

TO: Village Council
FROM: Scot F. Lahrmer, Village Manager
DATE: April 10, 2020
RE: Amendments to the Village Code as it relates to property maintenance standards

ITEM: First Reading: Ordinance 2020-6, Amending Various Sections of the Village Zoning Code

ACTION REQUESTED: On April 13, hold a first reading for Ordinance 2020-6. On May 11, hold a public hearing and adopt Ordinance 2020-6.

PURPOSE: To adopt changes to sections of the Village Zoning Code in regards to zoning regulation and property maintenance.

Property maintenance in Amberley Village is an integral part of maintaining the aesthetic of a well-kept community. Maintaining one's property adds value and character to the community where we live and it's in everyone's best interest to preserve property values and remain a clean and attractive community.

As stated in our Code, the purpose of the exterior property maintenance code is to protect the public health, safety and general welfare. The purpose goes further with its ability to:

- conserve and promote the value of properties
- improve aesthetic aspects of all structures, whether residential or non-residential
- provide for protection against public nuisances
- enhance property values and quality living
- keep crime down
- instill a sense of pride in our community which adds to our distinctiveness
- encourage investment in property which complements our higher quality of life
- brings pride and encourages interaction between neighbors
- protect public convenience, comfort, and prosperity
- enforce the character of properties within the Village

When properties are not maintained, it affects the value of nearby properties and if widespread, can affect the prices of entire communities. Property maintenance impacts the property values of neighborhoods and the Village as a whole. The value of properties, however, is just one aspect. The enforcement of maintenance standards for property owners assures neighbors that all residents are expected to keep their property up to those standards. Simple, timely maintenance can prevent major problems and ensure compliance with the code.

In the Fall of 2018, the Law Committee began discussions about various changes to our property maintenance code. The changes stemmed from resident complaints, questions, lack of clarity in the code on how to approve certain requests and the need to bring sections of the Village Zoning Code up to date.

Deliberations on the amendments ensued, however, our progress was sidetracked by the necessity of dealing with the accessory use code. While this necessitated several months of

meetings between the Law Committee, Planning Committee, and Village Council, the attention to the property maintenance code was placed on hold. Consequently, a change in law directors added further delay but in the Fall of 2019, the property maintenance code changes resurfaced for the Law Committee.

The Law Committee, over several meetings, reviewed changes to multiple sections of the code. The Law Committee made the decision not to recommend some amendments presented to them but honed in on the more relevant sections that they believed needed attention. Those sections are included here as moving forward to the full Council for consideration.

One set of property maintenance code modifications affected the zoning code, therefore it was referred to the Planning Commission on March 11 by Village Council with Resolution 2020-12. Planning Commission held a public hearing, reviewed the proposed ordinance on April 6 and made the recommendation, that Council adopt Ordinance 2020-6 with one modification.

In section 154.14 where "barbed wire, farm fencing or razor wire" are proposed as prohibited fencing materials, Planning Commission added "chain-link". Since the Village doesn't want to encourage fences to preserve our vistas, Planning Commission's perspective was fencing should be aesthetically pleasing and chain-link fences have a similar feel as the ones (barbed wire, farm fencing and razor wire) proposed for elimination. The consensus was that while chain-link is long-lasting, it tends to rust and discolor.

The advantages of chain-link are its affordability and low maintenance but it's also good at keeping kids and pets contained. With the exception of vinyl covering, the appearance of chain-link hasn't evolved much and still gives an industrial type appearance. While it's more durable than an alternative like wood, it is prone to sagging if posts become loose or tension wires become stretched. It also doesn't provide privacy or the best security and it doesn't add much property value. Therefore, the Planning Commission recommended the changes our Law Committee and Village Council proposed in addition to adding chain-link to the prohibited fence materials.

