

ORDINANCE NO. 4 -2016

AN ORDINANCE ESTABLISHING A BUILDING MAINTENANCE CODE FOR THE DOWNTOWN HISTORICAL BUSINESS DISTRICT.

WHEREAS, the buildings in the Downtown Historical Business District are not being properly maintained, and;

WHEREAS, Joseph J. Denen, City Manager, believes that vibrant downtown district is key to the success of a community by bringing together historical architecture, tradition and hometown values and kindness, and;

WHEREAS, the City Manager, Joseph J. Denen believes, after thorough consultation and discussion with downtown business leaders, that a properly devised building maintenance code for the Downtown Historical Business District would greatly enhance the appearance of the buildings and boost business activity, and;

WHEREAS, the Council of the City of Washington Court House, after careful consideration and thought, agrees that vibrant downtown is essential to a successful community by bringing together the necessary balance of historical architecture and tradition.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WASHINGTON COURT HOUSE, FAYETTE COUNTY, OHIO:

SECTION I. The Council of the City of Washington Court House hereby adopts the following Downtown Historical Business District Building Maintenance Code:

(A) *Title.* These regulations shall be known as the Property Maintenance Code of the City of Washington Court House hereinafter referred to as “this code”.

(B) *Scope.* The provisions of this code shall govern the minimum conditions and responsibilities of persons for maintenance of structures and premises within the Historic District of the City of Washington Court House. The Historic District being the Historic District Overlay described in Ordinance 34-91. This property maintenance code is primarily concerned with the exterior of a structure or premise unless specifically noted.

(C) *Responsibility.* The owner of the structure or premise shall maintain structures and premises in compliance with the requirements of this code. A person shall not occupy as owner-occupant or permit another person to occupy a structure or premise which is not in a sanitary and safe condition and which does not comply with the requirements of this code.

(D) *Severability.* If any section, subsection, sentence, clause or phrase of this legislation is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The City of Washington Court House hereby declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

(E) *Suit or Impending Proceeding.* That nothing in this code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired.

(F) *Intent.* This code shall be construed to secure its expressed intent, which is to ensure public health, safety, welfare and the aesthetic appearance of the community insofar as they are affected by the continued occupancy and maintenance of structures and premises within the Historic District of the City of Washington Court House. Existing structures and premises that do not comply with these provisions shall be altered or repaired in compliance with the requirements of the Historic District to provide a minimum level of health, safety and aesthetic appeal as required herein.

(G) *Application of other Codes.* Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of other applicable codes. Said codes shall include, but may not be limited to the following: building code, zoning code, fire code, mechanical code, historic district code, plumbing code and electrical code maintained or evoked by the City of Washington Court House or another unit of local or state government empowered by law.

(H) *Existing Remedies.* The provisions in this code shall not be construed to abolish or impair existing remedies of the City of Washington Court House or its officers, agencies or departments relating to the removal or demolition of any structure which is deemed to be in an advanced state of disrepair, dangerous, unsafe or not sanitary, abating public nuisances, compelling the removal of garbage or trash, compelling the destruction or cutting of noxious weeds and grass or the removal of evidence of defacement, vandalism and graffiti.

(I) *Workmanship.* Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and any product, device or material shall be installed in accordance with the manufacturer's instructions.

(J) *Requirements Not Addressed.* Requirements necessary for the strength, stability or proper operation of an existing structure, fixture or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the City Manager or the City Manager's designee.

(K) *Others Laws.* The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

(L) *Exterior of a Structure.* All repairs to be made in compliance with Historic District standards, application process and approval process.

(M) *Premises Identification.* If a building displays signage, window letters, canopies or banners said signage, window letters, canopies or banners shall reflect the current occupancy of the premise. A structure or premise shall remove inaccurate or inapplicable signage, window letters, canopies or banners upon a change of occupancy of the structure or the premise or structure becoming vacant.

(1) Canopies shall be maintained free of rips, tears, accumulations of leaves and debris.

(2) Unused or uncovered canopy frames shall be removed.

(3) A sign band upon a structure that is not occupied by a sign shall be maintained in good repair and shall show minimal evidence of prior signage. No shadows of past signage, unfinished building materials or redundant fasteners shall be visible.

(N) *Exterior Walls.* All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated to prevent deterioration. Minor imperfections in paint that include cracking, flaking and peeling are permissible so long as the surface coating of the paint in the opinion of the City Manager or the City Manager's designee performs the primary function of preventing deterioration.

In the opinion of the City Manager or the City Manager's designee insignificant cracks in masonry that do not compromise the structural integrity of an exterior wall, permit the transmission of the elements to the interior of a structure or are so minor that said cracks do not destroy or distract from the aesthetic qualities of an exterior wall are permissible.

All cornices, belt courses, corbels, terra cotta, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

All overhang extensions including, but not limited to marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements against decay or rust by periodic applications of weather coating materials, such as paint or similar surface treatment.

(O) *Stairways, decks, porches and balconies:* All exterior stairways, decks, porches and balconies and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting imposed loads.

