

**CITY OF ENGLEWOOD
IN
MONTGOMERY COUNTY, OHIO**

Ordinance: 22-17

Passed: November 22, 2022

**AN ORDINANCE: AMENDING THE CITY OF ENGLEWOOD'S PROPERTY
MAINTENANCE CODE, CHAPTER 1454 OF THE ENGLEWOOD
CODIFIED ORDINANCES.**

WHEREAS, the City has enacted Chapter 1454 of the Codified Ordinances of Englewood as its Property Maintenance Code; and

WHEREAS, the purpose of the Property Maintenance Code is to eliminate and prevent blighting effects and hazards to the health, safety, and welfare of the citizens of Englewood; and

WHEREAS, the City council has determined that it would be in the best interest of the City to amend the Property Maintenance Code in order to better serve the public health, safety, and welfare of the citizens of the City; and

WHEREAS, the City has authority as a charter municipality to exercise all powers of local self-government.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
ENGLEWOOD, COUNTY OF MONTGOMERY, STATE OF OHIO, AS FOLLOWS:**

SECTION I That Chapter 1454, Englewood's Property Maintenance Code of the Englewood Codified Ordinances be amended, by the addition of words in **bold** font and the deletion of words ~~struck through~~, to read:

1454.04 Nuisances

The following conditions, acts, and items are declared to be public nuisances:

(a) **Fire Hazards**. Dry or dead shrubs, dead trees, combustible refuse and waste or any material upon either public or private property which, by reason of its size, location, or manner of growth, constitutes a fire hazard to a building, improvement, crop or other property, or which, when dry, will in reasonable probability constitute a fire hazard;

(b) **Hazardous Obstructions**. Landscaping or an obstacle or thing installed or maintained in the zoning front yard set-back area of a corner yard, reaching a height higher than two and one-half feet above the adjoining top of the curb at the applicable corner of the street intersection, or three feet above the nearest pavement surface where there is no curb. Hazardous obstructions do not mean existing or future permanent buildings otherwise constructed or maintained in accordance with applicable zoning and building regulations, public utility poles or trees trimmed at the trunk at least eight feet above the level of the ground surface, provided that trees are spaced so that trunks do not obstruct the vision of motorists;

(c) Polluted Water. A swimming pool, pond, or other body of water which is abandoned, unattended, unfiltered or not otherwise maintained, resulting in the water becoming polluted by bacterial growth, algae, remains of insects, remains of deceased animals, reptiles, rubbish, refuse, debris and any other foreign matter or material which, because of its nature or location, constitutes an unhealthy, unsafe, or unsightly condition;

(d) Open Burning. The intentional, unauthorized, outdoor burning of any material, structure, matter, or thing;

(e) Refuse and Waste. Refuse and waste matter which, by reason of its location and character, is unsightly and interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community or materially interferes with the prevention or suppression of fire upon the premises;

(f) Use of Private Property by Vehicles. The use of private property by any form of motorized or motor-driven bike, scooter, or vehicle;

(g) Storage of Junk, Disabled Vehicles and Rubbish on Premises. Any junk, disabled motor vehicle, and/or rubbish, as defined in this subsection, that is outside of a building within the limits of the City.

The provisions of this subsection shall not apply to the deposit, storage, maintenance or collection of junk, disabled motor vehicles and/or rubbish in an enclosed building, or in any area of the City in which the same is permitted by City ordinances.

(1) Definitions. As used in this subsection, the following words shall have the meanings set forth herein:

A. "Junk." Any worn-out, cast-off or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use.

B. "Disabled motor vehicle." Any used vehicle propelled or intended to be propelled by power other than human power and which is in an inoperative or partially dismantled condition or has expired or no State motor vehicle registration plates. Portions of disabled motor vehicles, including, but not limited to, hoods, fenders, radiators, rims or motor parts shall be considered junk.

C. "Rubbish." Includes wire, chips, shavings, bottles, broken glass, crockery, tin, cast or woodenware, hoses, rags, dead weeds, stumps, tree trunks, brush, paper circulars, handbills, boots, shoes, ashes, metal, discarded parts and equipment or any waste material other than garbage or offal.

