

ORDINANCE NO: 05-64
SPONSOR: MAYOR BOLLAS,
INTRODUCED: JUNE 15, 2005 (AMENDED AUGUST 17, 2005)

A ORDINANCE TO REGULATE OFFENSIVE WEEDS AND GRASS IN THE VILLAGE OF NEW FRANKLIN.

WHEREAS, the Village has the statutory authority to regulate the upkeep of properties within the Village of New Franklin; and

WHEREAS, it is the desire of Council to adopt an Ordinance regulating offensive weeds and grass within the Village of New Franklin.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE: OFFENSIVE WEEDS AND GRASS DEFINED

As used in this ordinance, "offensive weeds and grass" means weeds and grass that have attained a height of over eight inches.

SECTION TWO: REMOVAL OF OFFENSIVE WEEDS AND GRASS BY OWNER

- a) No owner or person in possession or control of any lot or parcel of land situated within the Village, whether the same is improved or unimproved, vacant or occupied, shall fail to keep such lot or parcel of land, or any public right of way abutting such lot or parcel of land, free from all offensive weeds and grass.
- b) The Zoning Administrator may exempt lots or parcels of land of five acres or more in size, either in whole or in part, from the requirements of Section Two.
- c) The Zoning Administrator shall cause an annual notice to be published in a newspaper of general circulation in the Village notifying residents of the requirements of this Ordinance.

SECTION THREE: EXEMPTIONS

- a) IN ORDER TO RETAIN CERTAIN PROPERTIES IN THEIR NATURAL STATES, PARKS, GREENWAYS, STREET RIGHTS OF WAY AND STREAMBEDS OR BANKS ARE EXEMPT FROM THE REQUIREMENTS OF THIS ORDINANCE.
- b) HEAVILY WOODED LOTS OR AREAS THAT ARE DENSELY WOODED WITH TREES, SHRUBS OR OVERGROWTH WHERE EQUIPMENT CANNOT MANEUVER BECAUSE OF THE DENSITY OF THE AREA, ARE EXEMPT FROM THE REQUIREMENTS OF THIS ORDINANCE.
- c) STEEP SLOPES THAT ARE COVERED WITH LOW GROWING VEGETATION FOR THE PURPOSE OF CONSERVATION OR TO PREVENT EROSION ARE EXEMPT FROM THE REQUIREMENTS OF THIS ORDINANCE.
- d) THE VILLAGE OF NEW FRANKLIN RECOGNIZES THAT THE USE OF WILDFLOWERS AND OTHER NATIVE PLANTS IN MANAGED LANDSCAPE DESIGN CAN BE ECONOMICAL, LOW-MAINTENANCE, EFFECTIVE IN SOIL AND WATER CONSERVATION, AND MAY AVOID THE EXCESSIVE USE OF PESTICIDES, HERBICIDES, AND FERTILIZERS. THE DESIRABLE ASPECTS OF PERMITTING AND ENCOURAGING MANAGED NATURAL VEGETATION MUST BE BALANCED AGAINST PREVENTING PUBLIC NUISANCES AND MAINTAINING PUBLIC HEALTH, SAFETY AND WELFARE. THEREFORE, THE REQUIREMENTS OF THIS ORDINANCE SHALL NOT APPLY TO THE MANAGED GROWTH OF WILDFLOWERS AND VEGETATION NATIVE TO OHIO. THIS EXCEPTION APPLIES ONLY TO MANAGED GROWTH AND SHALL NOT APPLY WHERE PLANT GROWTH PROVIDES EITHER A DIRECT HEALTH HAZARD OR A DEMONSTRATED BREEDING GROUND FOR FAUNA KNOWN TO CREATE A SAFETY OR HEALTH HAZARD. THE TERM "MANAGED" AS USED HERE MEANS A PLANNED AND DESIGNED YARD OR LANDSCAPE WITH THE INTENT TO CONTROL, DIRECT AND MAINTAIN THE GROWTH OF NATURAL VEGETATION.

SECTION THREE: FOUR: PROCEDURE FOR REMOVAL BY VILLAGE

- a) Upon receipt of information that offensive weeds or grass, as defined in Section One, are growing or present on a lot or parcel of land within the Village, the Zoning Administrator is authorized to determine if in fact such offensive weeds or grass are growing or present. After a determination had been made that such offensive weeds or grass are growing or present, it shall be the duty of the Zoning Administrator to cause written notice to be served upon the owner or person in possession

or control of such lot or parcel of land that the offensive weeds or grass must be cut and destroyed and that such destruction must be completed within ten days after service of the notice.