Below is a summary of proposed changes contained within the three different ordinances:

Ordinance 2020-6

154.14 Fences, Walls and Hedges: (the existing code does not regulate the type of material used in constructing residential fencing and limits the height on all fences to 41/2')

The proposed changes to 154.14 (1) are to not allow residential fencing to be constructed of barbed wire, farm fencing, razor wire or chain link and stipulate that the finished side of the fence must face the adjacent properties. These changes stem from requests from residents to use these types of materials and the belief that these should not be allowed on residential properties.

The proposed changes to 154.14 (2) are to allow vegetable and fruit garden fencing to be a maximum of 6' in height, must be see-through green or black material and restrict the garden to 400 square feet in size.

154.54 (D) (4) Chickens: (the existing code states the fencing around chicken coops shall not

exceed 41/2' in height)

The proposed changes to 154.54 are to allow the fencing around chicken coops to be constructed up to 6' in height. This change stems from concerns that the code requires chickens to be protected from predators and the coop is to be regularly maintained but the 41/2' high fence does not prevent predators from entering the area and is too low to maintain the coop.

Since Ordinance 2020-6 affects our zoning code, it is necessary to have a public hearing on these changes. This can be scheduled for May 11.

Two additional pieces of legislation pertaining to the property maintenance code did not affect the zoning code, therefore, the ordinances did not require the Planning Commission's review nor do they require a public hearing. Those changes were reviewed by the Law Committee and are as follows

Ordinance 2020-7

98.02 Fencing of Pools Required: (the existing code calls for fencing around pools to be a minimum of 3' in height and maximum of 4½')

The proposed change to Section 98.02, is to increase the minimum fence height around pools to 4½' in height. This increase in height is for safety purposes and to be consistent with the Village Zoning Code and Hamilton County building regulations.

98.01 Definitions, Pools: (the existing zoning code does not regulate types of pools that are permitted)

The proposed changes to section 98.01 Pools, is to prohibit above ground pools but grandfather existing above ground pools until which time they are removed. The proposed change stems from years of residential complaints that the Village allows above ground pools.

92.01 Adoption of the Ohio Fire Code: (the existing fire code followed by the Village is the Unified Hamilton County Fire Code, which no longer exists)

The Unified Hamilton County Fire Code is no longer used in the County. The proposed change to section 92.01 is to repeal the existing fire code and adopt the State of Ohio Fire Code.

Ordinance 2020-8

159.172 Toys, Recreation or Sports Equipment and Furniture: (the existing code does not address furniture located outdoors in the front yard)

The proposed change to section 159.172, is furniture in the front yard must be in good repair and not allow it to be located in the street right-of-way.

159.191 Protective Treatment: (the existing code does not address algae and mold growth on

the exterior surface of structures)

The proposed changes to section 159.191 would add the requirement that any surface found to have algae, mold and like growth be cleaned and maintained free from growth.

159.164 Weeds and Firewood Piles: (the existing code does not address the locations where firewood piles can be located)

The proposed change to section 159.164, would require firewood to be neatly stacked and prohibit the firewood from being located in the front yard.

159.063 Penalties: (the existing code states that a repeat offender may be cited starting with the second offense in any calendar year)

The Proposed change to section 159.063, is to correct the language to read for each offense including the third and thereafter violation of the chapter in any calendar year, the property owner may be cited and fined \$150 as a repeat offender.

159.081 Notice: (the existing code had language about right to appeal and did not have language about the Villages right to cite repeat offenders)

The proposed change to section 159 081, is to remove language in (E) (the right to appeal) and replaced with the language contained in the current subsection (F) to read as follows: Include a statement of the right to file a lien in accordance with § 159.062 and may be cited to Amberley Village Mayor's Court.

159.130 through 159.136 Means to Appeal: (the existing code states that one has the right to appeal the property maintenance compliance order and the Village would appoint an appeals committee to hear cases)

The proposed change to the property maintenance section is to repeal Means of Appeal, section 159.130 through 159.136.

159.161 Grading and Drainage: (the existing code does not address the accumulation of dirt and similar material or the restoration of residential sewer lines)

The proposed change to section 159.161, is to add a section (B), prohibit the accumulation of such material in a manner that constitutes visual blight or reduces the aesthetic appearance of the premises for more than 30 days.

