

# Village of Mogadore

135 S Cleveland Avenue

Mogadore, OH 44260

Phone: (330) 628-4896 | Fax: (330) 628-5850

Web Site: [www.mogadorevillage.org](http://www.mogadorevillage.org)

## COUNCIL MEETING AGENDA

August 7, 2024

5:30 p.m.

1. Moment of Reflection – Mr. Tonsic
2. Pledge to the flag
3. Roll Call
4. Approval of the Agenda
5. Minutes from the July 17, 2024, Council meeting presented for changes, corrections, and adoption
6. Comments from the Audience on the pending legislation
7. Committee Reports
8. Old Business – None.
9. New Business –

**Ordinance 2024-51** – Ms. Van Dike – Mayor Rick

AN ORDINANCE AMENDING THE ANNUAL APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE FOR THE FISCAL YEAR ENDING DECEMBER 31, 2024, AND DECLARING AN EMERGENCY.

**Ordinance 2024-52** – Ms. Van Dike – Finance Committee

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY LOCATED AT 3764 MOGADORE ROAD, MOGADORE, OHIO 44260, AND DECLARING AN EMERGENCY.

**Ordinance 2024-53** – Ms. Van Dike – Finance Committee

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY LOCATED AT 3768 ARGONNE STREET, MOGADORE, OHIO 44260, AND DECLARING AN EMERGENCY.

**Ordinance 2024-54** – Ms. Van Dike – Finance Committee

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY LOCATED AT 3651 PROSPECT AVENUE, MOGADORE, OHIO 44260, AND DECLARING AN EMERGENCY.

**Ordinance 2024-55** – Mr. Yoho – Safety Committee

AN ORDINANCE AMENDING CHAPTER 76 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MOGADORE, ENTITLED “PARKING REGULATIONS,” FOR THE PURPOSE OF CREATING CONSISTENT PARKING REGULATIONS WITHIN THE VILLAGE, AND DECLARING AN EMERGENCY.

10. Comments

1. Public
2. Council
3. Law Director
4. Village Engineer
5. Clerk-Treasurer
6. Mayor

11. Adjournment

RECORD OF ORDINANCES

Ordinance No. 2024-51

Passed \_\_\_\_\_, 2024

SPONSOR: MAYOR

AN ORDINANCE AMENDING THE ANNUAL APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE FOR THE FISCAL YEAR ENDING DECEMBER 31, 2024, AND DECLARING AN EMERGENCY.

WHEREAS, the Clerk-Treasurer has recommended that this Council amend the annual appropriations for the current expenses and other expenditures of the Village for the Fiscal Year ending December 31, 2024; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Mogadore to amend the annual appropriations for the current expenses and other expenditures of the Village for the Fiscal Year ending December 31, 2024.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: This Council hereby amends the annual appropriations for the current expenses and other expenditures of the Village for the Fiscal Year ending December 31, 2024, from the various funds of the Village, as follows:

AMBULANCE RETENTION GRANT

Other	\$24,372.00
-------	-------------

SECTION 2: With such amendments specified in Section 1 above, the total revised appropriations for the Village for the Fiscal Year ending December 31, 2024, is now contained in Exhibit A attached hereto and incorporated by reference herein.

SECTION 3: The Clerk-Treasurer is hereby authorized and directed to effectuate the appropriations set forth herein.

SECTION 4: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 5: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately appropriating said funds to provide for the orderly operation of the Village and the payment of the Village's immediate obligations, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.



EXHIBIT A - ORDINANCE NO. 2024-51  
 2024 ANNUAL APPROPRIATIONS ORDINANCE  
 Amendment #7

That to provide for the current expenses and Capital Improvements of the Village of Mogadore for the fiscal year ending December 31, 2024, the following sums be and they are hereby set aside and appropriated as follows:

GENERAL FUND

Administrative (Mayor, Legislative, Solicitor, and Clerk-Treasurer)	Personal Service	\$140,387.00	
	Other	\$864,114.00	\$1,004,501.00
Mayor's Court	Personal Service	\$10,792.00	
	Other	\$11,650.00	\$22,442.00
Police Law Enforcement	Personal Service	\$1,065,599.00	
	Other	\$551,401.00	\$1,617,000.00
Service (Land and Buildings) Personal Service	Personal Service	\$0.00	
	Other	\$116,900.00	\$116,900.00
	Transfers Out		\$2,372,000.00
TOTAL GENERAL FUND APPROPRIATIONS			<b>\$5,132,843.00</b>