- b) If the owner or person in possession or control of such lot or parcel of land is a nonresident whose address is known, such notice shall be sent to his or her address by certified mail.
- c) If the address of the owner or person in possession or control of such lot or parcel of land is unknown, or if service by ordinary mail pursuant to Section ~~Three~~ FOUR (a) is incomplete, it shall be sufficient for the Zoning Administrator to publish a notice of violation once in a newspaper of general circulation in the Village.
- d) Only one notice per calendar year under divisions (a) and (b) of this section is required for a lot or parcel of land. If, after a notice has been served in accordance with this division, the Zoning Administrator determines that a subsequent violation has occurred, the Village may proceed with the remedy set forth in Section Four.
- e) **THE OWNER OR PERSON IN POSSESSION OR CONTROL OF PROPERTY DETERMINED BY THE ZONING ADMINISTRATOR TO BE IN VIOLATION OF THIS ORDINANCE MAY APPEAL THAT DETERMINATION TO THE MAYOR. THE APPEAL MUST BE MADE IN WRITING AND MUST BE DELIVERED TO THE VILLAGE ZONING DEPARTMENT WITHIN 10 DAYS AFTER NOTICE IS PERFECTED PURSUANT TO THIS SECTION. UPON RECEIPT OF AN APPEAL REQUEST, THE MAYOR SHALL CONDUCT A HEARING AS SOON AS PRACTICABLE TO REVIEW THE ZONING ADMINISTRATOR DETERMINATION. THE DECISION OF THE MAYOR SHALL BE MADE IN WRITING AND SENT TO THE APPEALING PARTY BY REGULAR MAIL. ANY FURTHER APPEALS BY THE OWNER OR PERSON IN POSSESSION OR CONTROL SHALL BE MADE IN ACCORDANCE WITH OHIO REVISED CODE CHAPTER 2506.**

SECTION FOUR: FIVE: PROCEDURE UPON FAILURE TO COMPLY WITH NOTICE

- a) If the owner or person in possession or control of such lot or parcel of land, as provided in Section Two (a) fails to comply with the notice within ten days, the Zoning Administrator shall cause written notice to be served upon such owner or person in possession or control that the Village will order the destruction of the offensive weeds or grass and shall require the owner or person in possession or control to reimburse the Village for all expenses incurred in connection with the destruction of such weeds or grass.
- b) After serving notice of the Village's intentions, the Zoning Administrator shall cause the offensive weeds or grass to be cut and destroyed and may employ the necessary labor to perform the task.
- c) Upon performance of the labor mentioned in Section Four-FIVE (b), the Zoning Administrator shall bill the owner or person in possession or control of the lot or parcel of land for the cost of cutting and destroying the weeds, including therein the costs of inspection, record research, notification and billing. A schedule of such costs shall be on file in the Zoning Administrator's office.


SECTION FIVE: SIX: COSTS AS LIEN

- 1) If the bill is not paid within thirty days or if the address of the owner or person in possession or control is not known, the Zoning Administrator shall refer the matter to the Clerk/Treasurer, including a statement of all charges for the Village services, the amount paid for the performance of the labor and the fees of the officers who made the service of the notice and return.
- 2) Upon receipt of such statement of expenses incurred, the Clerk/Treasurer shall make written return to the Auditor of Summit County of the action taken pursuant to this section, with a statement of the charges for the Village's services, the amount paid for the performance of the labor, the fees of the officers who made the service of the notice and return, and a proper description of the premises, to be entered upon the tax duplicate of the County for the purpose of making the same a lien upon such lands, to be collected as other taxes and returned to the Village with the General Fund in accordance with Ohio Revised Code Section 731.54.

SECTION SIX: SEVEN

The Village of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

ADOPTED: September 7, 2005


Susan M. Cooke, Clerk/Treasurer


Kenneth C. Talle
President, Pro-Tem

APPROVED: September 7, 2005


Al Bollás, Mayor

ENACTED EFFECTIVE: October 7, 2005

ROLL CALL:

Mr. Adamson, yes.

Mrs. Jones, yes.

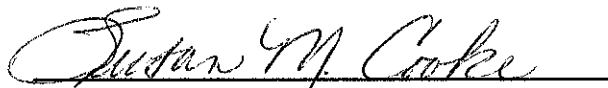
Mr. Lee, yes.

Mr. Mobley, yes.

Mr. Stock, yes.

Mr. Tallman, yes.

Akron Legal News publications on September 15, 2005 and September 22, 2005.


Susan M. Cooke, Clerk/Treasurer