Also, add a section (C), to restrict all work related to replacement of a residential sanitary line to a 6 month period, including restoration of the soil and grass so as not to create blight and prevent erosion.

After the Council holds the first reading of Ordinances 2020-6, 2020-7 and 2020-8, Council should set a public hearing on May 11 for Ordinance 2020-6. The remaining two ordinances, Ordinances 2020-7 and 8, do not require public hearings however Village Council may want to have an opportunity for the public to speak about all three proposed ordinances.

On May 11, after the required public hearing for Ordinance 2020-6 and discussion about all three ordinances, Village Council has the option to amend and/or approve the ordinances, waive or not waive the final two readings and approve or not approve emergency language. If the ordinances are approved, they would go into effect 45 days after adoption; if there is an emergency clause, the ordinances would go into effect immediately.

Ordinance 2020-6, Ordinance 2020-7 and Ordinance 2020-8 are recommended for Council's adoption.

PASSED:
BY:

ORDINANCE NO. 2020-6

ORDINANCE TO AMEND THE VILLAGE ZONING CODE

WHEREAS, Amberley Village is a suburban oasis characterized by open views, spacious natural vistas, greenery, and a picturesque setting; residential structures are typically exemplified by quality construction that provides permanent and long-lasting buildings that also have a desirable appearance and aesthetic that are compatible with surrounding properties;

WHEREAS, it is important to preserve property values and the quality of the residential environment;

WHEREAS, in order promote the health, safety, and welfare of residents and the community as a whole, the Zoning Code strives to protect and enhance the attractive appearance of all residential structures in the Village;

WHEREAS, Council finds and determines that changes to the Zoning Code are necessary to protect and promote the public health, safety, and welfare;

WHEREAS, Village staff worked extensively to draft new regulations, in response to input from the Planning Commission, the Law Committee, and Village Council, and comments received at duly noticed public hearings before the Planning Commission and Village Council, respectively;

WHEREAS, the Planning Commission and Law Committee recommend the adoption of changes to the Zoning Code as set forth herein;

WHEREAS, Council finds and determines that the proposed changes serve the public interest and protect the public health safety and welfare, and constitute measured and reasonable restrictions on the use of one's property in order to balance and protect the rights of neighboring property owners and the community as a whole;

NOW, THEREFORE, BE IT ORDAINED BY THE Council of Amberley Village, State of Ohio, seven (7) members elected thereto concurring:

SECTION 1: Section 154.14 of the Municipal Code of Ordinances is amended to read as follows:

§ 154.14 FENCES, WALLS, AND HEDGES.

(A) Notwithstanding other provisions of this Zoning Code, fences, walls, and hedges not exceeding four and a half feet in height may be permitted in any required side or

First Reading

rear yard or along the edge of any yard, provided that no fence or wall, along the sides or front edge of any front yard or in any part of a front yard shall be permitted. Hedges not over two and a half feet in height may be permitted in a front yard.

(1) Residential fences constructed in Amberley Village may not be constructed with the following material: barbed wire, farm, chain link, or razor wire. Fences constructed with a finished side must have the finished side facing adjacent properties. All fences must be properly aligned so as to make a straight line.

(2) Vegetable and Fruit garden fences are permitted in order to protect vegetation from wildlife. The fence may not exceed six feet in height and must be constructed of see through fencing material green or black in color. The enclosed space may not exceed more than 400 square feet and used strictly for agricultural purposes and may not be visible from the street.

(B) Privacy panels are permitted in a rear yard located directly behind, and attached to or immediately adjacent to, the principal structure. The finished side of a panel shall face adjacent properties. The unfinished side of a panel, with any exposed posts or supports, shall face in toward the principal structure of the subject property. The construction and appearance of privacy panels shall be aesthetically pleasing and appropriate for the location. Materials such as brick, block, lumber, vinyl, natural materials or landscaping, shall be used and are to be similar or complementary in appearance and style to the principal structure. Alternate materials may be considered for approval by the Village Manager. Privacy panels are subject to the village Property Maintenance Code. Privacy panels shall be located as close as possible to the object or area intended to be screened so as to allow for limited screening but also minimize adverse effects on neighboring properties and sight lines. The maximum height of a privacy panel, as measured from the bottom of a panel, shall be no more than six feet. The maximum height of a privacy panel as measured from the ground or deck surface shall be no more than six and one-half feet. The maximum length of a privacy panel, whether constructed singularly or in combination, is 16 linear feet.