FIRE EMS FUND

Personal Service	\$0.00	
Other	\$37,500.00	\$37,500.00

FIRE FUND

Personal Service	\$497,778.00	
Other	\$437,050.00	\$934,828.00

SAFETY GRANT

Personal Service	\$319,956.00	
Other	\$90,000.00	\$409,956.00

POLICE TASER GRANT FUND

Personal Service	\$0.00	
Other	\$14,824.45	\$14,824.45

COPS GRANT FUND

Personal Service	\$68,000.00	
Other	\$12,000.00	\$80,000.00

CEMETERY FUND

Personal Service	\$12,145.00	
Other	\$127,800.00	\$139,945.00

STREETS CONSTRUCTION/MAINTENANCE

Personal Service	\$321,540.00	
Other	\$741,840.00	\$1,063,380.00

STATE HIGHWAY

Personal Service	\$0.00	
Other	\$10,550.00	\$10,550.00

PARKS & RECREATION

Personal Service	\$98,128.00	
Other	\$470,600.00	\$568,728.00

COURT COMPUTERIZATION FUND

Personal Service	\$0.00	
Other	\$3,000.00	\$3,000.00

COVID AID FISCAL RECOVERY

Personal Service	\$0.00	
Other	\$25,750.00	\$25,750.00

AMBULANCE RETENTION GRANT

Personal Service	\$0.00	
Other	\$24,372.00	\$24,372.00

WATER/SEWER MAIN PROJECT

Personal Service	\$0.00	
Other	\$1,602,765.45	\$1,602,765.45

FENTON & DICK OPWC

Personal Service	\$0.00	
Other	\$898,000.00	\$898,000.00

HERBERT & MEADOWRIDGE OPWC

Personal Service	\$0.00	
Other	\$300,000.00	\$300,000.00

FIRE EQUIPMENT RESERVE

Personal Service	\$0.00	
Other	\$245,280.00	\$245,280.00

POLICE PENSION FUND

Personal Service	\$0.00	
Other	\$50,000.00	\$50,000.00

DEBT SERVICE FUND

Personal Service	\$0.00	
Other	\$66,000.00	\$66,000.00

GRAND TOTAL ALL APPROPRIATIONS FOR 2024

**\$11,607,721.90**

## RECORD OF ORDINANCES

Ordinance No. 2024-52Passed \_\_\_\_\_, 2024

SPONSOR: FINANCE COMMITTEE

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY LOCATED AT 3764 MOGADORE ROAD, MOGADORE, OHIO 44260, AND DECLARING AN EMERGENCY.

WHEREAS, in July 2021, the Village brought suit in the Summit County Court of Common Pleas against Kevin J. Landenberger, as the owner of the real property located at 3764 Mogadore Road, Mogadore, Ohio 44260, PPN 5501125 (the "Property"), seeking to enjoin Mr. Landenberger's use of the Property in violation of the Village's Codified Ordinances and further seeking to abate a nuisance upon the Property, said case being captioned as the Village of Mogadore, et al. v. Kevin J. Landenberger, Case. No. CV-2021-07-2243; and

WHEREAS, on February 4, 2022, the Court in the above-captioned matter issued an Order enjoining Mr. Landenberger's violations upon the Property, authorizing the Village to take necessary actions to abate the nuisance upon the Property, authorizing the Village to assess the costs of the Village in abating the nuisance upon the Property if the same are not timely paid by Mr. Landenberger, and further levying a tax in the amount of \$300.00 against the Property, in addition to the costs incurred by the Village to abate the nuisance, pursuant to Section 3767.08 of the Ohio Revised Code. A copy of said Order is attached hereto as Exhibit A; and

WHEREAS, on May 10, 2023, the Court in the above-captioned matter issued a Stipulated Order whereby, among other items, the Court ordered Mr. Landenberger to pay to the Village the sum of \$26,673, which includes the costs of the Village in abating the nuisance upon the Property and the tax levied pursuant to Section 3767.08 of the Ohio Revised Code, within sixty (60) days of the stipulated order. A copy of the Stipulated Order is attached hereto as Exhibit B; and

WHEREAS, pursuant to Resolution 2023-60, because said sum was unpaid by the Mr. Landenberger, this Council levied said unpaid sums as special assessments against the Property as permitted by the Stipulated Order; and

WHEREAS, unfortunately, Mr. Landenberger has failed to comply with the requirements in the Order and Stipulated Order, and, in February 2024 the Village was required to further abate the nuisance upon the Property by engaging Excellent Excavations Concrete and Construction at a cost of \$6,617.40; and

WHEREAS, Mr. Landenberger has not paid to the Village any portion of such \$6,617.40 incurred by the Village to abate the nuisance upon the Property in February 2024, and the Village is entitled to assess those costs against the Property pursuant to the Order and Stipulated Order; and

WHEREAS, Section 93.53 of the Codified Ordinance of the Village further authorizes the Village to assess an administrative fee of \$100.00 for each occurrence wherein the Village is required to serve notice of violation in addition to the charges for abatement of hazardous property conditions, and said administrative fee may also be placed upon the tax duplicate of said real property as a special assessment to be collected as other taxes and assessments upon such real property, and remitted to

## RECORD OF ORDINANCES

Ordinance No. 2024-52Passed \_\_\_\_\_, 2024

the Village for deposit into the General Fund; and

WHEREAS, to levy such costs as special assessments against the Property, this Council must certify said special assessments to the Summit County Fiscal Officer to be placed on the tax duplicate for the Property, collected as other taxes and assessments upon the Property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Mogadore to certify to the Summit County Fiscal Officer the aforementioned costs in the amount set forth in Exhibit C to be placed on the tax duplicate for the Property, collected as other taxes and assessments upon the Property, and remitted to the Village for deposit into the General Fund.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: This Council hereby certifies to the Summit County Fiscal Officer the aforementioned unpaid costs in the amount set forth in Exhibit C, attached hereto and incorporated herein by reference, to be placed on the tax duplicate for the Property as a special assessment, collected as other taxes and assessments upon the Property, and remitted to the Village for deposit into the General Fund, as provided for in the Order and Stipulated Order.

SECTION 2: The special assessment in the amount set forth on Exhibit C against the Property is hereby adopted.

SECTION 3: The Clerk-Treasurer shall deliver a copy of this Ordinance to the Summit County Fiscal Officer within five (5) business days after its adoption.

SECTION 4: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 5: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately authorizing said special assessment within the time period allowed by law so that the Village may recover its costs incurred in abating the nuisances upon the Property, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.





ORDINANCE #

2024-52

PARCEL

No #

5501125

FISCAL

USE

EFFECTIVE

TAX YEAR

2024

ANNUAL

AMOUNT

6,717.40

# of Years

1

PROJECT

TYPE

87

OPTIONAL JURISDICTION USE

Address, Property Description, Notes, etc.  
Rubbish Clean-Up. 3764 Mogadore Road

TOTALS

6,717.40

**IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO**

**THE VILLAGE OF MOGADORE,  
OHIO,**

**STATE OF OHIO EX. REL.  
MARSHAL PITCHFORD,**

**Plaintiffs,**

**v.**

**KEVIN LANDENBERGER**

**Defendant**

**CASE NO. CV-2021-07-2243**

**JUDGE JOY MALEK OLDFIELD**

**ORDER**

This matter comes before this Court upon Plaintiffs’ Motion to Compel and Deem Requests for Admissions Admitted and Motion for Default Judgment. This Court will review Plaintiffs’ motion in two parts, as follows:

**MOTION FOR DEFAULT JUDGMENT**

First, this Court will address Plaintiffs’ Motion for Default Judgment. Upon review of Plaintiffs’ motion, supporting exhibits, and this Court’s docket, this Court finds that Plaintiffs have established the following facts:

1. Plaintiffs filed its Complaint against the Defendant Kevin Landenberger on July 19, 2021.
2. Kevin Landenberger was served with the Complaint on October 25, 2021.
3. Kevin Landenberger’s Answer or response to the Complaint was due on November 3, 2021.
4. To date, Kevin Landenberger has not filed a response to the Complaint or sought leave to file its answer or responsive pleading.

