

ORDINANCE NO. 21, 2023

**AMENDING THE ST. BERNARD CODIFIED ORDINANCES
CHAPTER 905, TREES, WEEDS AND LITTER, AND
DECLARING AN EMERGENCY**

WHEREAS, residents have expressed concerns about properties within the Village which are strewn with debris and/or are overgrown with tall weeds and grasses, often repeatedly so, within the year; and

WHEREAS, the Village of St. Bernard intends to amend certain sections within Chapter 905, Trees, Weeds, and Litter, of the St. Bernard Codified Ordinances to update the Ordinance and to more effectively address the issues with such properties; now therefore

**BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD,
STATE OF OHIO:**

Section 1. That Chapter 905 of Title One of the Public Service Code of the Codified Ordinances of the Village of St. Bernard, as set forth in the attached Exhibit "A" is hereby adopted.

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for the emergency is the immediate need to update the Codified Ordinance of the Village of St. Bernard and to be effective as soon as possible. Therefore, this Ordinance shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this Ordinance shall take effect on the earliest date provided by law if approved by no more than a majority of the members of Council and in that event the emergency provisions herein are set at naught.

Passed this _____ day of _____, 2023.

President of Council

ATTEST:

Clerk of Council

Approved this _____ day of _____, 2023.

Mayor

I, CAROLINE STEGMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 21, 2023, was made by posting true copies of the same in the most public places designated by Council: City Hall, Vine St and Washington Avenue; for a period of fifteen (15) days or more commencing _____, 2023.

ATTEST: _____ DATE _____
Clerk of Council

Approved as to form _____ Date _____
Director of Law

“EXHIBIT A”

CHAPTER 905 TREES, WEEDS AND LITTER

905.01 TRIMMING OF TREES, PLANTS, AND SHRUBBERY.

The owner or person in control of every lot or parcel of land, whether improved or unimproved, within the corporate limits upon which a tree, plant, or shrubbery stands with any part upon or overhanging any dedicated utility easement, public street, or sidewalk shall conform to the regulations herein provided; otherwise, the Village shall cause it to be trimmed or cut down and removed in accordance with these regulations and assess the cost thereof against the owner of such lot or parcel of land.

(a) The owner or person in control shall trim or cause to be trimmed the tree, plant, or shrubbery so that a clear height of eight feet between the lowest branches of the same and the street or sidewalk is maintained.

(b) The owner or person in control shall trim or remove, as the case may require, every dead, decayed, or broken tree, plant or shrubbery, or part thereof, so that the same shall not fall to the street or sidewalk.

(c) The owner or person in control shall cut down and remove any tree, plant, or shrubbery or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or abate any nuisance necessary to protect life, limb, or property of persons, drivers of any vehicles, or pedestrians using the street or sidewalk, or to prevent obstruction to any street light or wires.

(d) Trees, plants or shrubbery which are in violation of Sections 905.01 (a) – (c) are by reason of their unsightliness, intrusion into public spaces, and/or hazardous nature, are injurious to the public health, safety or welfare of the citizens of St. Bernard and are declared a public nuisance.

905.02 RESERVED.

(EDITOR’S NOTE: This section is reserved for future legislation.)

905.03 WEED AND LITTER REMOVAL.

(a) Property to be Cleared. Every lot or parcel of land, whether improved or unimproved, shall be maintained free from weeds or grass growth in excess of ten inches. All noxious weeds shall be prohibited. Such weeds or grass, by reason of their unsightliness, are injurious to the public health, safety or welfare of the citizens of St. Bernard and are declared a public nuisance.

(b) Keeping Down Weeds.

(1) For the purpose of Chapter 905, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

A. “Noxious” means harmful or offensive.

B. “Rank” means luxuriant in growth.

C. “Weeds” shall include any and all vegetation that is not managed or maintained by the owner or person in control of the property on which all such vegetation is located which exceeds ten inches in height restrictions, but shall exclude trees, shrubs, cultivated flowers, and vegetable gardens. In addition, grass of a height of ten inches or more shall be deemed a weed under this definition, as shall all vegetation constituting a threat to the public health, safety, or welfare. This Section shall not apply to ornamental grasses grown as part of a landscape design.

