 2929.21 and 2929.22, provided however, that no portion of any fine imposed shall be suspended upon a condition. A separate offense shall be deemed committed each day on which a violation or noncompliance occurs or continues.
- c. Whoever violates the provisions of this Chapter, or fails to comply with any Final Order as provided herein, on more than one (1) subject matter in any two (2) year period separate and distinct from a conviction upon a prior subject matter or any continued daily violation of such prior subject matter shall be, upon such subsequent conviction within two (2) years, guilty of

a misdemeanor of the third degree, and have sentence imposed pursuant to ORC 2929.21 and 2929.22, provided however, that no portion of any fine imposed shall be suspended upon a condition. A separate offense on such subsequent subject matter within two (2) years shall be deemed committed each day on which a violation or noncompliance occurs or continues.  
(Ord. 88-141. Passed 12/19/88)

Section 1329.15 Effective Dates

This Chapter 1329 of Part One of Title One of Part Ten of the Codified Ordinances of the City of Berea, Ohio, shall be in full force and effect in the earliest time allowed by law after the adoption of the same, and shall continue in full force and effect unless modified by legislative action of the City Council.  
(Ord. 88-141. Passed 12/19/88)