Applying these facts to Civ.R. 12(A)(1), Landenberger was required to serve his "Answer within twenty-eight days after service of the summons and Complaint upon him..." Landenberger failed to Answer or request leave within twenty-eight days. Accordingly, Plaintiffs' motion requests default judgment pursuant to Civ. R. 55(A). Civ. R. 55(A) provides for the entry of default judgment against "a party against whom a judgment for affirmative relief is sought" when that party "has failed to plead or otherwise defend as provided by these rules..."

Applying the aforementioned facts to the applicable rules, this Court finds that Plaintiffs are entitled to default judgment and hereby enters Judgment in favor of Plaintiffs on the Complaint.

#### MOTION TO DEEM ADMISSIONS ADMITTED

Upon review of Plaintiffs' motion, supporting exhibits, this Court finds that Plaintiffs have established the following facts:

#### FINDINGS OF FACT

1. Plaintiffs served Interrogatories, Requests for Production of Documents and Requests for Admissions on November 9, 2021.
2. Plaintiffs' service letter advised Defendant Landenberger that his failure to respond to the discovery would result in the case being decided against him and recommended he seek assistance of counsel.
3. Kevin Landenberger's responses to written discovery were due on or about December 7, 2021.
4. To date, Kevin Landenberger has not responded to the written discovery, including the request for admission.

#### LAW AND DECISION

Pursuant to Civ. R. 36,

Each matter of which an admission is requested shall be separately set forth. **The matter is admitted unless, within a period designated in the request, not less than twenty-eight days after service thereof or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney.** If objection is made, the reasons therefor shall be stated[.]

The language of this Rule unambiguously provides that the Requests are deemed admitted unless answered within a period of twenty-eight (28) days. Where a party has failed to respond to a request for admissions, “the admissions [become] facts of record, which the court must recognize.” *Cleveland Trust Co. v. Willis*, 20 Ohio St.3d 66, 67, 20 Ohio B. 364, 485 N.E.2d 1052. Accordingly, the following requests for admission are deemed admitted and recognized as facts as follows:

1. Kevin J. Landenberger owns the Premises located at 3764 Mogadore Road, Mogadore, Ohio.
2. The Premises contains two houses.
3. Kevin J. Landenberger resides in the house on the rear/back of the Premises.
4. Kevin J. Landenberger’s son resides in the house nearest the road/public thoroughfare on the Premises.
5. Kevin J. Landenberger received a Notice of Violation on February 26, 2020, for failure to obtain a permit to build an addition on the garage at the Premises.
6. Kevin J. Landenberger received a Notice of Violation on March 3, 2020, for failure to obtain a permit to build an addition on the garage at the Premises.
7. Kevin J. Landenberger received a letter from the Village of Mogadore Law Director Marshal M. Pitchford dated May 4, 2020 that warned you that your failure to bring the Premises into compliance with the Village of Mogadore’s Ordinances would result in your being penalized.

8. Kevin J. Landenberger received a Village of Mogadore Notice of Violation dated June 4, 2020 for failure to obtain a permit to build an addition on the garage at the Premises.
9. Kevin J. Landenberger received a citation and summons to appear before the Village of Mogadore Mayor's Court dated September 30, 2020, for failure to obtain a permit to build an addition on the garage at the Premises.
10. Kevin J. Landenberger appeared before the Village of Mogadore Mayor's Court on October 9, 2020.
11. Kevin J. Landenberger was fined for the condition of the Premises when you appeared before the Village of Mogadore Mayor's Court on October 9, 2020.
12. The Village of Mogadore Mayor's Court provided Kevin J. Landenberger thirty (30) days to bring the condition of the Premises into compliance with the Village of Mogadore Codified Ordinances.
13. The Village of Mogadore Police Department issued a citation and summons for Kevin J. Landenberger to appear before the Village of Mogadore Mayor's Court dated January 15, 2021.
14. Kevin J. Landenberger appeared before the Village of Mogadore Mayor's Court on January 21, 2021, regarding violations of the Village of Mogadore Codified Ordinances §93.26 and §93.55.
15. On January 21, 2021, the Mayor's Court Magistrate found Kevin J. Landenberger guilty for violating the Village of Mogadore Codified Ordinances §93.26 and §93.55.
16. On January 21, 2021 the Mayor's Court Magistrate provided Kevin J. Landenberger until March 1, 2021 to bring the Premises into compliance with the Village of Mogadore Codified Ordinances §93.26 and §93.55.

17. Kevin J. Landenberger received a letter from the Village of Mogadore Zoning Inspector dated January 26, 2021, reiterating the Magistrate decision to provide you until Marcy 1, 2021 to bring the Premises into compliance with the Village of Mogadore Codified Ordinances §93.26 and §93.55.
18. The house on the Premises located closest to the street caught fire on February 12, 2021.
19. The Village of Mogadore Fire Department responded to the fire in the house on the Premises located closest to the street on February 12, 2021.
20. The Village of Mogadore Fire Department had the proper authorities disconnect the electricity to the house on the Premises located closest to the street on February 12, 2021.
21. After the fire, Kevin J. Landenberger had the electricity restored to the house on the Premises located closest to the street.
22. First Energy did not reconnect electricity to the Premises.
23. Kevin J. Landenberger did not obtain the requisite permits to reconnect the electricity to the Premises after the February 2021 fire.
24. Kevin J. Landenberger did not obtain a permit to upgrade the interior electricity in the house located closest to the street on the Premises.
25. Kevin J. Landenberger received a letter from the Village of Mogadore Zoning Inspector dated January 26, 2021.
26. The letter Kevin J. Landenberger received from the Village of Mogadore Zoning Inspector dated January 26, 2021 reiterated the Mayor's Court Magistrate's decision ordering you to bring the Premises into compliance with with the Village of Mogadore Codified Ordinance §93.26 and §93.55.

