Village of Batavia - Ordinance 1585-26

An Ordinance Amending the Municipal Code of the Village of Batavia, Ohio, Regarding the Control and Abatement of Tall Grass, Noxious Weeds, Litter, and Property Nuisances and Establishing Notice Procedures, Municipal Abatement Authority, and Levying of Special Assessments for Costs

WHEREAS, Ohio Revised Code §715.67 provides that a municipal corporation may make the violation of any of its ordinances a misdemeanor, and provide for the punishment thereof by fine of up to five hundred dollars or six months imprisonment, or both; and

WHEREAS, the Council of the Village of Batavia, Ohio, finds that excessive growth of grass, weeds, rank vegetation, and the accumulation of litter and trash constitute a public nuisance, impair property values, degrade public health and safety, and create visual blight within the Village; and

WHEREAS, Sections 731.51 through 731.54 of the Ohio Revised Code grant municipal corporations the explicit authority to notify property owners to cut or destroy noxious weeds or remove litter, to perform such work upon failure of compliance, and to assess the cost thereof against the tax duplicate of the subject property.

WHEREAS, the Council for the Village of Batavia has determined that this ordinance is in the best interest of the Village and the health, peace, welfare, and stability of the Village of Batavia and its residents.

NOW, THEREFORE, be it ordained by the Council of the Village of Batavia, Clermont County, Ohio:

SECTION 1. PUBLIC NUISANCE DECLARED.

It shall be unlawful for any owner, occupant, agent, or person having charge or control of any lot or parcel of land within the corporate limits of the Village of Batavia to permit or maintain any of the following conditions, which are hereby declared to be a public nuisance:

1. **High Grass and Rank Vegetation:** Grass, turf, weeds, or rank uncultivated vegetation grown to a height exceeding eight (8) inches across any portion of the parcel.
2. **Noxious Weeds:** Any growth of noxious weeds, including but not limited to thistles, burdock, ragweed, poison ivy, poison sumac, or other vegetation designated as noxious by the Ohio Department of Agriculture or Ohio law.
3. **Litter and Refuse:** The accumulation of litter, rubbish, garbage, discarded materials, junk, auto parts, scrap metal, uncontained yard waste, or stagnant water.
4. **Maintenance of Right-of-Way:** The failure of an owner or occupant to maintain grass, weeds, and litter in the tree lawn or public right-of-way adjacent to their property up to the curb or paved road edge.

SECTION 2. EXEMPTIONS.

The provisions of Section 1 shall not apply to:

1. Cultivated flowers, ornamental grasses, agricultural crops, or vegetable gardens managed in an orderly fashion.
2. Designated natural conservation areas, wetlands, or wooded parcels approved or preserved under Village zoning or environmental management plans.

SECTION 3. NOTICE TO ABATE NUISANCE.

1. **Inspection:** Upon observation or complaint, the Village Administrator, Code Enforcement Officer, or designated representative (the "Enforcement Officer") shall inspect the premises.
2. **Written Notice:** If a violation is confirmed, the Enforcement Officer shall issue a written notice to the property owner of record as listed on the Clermont County Auditor's tax duplicate.
3. **Service of Notice:** Pursuant to R.C. 731.51, notice shall be served by any of the following methods:
    a. Personal service upon the owner or person in charge;
    b. Certified mail with return receipt requested; or
    c. Regular U.S. mail with a Certificate of Mailing, posted prominently on the subject property if unclaimed or if the owner's address is unknown.
4. **Time for Compliance:** The notice shall mandate that the owner cut, remove, or destroy the high grass, or noxious weeds, within five (5) calendar days from receipt or posting of the notice and to remove litter within fifteen (15) calendar days from receipt or posting of the notice.

SECTION 4. ABATEMENT BY VILLAGE UPON FAILURE TO COMPLY.

1. **Action by Village:** If the owner or person having charge of the land fails to comply with the notice within the specified five (5) day period, the Village Administrator or designated contractor may enter upon the property to cut the high grass/weeds or remove the litter.
2. **Repeated Violations (Watch List):** Only one (1) notice per calendar year is required for any single parcel. If a property is brought into compliance following notice, but subsequently reverts to a non-compliant state within the same growing season, the Village may immediately proceed with abatement without further written notice.

SECTION 5. COST ASSESSMENT & TAX LIEN.

1. **Statement of Costs:** After performing the abatement work, the Village shall prepare an itemized statement of the total cost incurred. Total costs shall include:
    a. Direct labor, equipment, and administrative fees ($100 administrative processing fee minimum);
    b. Actual fees charged by independent contractors hired by the Village.
2. **Billing:** A statement of costs shall be mailed to the owner. The owner shall have thirty (30) days from the date of billing to pay the charges directly to the Village Treasurer.

3. **Tax Assessment:** If the total cost is not paid within thirty (30) days, the Village Fiscal Officer shall certify the total amount, along with a penalty as authorized by law, to the Clermont County Auditor pursuant to R.C. 731.54. The amount shall be entered on the tax duplicate as a special assessment and lien against the property, to be collected in the same manner as other taxes.

SECTION 6. PENALTY.

In addition to the administrative abatement and assessment procedures set forth herein, any person who fails to comply with a notice issued under this Ordinance shall be guilty of a minor misdemeanor and, upon conviction, shall be fined not more than $150.00 for each offense. Each day that a violation continues after the expiration of the notice period shall constitute a separate offense.

SECTION 7. REPEAL OF CONFLICTING ORDINANCES.

All prior ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 8. SEVERABILITY.

If any section, subsection, clause, or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 9. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting or meetings of this Council and any of its committees that resulted in such formal action, were in meetings open to the public and in full compliance with all legal requirements, including without limitation, those set forth in Section 121.22 of the Ohio Revised Code.

SECTION 10. That this Ordinance shall be effective at the earliest date allowed by law.

ADOPTED: _____

Attest:

_____ _____

Stephen M. Staton, Mayor F. Justin Russell, Fiscal Officer