SECTION 2: Section 154.54(D)(4) of the Municipal Code of Ordinances, shall be amended to read as follows:

§ 154.54(D)(4) CHICKENS.

Chickens shall be enclosed within the habitat structure at night from sunset to sunrise. If chickens are allowed by the owner to be outside of the structure from sunrise to sunset, the chickens must be contained within an area that is fenced or surrounded by other barriers (“Containment Area”) so as to prevent access to the chickens by dogs or other predators, and to prevent chickens from traveling outside of the Containment Area. Fencing may not exceed six (6) feet in height and must be constructed of fencing liner or mesh and shall not be visible from the street.

SECTION 3: This Ordinance shall take effect and be enforced from and after the

First Reading

earliest period allowed by law.

Passed this _____ day of _____, 2020.

Mayor Thomas C. Muething

Attest:

Tammy Reasoner, Clerk of Council

Ordinance Vote:

Moved: _____ Seconded: _____

Muething _____
Wolf _____
Bardach _____
Conway _____
Hattenbach _____
Kamine _____
Warren _____

I, Clerk of Council of Amberley Village, Ohio, certify that on the ____ day of _____, 2020, the foregoing Ordinance was published pursuant to Article IX of the Home Rule Charter by posting true copies of said Ordinance at all of the places of public notice as designed by Sec. 31.40(B), Code of Ordinances.

Tammy Reasoner, Clerk of Council

ORDINANCE NO. 2020-7

WHEREAS, Amberley Village is a suburban oasis characterized by open views, spacious natural vistas, greenery, and a picturesque setting; residential structures are typically exemplified by quality construction that provides permanent and long lasting buildings that also have a desirable appearance and aesthetic that are compatible with surrounding properties;

WHEREAS, it is important to preserve property values and the quality of the residential environment;

WHEREAS, in order to promote the health, safety, and welfare of residents and the community as a whole, the General Regulations of the Municipal Code of Ordinances strives to protect and enhance the attractive appearance of all residential structures in the Village;

WHEREAS, Council finds and determines that changes to the General Regulations of the Municipal Code of Ordinances are necessary to protect and promote the public health, safety, and welfare;

WHEREAS, Village staff worked extensively to draft new regulations, in response to input from the Planning Commission, the Law Committee, and Village Council, and comments received at duly noticed public hearings before the Planning Commission and Village Council, respectively;

WHEREAS, the Planning Commission and Law Committee recommend the adoption of changes to the General Regulations of the Municipal Code of Ordinances as set forth herein;

WHEREAS, Council finds and determines that the proposed changes serve the public interest and protect the public health safety and welfare, and constitute measured and reasonable restrictions on the use of one's property in order to balance and protect the rights of neighboring property owners and the community as a whole;

NOW, THEREFORE, BE IT ORDAINED BY THE Council of Amberley Village, State of Ohio, seven (7) members elected thereto concurring:

SECTION 1: Section 98.02 of the General Regulations of the Municipal Code of Ordinances is amended to read as follows:

§ 98.02 FENCING OF POOLS REQUIRED.

First Reading

(A) (1) No person who is the owner, occupant or tenant of any parcel of real property within the village limits shall permit a pool to be constructed or maintained thereon, unless surrounded by a fence at least four and one half (4 ½) feet in height.

(2) Exception: Hot tubs and Jacuzzis need not be surrounded by a fence so long as a secured cover is in place over them when they are not in active use.

(B) Each day a pool is permitted to remain unfenced, or uncovered if a hot tub or jacuzzi, shall be considered a separate offense.