27. The letter dated January 26, 2021 provided Kevin J. Landenberger until March 1, 2021 to bring the Premises into compliance with the Village of Mogadore Codified Ordinance §93.26 and §93.55.
28. The current state of the electrical system in the front house on the Premises is in violation of the National Electric Code.
29. The current state of the Premises creates an imminent danger to itself.
30. The current state of the Premises creates an imminent danger to the neighboring buildings.
31. The current state of the Premises creates an imminent danger to the residents of the Village.
32. The current state of the Premises creates an imminent danger to the occupants.
33. The current state of the Premises creates an imminent danger to fire personnel.
34. The current state of the Premises creates an imminent danger to itself, the neighboring buildings, the residents of the Village, the occupants, and fire personnel.
35. The current state of the Premises violates provisions of the Mogadore Codified Ordinances.
36. The current state of the Premises violates provisions of the Summit County Building Code.
37. The current state of the Premises violates provisions of the National Electric Code.
38. The Premises is a Public Nuisance.
39. The Premises is a fire hazard.
40. The Village of Mogadore provided Kevin J. Landenberger time to correct the condition of the Premises.
41. The Village of Mogadore provided Kevin J. Landenberger time to bring the Premises into compliance with the Village of Mogadore Codified Ordinances.

42. Kevin J. Landenberger failed to bring the Premises into compliance with the Village of Mogadore Codified Ordinances.
43. The natural gas was disconnected to the front house on the Premise.
44. The front house on the Premises has unprotected, visible electric wiring running throughout the house.
45. The house on the back of the Premises received its electricity sharing the electric meter on the front house.
46. The front house on the Premises has an open hole in the yard with a ladder going down into it.
47. The open hole in the yard of the front house on the Premises is used to bury items.

In addition, this Court has been provided no evidence to contradict any of these facts.

#### DECISION

Based on the undisputed facts as established by Plaintiffs and deemed admitted, this Court finds that the Village has established that:

1. Kevin J. Landenberger is the owner of the property located at 3764 Mogadore Road, Mogadore, Summit County, Ohio (hereinafter "the Premises").
2. Kevin J. Landenberger has maintained the Premises in violation of Mogadore Ordinances § 93.26 and §93.55, Ohio Revised Code § 715.44, common law provisions protecting the rights and privileges of neighboring properties, the Summit County Building Code and the National Electric Code for more than two years.
3. Kevin J. Landenberger has been ordered by the Village Municipal Court on multiple occasions to correct the violations and clean up the Premises.
4. Kevin J. Landenberger ignored the Village Municipal Court Orders and all requests of the Village to bring the Premises into compliance with Mogadore Ordinances § 93.26 and §93.55, Ohio Revised Code § 715.44, common law provisions protecting the rights and privileges of neighboring



properties, the Summit County Building Code and the National Electric Code.

5. The condition of the Premises directly and proximately causes a life-threatening, dangerous, and hazardous condition for the inhabitants of the Village of Mogadore and is a direct threat to their health, safety, and welfare.
6. Kevin J. Landenberger's conduct demonstrates that a clear intention to continue to maintain the Premises in a condition which creates a continuing danger of harm to neighboring properties and the inhabitants of the Village of Mogadore.
7. The Village has exhausted all remedies available to it and it has no other adequate remedy at law.
8. The Village is entitled to relief in this matter.

**THEREFORE**, this Court grants Judgment in favor of Village of Mogadore, and provides Plaintiffs the following rights:

- A. The Premises located at 3764 Mogadore Road Mogadore, Ohio, 44236, constitutes a public nuisance as defined by Mogadore C.O. § 93.26 and §93.55 and R.C. § 3719.10.
- B. Kevin J. Landenberger is enjoined from continuing to maintain the Premises as a public nuisance in violation of Mogadore C.O. § 93.26 and §93.55 and R.C. § 3719.10.
- C. Kevin J. Landenberger has refused to comply with all prior efforts of the Plaintiffs' to have him bring his property in compliance with law, to clean up his property, or abate the nuisance.
- D. The Village is permitted to abate the public nuisance and bring the Premises into compliance with all applicable local, state, county, and federal laws.
- E. To abate the nuisance, the Village is granted authority to take any or all of the following actions to abate the public nuisance:

- 1) Disconnect or have the electric service and other utilities disconnected to the property pending inspection(s);
  - 2) Retain a certified building inspector or other necessary professionals to inspect the Premises, including all structures thereon, to determine the nature and extent of the hazards created by both houses, other structures, and the real property;
  - 3) Retain properly licensed professionals, laborers, other personnel, or use Village Employees to bring the property into compliance with all local, state and federal laws;
  - 4) Remove all debris, trash, vehicles, boats, and rubbish sitting on the Premises and dispose of the same in any manner deemed appropriate by the Village;
  - 5) Remove all debris, trash, furniture, vehicles, boats, rubbish, or other items maintained in holes in the real property, fill in the hole, and level out and grade the yard, i.e., fill in the hole with clean fill;
  - 6) Demolition of all structures, residences, and buildings on the property;
  - 7) Remove the debris caused by demolition of all structures, residences and buildings on the property;
  - 8) All other actions necessary to abate the nuisance and bring the Premises into compliance with the Village of Mogadore Codified Ordinances, Summit County Building Code, the National Electric Code, and other applicable laws; and,
  - 9) Invoice Kevin J. Landenberger for the costs associated with all actions taken by the Village to abate the public nuisance on the Premises.
- F. All costs associated incurred by the Village of Mogadore to abate the public nuisance shall be paid by Defendant within thirty (30) days of the date on the Village's

invoice. The Defendant's failure to tender payment of any invoice from the Village within thirty (30) days shall cause the amount of the invoice to be added to the tax duplicate on said Premises for collection with other real estate taxes and assessments.