(h) Inadequate Property Maintenance. For any person owning, leasing, occupying or having charge or possession of any premises in the City to maintain such premises in such a manner that any of the following conditions exist thereon:

(1) Buildings which are abandoned, dilapidated, improperly secured, partially destroyed, functionally obsolete, or left in a state of partial construction;

- (2) Unpainted buildings resulting in dry rot, warping, and termite infestation;
- (3) Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief;
- (4) Overgrown vegetation, which exceeds eight inches in height, causing detriment to neighboring properties or a hazardous condition to pedestrian or vehicular traffic, or likely to harbor rats, vermin, and other nuisances;

A. Cutting of overgrown vegetation and destruction of noxious weeds. Council shall, annually, cause a notice to be published in a newspaper of general circulation within the City, stating that overgrown vegetation and noxious weeds are growing on lands within the limits of the City. Such notice shall not be required to describe the lands or to specify the name of the owner of such property. However, such notice shall constitute notice to any owner, lessee, agent or tenant having charge of any land upon which overgrown vegetation and/or noxious weeds are grown that the same must be cut and destroyed within five calendar days after such publication. Such notice shall further specify that such overgrown vegetation and/or weeds shall be cut every subsequent time the height exceeds eight inches thereafter without further notice or publication in order to prevent spreading or maturing of weeds. Such notice shall be published one time per year in order to constitute notice hereunder.

B. Failure to comply. When any person, being the owner, lessee, agent or tenant having charge of the lands mentioned in paragraph (h)(4) of this section, fails to comply with the notice set forth in such publication, Council shall cause such noxious weeds to be cut and destroyed and may employ the necessary labor to perform such task. The cost for contracted mowing services shall be paid by the owner. The fees for mowing, clearing or trimming grasses, weeds, trees or bushes, pursuant to this section, shall be twice the price charged by the contractor hired by the City to perform such work, provided that the minimum fee for such work shall be ninety dollars (\$90.00) for the first half hour, or part thereof, and forty-five dollars (\$45.00) per quarter hour, or part thereof, in addition to an administrative fee of one hundred dollars (\$100.00). The Director of Finance shall make a written return to the County Auditor of the action of the City under paragraph (h)(4) hereof and subsection (a) hereof, with a statement of the charges for the service of the City in cutting such weeds and other growth, including the amount paid for labor, the fees of the officers serving such notices and a proper description of the premises. Such amounts shall be entered upon the tax duplicate and be a lien upon such land from and after the date of the entry, to be collected with other taxes and returned to the City with other items of the General Fund.

(5) Maintenance of plantings. All plant materials, especially trees and shrubs, afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material shall be removed or appropriately treated. All sound plant materials, especially trees and shrubs, shall be properly maintained and not evidence of signs of neglect. Trees, hedges and shrubbery shall be trimmed and maintained to a neat and orderly appearance. Any trees, hedges, and/or shrubbery that extends over an owner's property from an adjacent parcel may be trimmed by that owner up to the boundary line of the owner's property.

- (6) Attractive nuisances dangerous to children and other persons, in the form of abandoned and broken equipment, hazardous pools, ponds, excavations and neglected machinery;
- (7) Broken or discarded furniture and household equipment not stored within a completely enclosed structure;
- (8) Clotheslines in front yards;
- (9) Garbage cans stored in front yards and visible from public streets;
- (10) Packing boxes and crates or other debris not stored within a completely enclosed structure;
- (11) Property, such as building exteriors, which is maintained in such a condition as to become so defective or unsightly or in such a condition of deterioration or disrepair that the same will probably cause diminution in values of surrounding property or is materially detrimental to proximal properties and improvements. This includes, but is not limited to, the keeping, disposing or scattering over premises of lumber, junk, trash or debris; abandoned, discarded, or unused objects or equipment, such as automobiles (or parts), furniture, stoves, refrigerators, freezers, cans or containers; or any device, decoration, design, fence, or structure which is unsightly by reason of its condition or inappropriate location;
- (12) The maintenance of a premises so out of harmony or conformity with maintenance standards of adjacent properties so as to cause probable and substantial diminution of the enjoyment, use or value of adjacent properties, or so as to cause economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts from such an area are inadequate for the cost of public services rendered therein;
- (13) The building, maintaining and repairing of structures with materials similar to that elsewhere on the structure so as not to create a patchwork appearance. Intermediate construction materials, such as asphaltic coated papers for roofing and Masonite for siding, shall not be substituted for permanent construction materials customarily utilized in new finished construction;
- (14) Any paint color or color scheme used on a building such that it is injurious to the surrounding neighborhood. Colors that are fluorescent, neon, and/or garish to the extent they are deemed detrimental to value of the surrounding properties as determined by the Property Maintenance Board shall be prohibited;
- (15) Any drive approaches or public sidewalks, curbs, or streets abutting private property, that are not maintained in harmony with surrounding properties. In accordance with this subsection, no markings of any kind with paint or other similar materials shall be placed on the approach, public sidewalk, curb or street, including the identifying of house numbers or outline of a basketball, tennis or any play court area. The drive approach and sidewalk within the public right-of-way must be constructed of concrete if curb is present and must be maintained as such. Any sealing of the concrete approach, sidewalk or curb shall be done so only with concrete sealer that is clear in color; or

(16) The housing or maintaining within the City of any livestock or farm animal, including but not limited to any pig (including any potbellied pig), sheep, horse, cow, goat, beehive, chicken (or any other fowl or poultry), any cloven-hoofed animal not already identified, and/or any other animal or animals traditionally maintained in an agricultural setting for animal husbandry.