SECTION 2: Section 98.01 of the General Regulations of the Municipal Code of Ordinances shall be amended to read as follows:

§ 98.01 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FENCE. A barrier with necessary gate(s) which encircles a pool.

POOLS. Includes swimming pools, wading pools, hot tubs, Jacuzzis, and any other out-of-doors permanent, semi-permanent, or temporary structure intended to contain water for human wading, swimming, bathing or lounging. Above-ground pools are not permitted. Above-ground pools that have been constructed prior to the adoption of this code modification may be grandfathered, but may not be replaced once removed.

SECTION 3: Chapter 92 Fireworks, Explosions, Fire Prevention of the General Regulations of the Municipal Code of Ordinances shall be repealed and replaced as follows:

§ 92.01 ADOPTION OF THE OHIO FIRE CODE.

There is adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the State of Ohio Fire Code as promulgated and set forth in Chapter 1301:7-7 of the Ohio Administrative Code along with the sections contained in the Ohio Revised Code and other codes related to and referenced therein is hereby adopted as the Amberley Fire Code. From the date on which this chapter shall take effect, the provisions thereof shall be controlling within the limits of the village.

SECTION 4: This Ordinance shall take effect and be enforced from and after the earliest period allowed by law.

First Reading

Passed this _____ day of _____, 2020.

Mayor Thomas C. Muething

Attest:

Tammy Reasoner, Clerk of Council

Ordinance Vote:

Moved: _____ Seconded: _____

Muething _____
Wolf _____
Bardach _____
Conway _____
Hattenbach _____
Kamine _____
Warren _____

I, Clerk of Council of Amberley Village, Ohio, certify that on the ____ day of _____, 2020, the foregoing Ordinance was published pursuant to Article IX of the Home Rule Charter by posting true copies of said Ordinance at all of the places of public notice as designed by Sec. 31.40(B), Code of Ordinances.

Tammy Reasoner, Clerk of Council

ORDINANCE NO. 2020-8

ORDINANCE TO AMEND THE PROPERTY MAINTENANCE CODE

WHEREAS, Amberley Village is a suburban oasis characterized by open views, spacious natural vistas, greenery, and a picturesque setting; residential structures are typically exemplified by quality construction that provides permanent and long lasting buildings that also have a desirable appearance and aesthetic that are compatible with surrounding properties;

WHEREAS, it is important to preserve property values and the quality of the residential environment;

WHEREAS, in order to promote the health, safety, and welfare of residents and the community as a whole, the Property Maintenance Code strives to protect and enhance the attractive appearance of all residential structures in the Village;

WHEREAS, Council finds and determines that changes to the Property Maintenance Code are necessary to protect and promote the public health, safety, and welfare;

WHEREAS, Village staff worked extensively to draft new regulations, in response to input from the Planning Commission, the Law Committee, and Village Council, and comments received at duly noticed public hearings before the Planning Commission and Village Council, respectively;

WHEREAS, the Planning Commission and Law Committee recommend the adoption of changes to the Property Maintenance Code as set forth herein;

WHEREAS, Council finds and determines that the proposed changes serve the public interest and protect the public health safety and welfare, and constitute measured and reasonable restrictions on the use of one's property in order to balance and protect the rights of neighboring property owners and the community as a whole;

NOW, THEREFORE, BE IT ORDAINED BY THE Council of Amberley Village, State of Ohio, seven (7) members elected thereto concurring:

SECTION 1: Section 159.172 of the Property Maintenance Code shall be retitled and amended to read as follows:

§ 159.172 TOYS, RECREATIONAL OR SPORTS EQUIPMENT AND FURNITURE.

First Reading

No toys, recreational or sports equipment may be located in the front yard of any premises for a period in excess of seventy-two (72) hours. Furniture located in the front yard of any premises shall be in good repair and not located in the right of way.