- G. That a tax of three hundred dollars (\$300.00) be imposed upon said nuisance and against Defendant pursuant to R.C. § 3767.08.

**IT IS SO ORDERED, ADJUDGED AND DECREED.**



---

JUDGE JOY MALEK OLDFIELD

Copies to all counsel of record and unrepresented parts .

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

<b>THE VILLAGE OF MOGADORE, OHIO,</b>	)	<b>CASE NO.: CV-2021-07-2243</b>
	)	
<b>and</b>	)	<b>JUDGE JOY M. OLDFIELD</b>
	)	
<b>STATE OF OHIO EX. REL MARSHAL M. PITCHFORD,</b>	)	
	)	<b><u>ORDER FOR PLAINTIFFS' MOTION FOR APPROVAL OF STIPULATED ORDER</u></b>
<b>Plaintiffs,</b>	)	
	)	
<b>-vs.-</b>	)	
	)	
<b>KEVIN J. LANDENBERGER</b>	)	
	)	
<b>Defendant.</b>	)	

Upon Plaintiff's Motion for Approval of Stipulated Order and for good cause shown, this Court hereby executes and enters the Stipulated Order of the Plaintiffs the Village of Mogadore, Ohio, State of Ohio Ex. Rel Marshal M. Pitchford, and Defendant Kevin J. Landenberger on all Counts.

IT IS SO ORDERED.

JUDGE JOY MALEK OLDFIELD

Approved:

  
Kathryn A. Vadas, Esquire (0071510)  
Attorney for Plaintiff

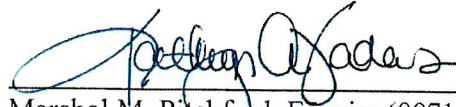
IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

THE VILLAGE OF MOGADORE, OHIO,	)	CASE NO.: CV-2021-07-2243
	)	
and	)	JUDGE JOY M. OLDFIELD
	)	
STATE OF OHIO EX. REL MARSHAL M. PITCHFORD,	)	
	)	<u>PLAINTIFFS' MOTION FOR</u>
Plaintiffs,	)	<u>APPROVAL OF STIPULATED ORDER</u>
	)	
-vs.-	)	
	)	
KEVIN J. LANDENBERGER	)	
	)	
Defendant.	)	

Now comes Plaintiffs the Village of Mogadore, Ohio and State of Ohio Ex. Rel Marshal M. Pitchford (“The Village”), by and through undersigned counsel, and hereby moves this Court for approval and entry of the attached Stipulated Order. The parties in this matter have negotiated and executed the Stipulated Order, which is a variation of the original Order granting the Village of Mogadore the right to abate the public nuisance located at 3764 Mogadore Road, Mogadore, Ohio. The Stipulated Order, which is attached hereto as Exhibit 1, provides Defendant Kevin Landenberger the opportunity to abate the nuisances inside both houses on the property at times that are convenient to him within the time parameters identified in the Stipulated Order. By allowing the Defendant to abate the nuisance, it will lessen the inconvenience to him associated with the abatement. As such, the Parties respectfully request that this Honorable Court approve and execute the attached Stipulated Order.

Respectfully submitted,

DICAUDO, PITCHFORD & YODER, LLC



Marshal M. Pitchford, Esquire (0071202)

[mpitchford@dpylaw.com](mailto:mpitchford@dpylaw.com)

Kathryn A. Vadas, Esquire (0071510)

[KVadas@dpylaw.com](mailto:KVadas@dpylaw.com)

209 South Main Street, Third Floor

Akron, OH 44308

Telephone: (330) 762-7477

Facsimile: (330) 762-8059

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that on this 1<sup>ST</sup> day of May, 2023, the foregoing was served via regular

U.S. mail upon:

Kevin J. Landenberger  
3764 Mogadore Road  
Mogadore, OH 44260



Kathryn A. Vadas



**IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO**

**THE VILLAGE OF MOGADORE,  
OHIO**

**CASE NO. CV-2021-07-2243**

**STATE OF OHIO EX. REL.  
MARSHAL PITCHFORD,**

**JUDGE JOY MALEK OLDFIELD**

**Plaintiffs,**

**v.**

**STIPULATED ORDER**

**KEVIN LANDENBERGER,**

**Defendant.**

On February 4, 2022, this Honorable Court issued an Order declaring that Defendant, Kevin Landenberger's ("Defendant") property located at 3764 Mogadore Road, Mogadore, Ohio (hereinafter the "Premises") constituted a public nuisance. The Order, which is attached hereto as Exhibit A and incorporated by reference as if fully rewritten herein, provides for the abatement of the public nuisance. The Parties have reached stipulations/agreements as to the further handling of the abatement, which stipulations/agreements the Court adopts as its Order of Execution in accordance with Ohio Civil Rule 70 herein:

1. The Village of Mogadore (hereinafter "Village") retains all the rights granted it by the Court in its February 4, 2022 Order as if fully rewritten herein.
2. The Village has cleaned up the grounds and exterior of the real property located at 3764 Mogadore Road, Mogadore, Ohio 44236 (hereinafter the "Premises").
3. The expenses for the aforementioned cleanup incurred by the Village and/or taxed in the Order to be paid by Defendant are as follows:
  - a. Village Employment Costs:

10.26.2022	\$23.52 x 5 emp x 5 hrs = \$588.00	Exhibit B
10.28.2022	\$23.52 x 5 emp x 5 hrs = \$588.00	Exhibit C
11.1.2022	\$23.52 x 5 emp x 6.5 hrs = \$764.40	Exhibit D
11.10.2022	\$23.52 x 3 emp x 1.5 hrs = \$105.84	Exhibit E
Total = \$2,046.24		

b. Village Equipment Rental Fees:

10.26.2022	Backhoe \$50.00 x 5 hrs = \$250.00	Exhibit B
	Dump Truck \$21.00 x 2 hrs = \$42.00	
10.28.2022	Backhoe \$50.00 x 5 hrs = \$250.00	Exhibit C
	Dump Truck \$21.00 x 2 hrs = \$42.00	
11.1.2022	Backhoe \$50.00 x 6.5 hrs = \$325.00	Exhibit D
11.10.2022	Bobcat \$30.00 x 1.5 hrs = \$45.00	Exhibit E
Total = \$954.00		

c. Kimble Dumpster Rental Fees:

10.26.2022	\$793.49	Exhibit F
10.28.2022	\$793.49	Exhibit G
11.1.2022	\$793.49	Exhibit H
Total = \$2,380.47		

**Grand total with below tax but absent Attorney Fees:  
\$5,680.71**

d. The three hundred dollars (\$300.00) taxed by the Court Order.

e. Village Attorney Fees billed at \$165.00 per hour:

June 2021	DPY Invoice # 3693	\$2,227.50
July 2021	DPY Invoice # 3751	\$2,892.25
August 2021	DPY Invoice # 3813	\$82.50
September 2021	DPY Invoice # 3873	\$536.25



October 2021	DPY Invoice # 3922	\$742.50
November 2021	DPY Invoice # 3949	\$948.75
January 2022	DPY Invoice # 4028	\$2,598.75
February 2022	DPY Invoice # 4074	\$1,402.50
March 2022	DPY Invoice # 4138	\$3,135.00
April/May 2022	DPY Invoice # 4220	\$907.50
June 2022	DPY Invoice # 4244	\$453.75
July 2022	DPY Invoice # 4295	\$1,476.75
August 2022	DPY Invoice # 4357	\$371.25
September 2022	DPY Invoice # 4418	\$1,155.00
October 2022	DPY Invoice # 4436	\$3,506.25
November 2022	DPY Invoice # 4494	\$825.00
February 2023	DPY Invoice # 4618	\$330.00
March 2023	DPY Invoice #	XXXXX
		<b>\$20,992.75</b>

**Total Due the Village: \$26,673.46**

4. Defendant agrees to tender payment to the Village of the above amounts within sixty (60) days of signing this Order.
5. Because the Village is legitimately concerned that Defendant will allow the Premises to fall into disrepair and again constitute a public nuisance, the parties agree that the Village shall have the right to continued inspection of the grounds and exterior of the Premises for a period of at least five (5) years.
  - a. The Village may inspect the Premises up to six (6) times per year.
  - b. The Village shall provide Defendant written notice of the inspection at least forty-eight (48) hours before entry onto the Premises, which shall be taped by a police officer to the front door of the rear house on the Premises.

- c. If the Village inspection reveals that the Premises is falling into disrepair or constitutes a public nuisance, it has the right to order Defendant to clean the Premises up within thirty (30) days.
  - d. The Village will reinspect the Premises thirty-one (31) days after ordering Defendant to clean up the Premises.
  - e. If the Premises remains in disrepair or constitutes a nuisance upon such further inspection, the Village has the right to immediately clean up the Premises and dispose of all items creating the disrepair or nuisance.
  - f. If the Premises remains in compliance with all applicable local, state, county and federal laws for a period of five (5) years, the Village's right to inspection will terminate.
  - g. If the Premises fails to remain in compliance with all applicable local, state, county and federal laws for a period of five (5) years, the Village receives an additional year of inspection rights for each failure and Order to clean up the premises.
  - h. Any costs incurred by the Village as a result of Defendant's non-compliance with this Section may be recovered by the Village as set forth in Section 8 of this Order.
6. In return for granting the Village the right to continued inspection of the Premises, the Village will provide Defendant the right to abate the nuisance and bring the front house into compliance with all local, state and federal laws.
    - a. Defendant has the right to retain properly licensed professionals to inspect the electrical, plumbing, and HVAC systems in the front house, provided that said inspections shall be completed within one hundred twenty (120) days from the date Defendant signs this Order.

- b. These licensed professionals shall prepare reports of the violations in the electrical, plumbing, and HVAC systems along with a detailed explanation of the steps, cost, and timeline needed to bring each system into compliance with all applicable local, state, and federal laws, including without limitation the Village of Mogadore Codified Ordinances, Summit County Codified Ordinances, which incorporate the 2006 Residential Code of Ohio for One-, Two- and Three-Family Dwellings, as amended, and the the National Electric Code, as amended.
- c. Defendant agrees to have the systems brought into compliance no later than December 31, 2023 unless the Village consents, in writng, to a later date.
- d. Defendant agrees to provide the Village with updates on the work performed on the front house every thirty (30) days.
- e. Defendant agrees to personally obtain or have his professional contractors obtain all permits necessary to complete the work on the Premises.
- f. Defendant agrees to have both houses properly hooked up to all available public utilities no later than December 31, 2023 unless the Village consents to a later date.
- g. As part of this process, the two houses on the Premises shall each have, and operate upon, separate electric meters and be properly hooked up to obtain electricity.
- h. In the event Defendant fails to follow the above plan set forth in this Section, then the Village may enter upon the Premises and complete the work set forth in this Section.

- i. Any costs incurred by the Village as a result of Defendant's non-compliance with this Section, including the completion of the work as provided in the preceding paragraph, may be recovered by the Village as set forth in Section 8 of this Order.
7. Defendant shall comply with all Village of Mogadore Codified Ordinances in the abatement of the nuisance, including the Planning and Zoning provisions.
8. The failure to comply with the requirements of this Order shall constitute contempt and subject the violating party or parties to sanctions, including but not limited to, attorney fees, penalties and/or interest. Further, this Court shall have the immediate right to grant Plaintiff, the Village of Mogadore, an order to: prohibit Defendant from violating the Village's Zoning Code; grant access to the Village to bring the Premises into compliance with the Village's Zoning Code; award the costs of any such remediation costs and legal fees to the Village; and/or to declare the award of such costs and legal fees as a lien or assessment against the Premises.
9. The Court retains jurisdiction to enforce the stipulations/agreements as set forth above.

Court costs shall be paid by Defendant.