(i) Parking and Storage of Commercial Vehicles

The owner, occupant or person having charge or management of any lot or parcel of land situated within the City shall not allow or permit major commercial vehicles including semis or semitrailers, as defined by Chapter 1270 of the Englewood Codified Ordinances, to be parked or stored outside on properties in commercial or office zoning districts, except as provided below:

A. The owner, occupant or person having charge or management of any lot or parcel of land situated within the City may allow or permit major commercial vehicles, including semis or semitrailer, to park in designated loading spaces on properties in a commercial or office zoning district, provided the major commercial vehicles in the loading spaces shall not exceed a length of time reasonably necessary to load or unload the vehicle.

B. The owner, occupant or person having charge or management of any lot or parcel of land situated within the City may allow or permit major commercial vehicles, including semis or semitrailers, to be parked or stored in areas designated and approved by the City of Englewood in which a certificate of zoning compliance permit has been issued identifying the location of the designated major commercial vehicle parking area.

(i) Noncompliance with the City's Zoning Code. From and after the effective date of this section, all newly constructed structures that do not comply in all material respects with the City's Zoning Code shall constitute a nuisance. Any structures in existence as of the effective date of this section shall have a period of four years after such effective date in order for them to be brought into material compliance with the Zoning Code; otherwise such structures will be deemed a nuisance.

(j) Notice to Remove. The owner, occupant or person having charge or management of any lot or parcel of land situated within the City, whether improved or unimproved, vacant or occupied, shall, within five calendar days of receipt of written notice served upon him or her by the Housing Officer of any violation of Section 1454.04(a), (b), (c), (d), (e), (f), (g), or (h) or (i) (except for overgrown vegetation pursuant to (h)(4)), correct such condition constituting the nuisance. Notice may be served personally upon the owner, occupant or person in charge or by leaving the same at such person's usual place of residence, the posting of a notice of violation on the subject premises, or by certified mail addressed to the usual place of residence of the persons entitled to receive the notices of violation, as indicated by current tax records of the Montgomery County Treasurer's Office or the real property records of the Montgomery County Recorder's Office.

(k) Noncompliance. If the owner, occupant, or person having charge or management of any lot or parcel of land does not correct such condition constituting the nuisance, as required by subsection (j) hereof, then the Housing Officer is hereby authorized to correct or cause to be corrected, such condition.

(l) Remedy of City. If a condition constituting a nuisance is corrected by the Housing Officer pursuant to subsection (k) hereof at the expense of the City, the amount of money so expended shall be recovered from such owner, occupant or person in charge or in control of such premises in any court of proper jurisdiction. The expense, from the time of service of notice upon the owner, occupant, or person having charge or management of such premises, shall be a lien upon such premises, which may be enforced by legal proceedings in any court having jurisdiction. The collection of expenses of removal by the City shall not be a bar to a prosecution for a violation of this section or to imposition of any other penalty provided in this chapter.

SECTION II All provisions of Chapter 1454 not specifically amended herein shall remain the same.

SECTION III It is hereby found and determined that all formal actions of this City Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION IV That this Ordinance shall be in full force and effect at the earliest date allowed by law.

PASSED THIS 22nd DAY OF NOVEMBER, 2022.



THOMAS FRANZ, MAYOR

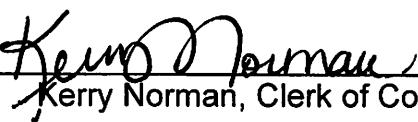
ATTEST:



KERRY NORMAN, CLERK OF COUNCIL

C E R T I F I C A T E

I, **Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio**, do hereby certify the foregoing is a true and correct copy from the *Record of Proceedings* of said City. **WITNESS** my signature this 22nd day of November, 2022.



Kerry Norman, Clerk of Council

C E R T I F I C A T E O F P O S T I N G

I, **Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio**, do hereby certify publication of the foregoing **ORDINANCE** was made as designated by Sections 224.01 and 24.02 of the Englewood Code.



Kerry Norman, Clerk of Council