(P) *Roofs.* The material covering of the roof and flashing shall be sound, tight and not have defects that admit water. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

(Q) *Chimneys.* All chimneys, smoke stacks and similar appurtenances thereto shall be maintained structurally safe and sound, and in good repair.

(R) *Handrails and Guards.* All handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(S) *Windows, skylights and Doors.*

(1) Every window, skylight and door frame shall be kept in sound condition, good repair and weather tight.

(2) Cracked, absent or otherwise defective window glass shall be replaced with window glass. All glazing material used to fix window glass in a window shall be free of cracks, holes and be weather tight.

(3) No window, door or skylight shall be abandoned without Historic Review Board Approval. Any abandoned window shall be boarded or made a part of a wall per the dictates of the Historic Review Board.

(4) All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition.

(5) All basement hatchways shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

(T) *Fences and Gates.* All fences and gates shall be maintained in good condition. Latches, gate hardware or operator systems shall function to secure any gate.

(U) *Rubbish and Garbage.*

(1) All exterior property and premises, and interior of every structure shall be free from accumulations of rubbish and garbage.

(2) The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. To the extent possible, said containers shall be stored in the rear of a premise or near a service area of the premise, never near the principal public entrance of a structure or the front façade of a structure.

(V) *Rodent and Insect Infestation.* The owner of a structure or premise shall maintain the structure or premise free from infestations of insects or rodents.

(W) *Sidewalks, Parking Lots, Other Paved Portions of a Premise.* All sidewalks be they private or public that are adjacent to a structure or premise or adjacent to a public street shall be kept in a proper state of repair, and maintained free from hazardous or nuisance conditions by the owner of the structure or premise. This shall include the removal of accumulations of ice and snow to the extent reasonably permitted by weather conditions.

This code recognizes that the physical characteristics of the structures and premises within the historic district make disposal of accumulations of ice and snow on sidewalks difficult and complete clearance of sidewalks of accumulations of ice and snow in many cases impossible. Evidence of a reasonable attempt to clear a path for pedestrians upon a sidewalk shall be deemed in compliance.

The same standard of snow and ice removal applied to sidewalks shall also apply to public and private parking lots or portions of a premise improved for parking motor vehicles.

Public and private parking lots or portions of a premise improved for parking shall be maintained free from accumulations of garbage or trash. The condition of the asphalt, concrete, paving stones, paving bricks, paving blocks or other paving material shall be in keeping with or exceed the condition of any adjacent public street.

Other paved portions of a premise shall be maintained free of voids, holes, fissures, raveling pavement, degrading pavement and pavement that permits the growth of grass and/or other plant life.

(X) *Planters and Landscaping.* All containers for plant life shall be sound and maintained in good repair. Weeds, grass that is not commonly maintained in an ornamental landscape bed or plant container or other undesirable or unintended plant life shall be removed from landscape beds and plant containers. Natural biodegradable mulch shall be applied to landscape beds on an annual basis. All dead plant life shall be removed from plant containers or landscaped areas.

(Y) *Accessory Structures.* All accessory structures including detached garages, storage buildings, fences and walls shall be maintained structurally sound and in a good state of repair. This property maintenance code shall not be interpreted differently or construed more leniently in terms of the accessory nature of a structure.

(Z) *Vacant structures and Land.* All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition so as not to cause a blighting problem or adversely affect the public health, safety or aesthetic appeal of the Historic District.

(AA) *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(BB) *Furnishings.* All furniture that is placed or used outside of a structure shall be in sound condition and manufactured for outdoor use. The placement or use of furniture manufactured for interior use shall be prohibited. No interior sofas, stuffed chairs or ottomans shall be placed outside of a structure for the use of the occupants of a structure or the general public. Any occupant of a structure engaged in the sale of furniture or antiques may periodically display interior furniture, goods or chattels on the sidewalk adjacent to a structure.

(CC) *General.*

(1) The City Manager is hereby authorized and directed to enforce the provisions of this code. The City Manager may appoint, designate, hire, engage, direct, assign, contract for services or otherwise secure the services of personnel to effect the enforcement of this code. The City Manager or designee may render interpretations of this code; adopt policies and procedures in order to clarify the application of this code's provisions.

(2) The City Manager or the City Manager's designee shall issue all necessary notices and orders to ensure compliance with this code.

(DD) *Violations.*

(1) It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any provisions of this code.

(2) The City Manager or the City Manager's designee shall serve a written notice of violation upon any person, firm or corporation found to be in violation of this code.

(3) Such notice of violation shall be in writing. The notice of violation shall include a description of the real estate sufficient for identification. The notice of violation shall include a statement of the violation or violations. The notice of violation shall include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure

or premise into compliance with the provisions of this code. The notice of violation shall inform the violator of their right to appeal. The notice shall inform the violator of potential penalties.

(4) The notice of violation shall be deemed to be properly served if a copy thereof is conveyed by any of the following enumerated means:

(a) Personal Delivery.

(b) Sent by certified, first-class, or proof of mailing to the last known address.

(c) Posting of the notice of violation in a conspicuous place upon or about the structure or premise affected by such notice.