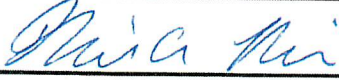

There is no just cause for delay. This is a final appealable Order.

**IT IS SO ORDERED.**

---

**JUDGE JOY MALEK OLDFIELD**

Approved by and so stipulated:

	
Mayor Mike Rick Village of Mogadore 4-17-23	Kevin J. Landenberger Defendant 4-17-23

Prepared by:



Marshal M. Pitchford (0071202)

[mpitchford@dpylaw.com](mailto:mpitchford@dpylaw.com)

Kathryn A. Vadas, (0071510)

[KVadas@dpylaw.com](mailto:KVadas@dpylaw.com)

209 South Main Street, Third Floor

Akron, OH 44308

Telephone: 330.762.7477

Facsimile: 330.762.8059

*Counsel for Village of Mogadore*



IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

THE VILLAGE OF MOGADORE,  
OHIO,

STATE OF OHIO EX. REL.  
MARSHAL PITCHFORD,

Plaintiffs,

v.

KEVIN LANDENBERGER

Defendant

CASE NO. CV-2021-07-2243

JUDGE JOY MALEK OLDFIELD

ORDER

This matter comes before this Court upon Plaintiffs' Motion to Compel and Deem Requests for Admissions Admitted and Motion for Default Judgment. This Court will review Plaintiffs' motion in two parts, as follows:

MOTION FOR DEFAULT JUDGMENT

First, this Court will address Plaintiffs' Motion for Default Judgment. Upon review of Plaintiffs' motion, supporting exhibits, and this Court's docket, this Court finds that Plaintiffs have established the following facts:

1. Plaintiffs filed its Complaint against the Defendant Kevin Landenberger on July 19, 2021.
2. Kevin Landenberger was served with the Complaint on October 25, 2021.
3. Kevin Landenberger's Answer or response to the Complaint was due on November 3, 2021.
4. To date, Kevin Landenberger has not filed a response to the Complaint or sought leave to file its answer or responsive pleading.

Applying these facts to Civ.R. 12(A)(l), Landenberger was required to serve his "Answer within twenty-eight days after service of the summons and Complaint upon him..." Landenberger failed to Answer or request leave within twenty-eight days. Accordingly, Plaintiffs' motion requests default judgment pursuant to Civ. R. 55(A). Civ. R. 55(A) provides for the entry of default judgment against "a party against whom a judgment for affirmative relief is sought" when that party "has failed to plead or otherwise defend as provided by these rules..."

Applying the aforementioned facts to the applicable rules, this Court finds that Plaintiffs are entitled to default judgment and hereby enters Judgment in favor of Plaintiffs on the Complaint.

#### MOTION TO DEEM ADMISSIONS ADMITTED

Upon review of Plaintiffs' motion, supporting exhibits, this Court finds that Plaintiffs have established the following facts:

#### FINDINGS OF FACT

1. Plaintiffs served Interrogatories, Requests for Production of Documents and Requests for Admissions on November 9, 2021.
2. Plaintiffs' service letter advised Defendant Landenberger that his failure to respond to the discovery would result in the case being decided against him and recommended he seek assistance of counsel.
3. Kevin Landenberger's responses to written discovery were due on or about December 7, 2021.
4. To date, Kevin Landenberber has not responded to the written discovery, including the request for admission.

#### LAW AND DECISION

Pursuant to Civ. R. 36,

Each matter of which an admission is requested shall be separately set forth. **The matter is admitted unless, within a period designated in the request, not less than twenty-eight days after service thereof or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney.** If objection is made, the reasons therefor shall be stated[.]

The language of this Rule unambiguously provides that the Requests are deemed admitted unless answered within a period of twenty-eight (28) days. Where a party has failed to respond to a request for admissions, "the admissions [become] facts of record, which the court must recognize." *Cleveland Trust Co. v. Willis*, 20 Ohio St.3d 66, 67, 20 Ohio B. 364, 485 N.E.2d 1052. Accordingly, the following requests for admission are deemed admitted and recognized as facts as follows:

1. Kevin J. Landenberger owns the Premises located at 3764 Mogadore Road, Mogadore, Ohio.
2. The Premises contains two houses.
3. Kevin J. Landenberger resides in the house on the rear/back of the Premises.
4. Kevin J. Landenberger's son resides in the house nearest the road/public thoroughfare on the Premises.
5. Kevin J. Landenberger received a Notice of Violation on February 26, 2020, for failure to obtain a permit to build an addition on the garage at the Premises.
6. Kevin J. Landenberger received a Notice of Violation on March 3, 2020, for failure to obtain a permit to build an addition on the garage at the Premises.
7. Kevin J. Landenberger received a letter from the Village of Mogadore Law Director Marshal M. Pitchford dated May 4, 2020 that warned you that your failure to bring the Premises into compliance with the Village of Mogadore's Ordinances would result in your being penalized.



8. Kevin J. Landenberger received a Village of Mogadore Notice of Violation dated June 4, 2020 for failure to obtain a permit to build an addition on the garage at the Premises.
9. Kevin J. Landenberger received a citation and summons to appear before the Village of Mogadore Mayor's Court dated September 30, 2020, for failure to obtain a permit to build an addition on the garage at the Premises.
10. Kevin J. Landenberger appeared before the Village of Mogadore Mayor's Court on October 9, 2020.
11. Kevin J. Landenberger was fined for the condition of the Premises when you appeared before the Village of Mogadore Mayor's Court on October 9, 2020.
12. The Village of Mogadore Mayor's Court provided Kevin J. Landenberger thirty (30) days to bring the condition of the Premises into compliance with the Village of Mogadore Codified Ordinances.
13. The Village of Mogadore Police Department issued a citation and summons for Kevin J. Landenberger to appear before the Village of Mogadore Mayor's Court dated January 15, 2021.
14. Kevin J. Landenberger appeared before the Village of Mogadore Mayor's Court on January 21, 2021, regarding violations of the Village of Mogadore Codified Ordinances §93.26 and §93.55.
15. On January 21, 2021, the Mayor's Court Magistrate found Kevin J. Landenberger guilty for violating the Village of Mogadore Codified Ordinances §93.26 and §93.55.
16. On January 21, 2021 the Mayor's Court Magistrate provided Kevin J. Landenberger until March 1, 2021 to bring the Premises into compliance with the Village of Mogadore Codified Ordinances §93.26 and §93.55.