D. “Litter” means garbage, trash, waste, construction debris, rubbish, ashes, cans, bottles, wires, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature.

E. “Owner” or “Person in control” shall mean the owner of the freehold estate of the premises; occupant; lessee or holder of a lesser estate in the premises; mortgagee or vendee in possession; receiver; executor; trustee; and any person, public or private entity, and/or its duly authorized agent(s), with the authority to bring a building or premises into compliance with the provisions of this code, including but not limited to any mortgagee that has filed an action in foreclosure, based on breach or default of a mortgage agreement, until title to the premises is transferred to a third party.

(2) Any owner or person in control of any lot or parcel of land which falls within the corporate limits shall keep and maintain such lot or land free and clear from all litter, noxious weeds, and rank vegetation, except trees, shrubs, garden variety flowers and farm crops, and shall keep all sidewalks, alleys, streets and other public rights of way free from any plant growth that hinders the public use thereof by cutting or other effective legal means of control to keep the growth thereof under ten inches. The owner or person in control shall have the

duty to mulch or, in the alternative, rake and remove all clippings and waste resulting from the cutting of such weeds, grasses and vegetation.

905.04 NOTICE TO OWNERS/TIME ALLOTTED FOR ABATEMENT.

(a) The Director of Public Service and Safety or their designee may cause written notice of violation of Chapter 905 to be served personally upon the owner or person in control, or by sending to that person by certified mail, or by posting a copy thereof in a conspicuous place on the premises or property involved. This notice shall state the nature of the public nuisance and the time, not less than five (5) days, within which it shall be abated. No owner or person in control of the property so notified shall fail to refuse to comply with the notice.

In the event the certified mail notice is returned as "Unclaimed" or "Refused", the Director of Public Service and Safety or his designee shall post a copy of the notice in a conspicuous place on the premises or property involved. The five-day time limit begins when the notice is posted.

(b) Subsequent violations within the same calendar year of the initial notice as specified in Section 905.04(a) may be subject to immediate abatement by the Village as per Section 905.05 without further notification.

(c) The Chief of Police, any police officer, or the Sanitarian may make service and return of the notice provided for in Section 905.04(a).

905.05 ABATEMENT AND ASSESSMENT OF COST BY VILLAGE.

(a) If the public nuisance is not abated within the required time, the Director of Public Service and Safety or their designer may enter the property to abate the nuisance and enforce the provisions of this Section. After the public nuisance is abated, the Village shall give notice by certified mail to the owner or person in control at the last known address to pay the cost of such trimming or removal of weeds, grasses, or litter, which notice shall be accompanied by a statement of the amount of the cost of such trimming and removal, as well as a fifteen percent (15%), but not less than twenty-five dollars (\$25.00), processing charge. In the event the same is not paid within thirty days after the mailing of the notice, then the amount shall be assessed as provided in subsection (b) hereof.

(b) Lien Upon Property. The Village Auditor shall certify in written to the County Auditor the action taken under the preceding sections, with a statement of the charges for labor, material, and equipment incurred in the cutting and removing of the noxious weeds and litter, and the processing charge as specified above, along with a proper description of the premises. The amounts shall be entered upon the tax duplicate as a weed cutting, tree trimming and/or litter removal assessment and be a lien upon the land from and after the date of entry and be collected as other taxes and returned to the Village with the General Fund settlements.

If, after the Village abates the public nuisance, the owner or person in controls continues to fail to comply with Section 905 and the Village incurs additional expenses abating such public nuisance, the Village may certify all such additional amounts to the County Auditor, to be placed upon the tax duplicate and collected and paid back to the Village.

(c) Collection. At its sole discretion, the Village may take such other action permitted by law to collect any outstanding amounts due to the Village for abatement of the public nuisance.

905.06 ENFORCEMENT AND INVESTIGATION OF VIOLATIONS.

Enforcement of the provisions of this chapter shall be by the Director of Public Service and Safety or their designee. The Director of Public Service and Safety or their designee is authorized and empowered at any reasonable time to enter upon and inspect any premises or property where there is reasonable cause to believe that a public nuisance as defined herein exists.

905.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.