SECTION 2: Section 159.191 of the Property Maintenance Code shall be amended to read as follows:

§ 159.191 PROTECTIVE TREATMENT.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather-resistant and watertight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Any surface found to have algae, mold, or like growth shall be cleaned and maintained free from growth.

SECTION 3: Section 159.164 of the Property Maintenance Code shall be retitled and amended to read as follows:

§ 159.164 WEEDS AND FIREWOOD PILES.

Except for those publicly owned lands which have been designated as meadowlands by the Village Council, all premises and exterior property shall be maintained free from weeds in excess of ten inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided however, this term shall not include cultivated flowers, decorative grasses and gardens. The designation of meadowland is reserved exclusively for publicly owned lands and cannot be applied to residentially owned property. All firewood piles must be neatly stacked and cannot be located in the front yard of any residence.

SECTION 4: Section 159.063 of the Property Maintenance Code shall be amended as follows:

§ 159.063 PENALTIES.

(A) Violation of chapter. Any person who shall violate a provision of this chapter, or fail to comply therewith, or with any of the requirements thereof, or with the orders or notices issued under this chapter, shall be prosecuted within the limits provided by state

First Reading

or local laws. If due notice has been served, each day that a violation continues after the time to remedy the violation expires shall be deemed a separate offense.

(B) Repeat offender. For each offense including the third and thereafter violation of this chapter in any calendar year, the property owner may be cited and fined \$150 as a repeat offender. Each repeat offense may be a violation of a new and separate provision of this chapter, or of the same provision as any prior offense. For the purposes of this division, notwithstanding division (A) of this section, a repeat offense shall not be deemed to occur each day the violation exists. Instead, a repeat offense is deemed to occur upon each additional notice issued by the village if the owner does not remedy the violation within the time prescribed by the notice. This penalty supplements and is in addition to any other penalty provided for in this code.

SECTION 5: Section 159.081 of the Property Maintenance Code shall be amended in the following manner: The language contained in the current subsection (E) shall be deleted and replaced with the language contained in the current subsection (F) to read as follows:

§ 159.081 NOTICE.

The notice prescribed in § 159.080 shall be in accordance with all of the following:

- (A) Be in writing.
- (B) Include a description of the real estate sufficient for identification.
- (C) Include a statement of the violation or violations and why the notice is being issued.
- (D) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the property into compliance with the provisions of this code. Violations of § 159.164 shall be brought into compliance within five (5) days of service of notice.
- (E) Include a statement of the right to file a lien in accordance with § 159.062 and may be cited to Amberley Village Mayor's Court.

SECTION 6: Sections 159.130 through § 159.136 of the Property Maintenance Code relating to Means of Appeal are hereby repealed and those section numbers are reserved for use at a later time.

SECTION 7: Section 159.161 of the Property Maintenance Code shall be amended to read as follows:

§ 159.161 GRADING AND DRAINAGE.

- (A) All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: Approved retention areas and reservoirs.

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(B) The keeping, storing, depositing or accumulating of dirt, sand, gravel, concrete, mulch or other similar materials in a manner that constitutes visual blight or reduces the aesthetic appearance of the premises for more than 30 days is prohibited.(

C) All work related to the replacement of a residential sanitary line must be completed within 6 months of commencement. This time frame is to include restoration to the dirt and grass of the yard so as not to create blight and prevent erosion.

SECTION 8: This Ordinance shall take effect and be enforced from and after the earliest period allowed by law.

Passed this ____ day of _____, 2020.

Mayor Thomas C. Muething

Attest:

Tammy Reasoner, Clerk of Council

Ordinance Vote:

Moved: _____ Seconded: _____

Muething _____
Wolf _____
Bardach _____
Conway _____
Hattenbach _____
Kamine _____
Warren _____

I, Clerk of Council of Amberley Village, Ohio, certify that on the ____ day of _____, 2020, the foregoing Ordinance was published pursuant to Article IX of the Home Rule Charter by posting true copies of said Ordinance at all of the places of public notice as designed by Sec. 31.40(B), Code of Ordinances.

First Reading

Tammy Reasoner, Clerk of Council