(5) Notices of violation posted or affixed by the City Manager or the City Manager's designee shall not be mutilated, destroyed or tampered with, or removed without authorization for the City Manager or the City Manager's designee.

(6) It shall be unlawful for the owner of any structure or premise who has been served a notice of violation to sell, transfer, mortgage, lease or otherwise dispose of such structure or premise to another until the provisions of the notice of violation have been satisfied, or until such owner shall first have furnished the grantee, transferee, mortgagee or lessee a true copy of any notice of violation issued by the City Manager or the City Manager's designee and shall furnish to the City Manager or the City Manager's designee a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making repairs or corrections required by such notice of violation.

(7) Penalties for noncompliance with notices of violation shall be as set forth:

(a) Any person who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided herein on or after first (1) day of July two-thousand and seventeen (2017).

(b) Violation of any of the provisions of this code or failure to comply with a notice of violation issued under this code shall constitute a minor misdemeanor, punishable upon conviction or a plea of guilty by a fine of **not more than** one-hundred and fifty dollars (\$150) plus court costs. Nothing herein contained shall prevent the City of Washington Court House from such other lawful civil action as is necessary to remedy or prevent any violation regardless of any action or lack of action taken by the City of Washington Court House in a criminal prosecution.

(c) The imposition of the penalties herein prescribed shall not preclude the City Attorney or designee of the City of Washington Court House from instituting appropriate civil action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premise, or to stop an illegal act, conduct, business or utilization of a building, structure or premise.

(EE) *Appeals.*

(1) Any person, firm or corporation served with a notice of violation issued under this code by the City Manager or the City Manager's designee shall have the right to appeal to the Historic District Review Board of the City of Washington Court House, provided that a written letter is filed with the City Manager or the City Manager's designee within ten working days of a notice of violation being served. A working day being any day for which the primary administrative offices of the City of Washington Court House are open for the transaction of the public's business.

An application for appeal need not follow any prescribed form, but the application for appeal must be in writing and must describe a claim that the true intent of this code or any rules, polices or procedures promulgated under this code have been incorrectly interpreted or applied, or the provisions of this code do not apply or do not fully apply, or the requirements of this code are adequately satisfied by other means.

(2) A member of the Historic District Review Board shall not participate in hearing an appeal under this code in which that member has a personal, professional or financial interest.

(3) The Historic District Review Board shall hear an appeal under this code at the next regular meeting of the Historic District Review Board for which the appeal can be placed on the agenda of the Historic District Review Board by the customary administrative practices of the City of Washington Court House or any prescriptions, directives or polices the Historic District Review Board may adopt.

(4) The Chairperson of the Historic District Review Board may, but shall under no circumstances be required to call a special meeting of the Historic District Review Board for the purpose of hearing an appeal under this code if the chairperson of the Historic District Review Board believes that the calling of a special meeting relieves the appellant, an interested party or the City of Washington Court House from an unreasonable burden or other unforeseen private or public complication that may be resolved by holding a special meeting outside of the normal meeting schedule of the Historic District Review Board.

(5) The Historic District Review Board may hear oral arguments or review documents from the appellant or the appellant's representative, the City Manager or the City Manager's designee, other representatives of the City of Washington Court House or other person(s), firm(s) or corporation(s) whose interests are affected by the appeal.

(6) The Historic District Review Board shall structure the procedure of a hearing under this code at the discretion of the Historic District Review Board. The appeal hearing under this code shall not require compliance with rules of evidence, but the Historic District Review Board shall hear only relevant information to the particular appeal in question.

(7) No appeal under this code to the Historic District Review Board shall be deemed valid if the appellant is not a person, firm, or corporation directly affected by a notice of violation issued under this code. All appellant's appeals shall be heard individually; no class appeals, grouping of appellant appeals into a single appeal or other conglomeration of appeals shall be heard. Nothing in this code shall be construed that at a particular meeting of the Historic District Review Board that multiple individual appellant appeals may not be considered.

(8) The Historic District Review Board may uphold, modify, reverse, reject or otherwise interpret this code in terms of the appeal of an appellant by a majority vote of the total number of appointed members of the Historic District Review Board.

(9) An appeal under this code to the Historic District Review Board shall only be heard by a quorum of the Historic District Review Board. A quorum of the Historic District Review Board being a majority of the members of the Historic District Review Board appointed to so serve.

(10) So long as a quorum of the Historic District Review Board is present for an appeal hearing under this code, the absence of any particular member of the Historic District Review Board shall not be grounds for the postponement or continuation of any particular appeal hearing under this code.

(11) The City Manager or the City Manager's designee shall take action in accordance with the decision of the Historic District Review Board in reference to an appeal hearing under this code.

(12) Appeals of a notice of violation under this code shall stay the enforcement of the notice of violation until the appeal is heard by the Historic District Review Board.

SECTION II. That this Resolution shall take effect and be in full force from and after the earliest period permitted by law.

ADOPTED: May 11, 2016

Deb Lynch
CHAIRPERSON OF COUNCIL

ATTEST:

Zeena M. Keaton
CLERK OF COUNCIL

APPROVED AT TO FORM:

Manjit
CITY ATTORNEY