17. Kevin J. Landenberger received a letter from the Village of Mogadore Zoning Inspector dated January 26, 2021, reiterating the Magistrate decision to provide you until Marcy 1, 2021 to bring the Premises into compliance with the Village of Mogadore Codified Ordinances §93.26 and §93.55.
18. The house on the Premises located closest to the street caught fire on February 12, 2021.
19. The Village of Mogadore Fire Department responded to the fire in the house on the Premises located closest to the street on February 12, 2021.
20. The Village of Mogadore Fire Department had the proper authorities disconnect the electricity to the house on the Premises located closest to the street on February 12, 2021.
21. After the fire, Kevin J. Landenberger had the electricity restored to the house on the Premises located closest to the street.
22. First Energy did not reconnect electricity to the Premises.
23. Kevin J. Landenberger did not obtain the requisite permits to reconnect the electricity to the Premises after the February 2021 fire.
24. Kevin J. Landenberger did not obtain a permit to upgrade the interior electricity in the house located closest to the street on the Premises.
25. Kevin J. Landenberger received a letter from the Village of Mogadore Zoning Inspector dated January 26, 2021.
26. The letter Kevin J. Landenberger received from the Village of Mogadore Zoning Inspector dated January 26, 2021 reiterated the Mayor's Court Magistrate's decision ordering you to bring the Premises into compliance with with the Village of Mogadore Codified Ordinance §93.26 and §93.55.

27. The letter dated January 26, 2021 provided Kevin J. Landenberger until March 1, 2021 to bring the Premises into compliance with the Village of Mogadore Codified Ordinance §93.26 and §93.55.
28. The current state of the electrical system in the front house on the Premises is in violation of the National Electric Code.
29. The current state of the Premises creates an imminent danger to itself.
30. The current state of the Premises creates an imminent danger to the neighboring buildings.
31. The current state of the Premises creates an imminent danger to the residents of the Village.
32. The current state of the Premises creates an imminent danger to the occupants.
33. The current state of the Premises creates an imminent danger to fire personnel.
34. The current state of the Premises creates an imminent danger to itself, the neighboring buildings, the residents of the Village, the occupants, and fire personnel.
35. The current state of the Premises violates provisions of the Mogadore Codified Ordinances.
36. The current state of the Premises violates provisions of the Summit County Building Code.
37. The current state of the Premises violates provisions of the National Electric Code.
38. The Premises is a Public Nuisance.
39. The Premises is a fire hazard.
40. The Village of Mogadore provided Kevin J. Landenberger time to correct the condition of the Premises.
41. The Village of Mogadore provided Kevin J. Landenberger time to bring the Premises into compliance with the Village of Mogadore Codified Ordinances.

42. Kevin J. Landenberger failed to bring the Premises into compliance with the Village of Mogadore Codified Ordinances.
43. The natural gas was disconnected to the front house on the Premise.
44. The front house on the Premises has unprotected, visible electric wiring running throughout the house.
45. The house on the back of the Premises received its electricity sharing the electric meter on the front house.
46. The front house on the Premises has an open hole in the yard with a ladder going down into it.
47. The open hole in the yard of the front house on the Premises is used to bury items.

In addition, this Court has been provided no evidence to contradict any of these facts.

#### DECISION

Based on the undisputed facts as established by Plaintiffs and deemed admitted, this Court finds that the Village has established that:

1. Kevin J. Landenberger is the owner of the property located at 3764 Mogadore Road, Mogadore, Summit County, Ohio (hereinafter "the Premises").
2. Kevin J. Landenberger has maintained the Premises in violation of Mogadore Ordinances § 93.26 and §93.55, Ohio Revised Code § 715.44, common law provisions protecting the rights and privileges of neighboring properties, the Summit County Building Code and the National Electric Code for more than two years.
3. Kevin J. Landenberger has been ordered by the Village Municipal Court on multiple occasions to correct the violations and clean up the Premises.
4. Kevin J. Landenberger ignored the Village Municipal Court Orders and all requests of the Village to bring the Premises into compliance with Mogadore Ordinances § 93.26 and §93.55, Ohio Revised Code § 715.44, common law provisions protecting the rights and privileges of neighboring

*Sandra Kurt, Summit County Clerk of Courts*

*Sandra Kurt, Summit County Clerk of Courts*

properties, the Summit County Building Code and the National Electric Code.

5. The condition of the Premises directly and proximately causes a life-threatening, dangerous, and hazardous condition for the inhabitants of the Village of Mogadore and is a direct threat to their health, safety, and welfare.
6. Kevin J. Landenberger's conduct demonstrates that a clear intention to continue to maintain the Premises in a condition which creates a continuing danger of harm to neighboring properties and the inhabitants of the Village of Mogadore.
7. The Village has exhausted all remedies available to it and it has no other adequate remedy at law.
8. The Village is entitled to relief in this matter.

**THEREFORE**, this Court grants Judgment in favor of Village of Mogadore, and provides Plaintiffs the following rights:

- A. The Premises located at 3764 Mogadore Road Mogadore, Ohio, 44236, constitutes a public nuisance as defined by Mogadore C.O. § 93.26 and §93.55 and R.C. § 3719.10.
- B. Kevin J. Landenberger is enjoined from continuing to maintain the Premises as a public nuisance in violation of Mogadore C.O. § 93.26 and §93.55 and R.C. § 3719.10.
- C. Kevin J. Landenberger has refused to comply with all prior efforts of the Plaintiffs' to have him bring his property in compliance with law, to clean up his property, or abate the nuisance.
- D. The Village is permitted to abate the public nuisance and bring the Premises into compliance with all applicable local, state, county, and federal laws.
- E. To abate the nuisance, the Village is granted authority to take any or all of the following actions to abate the public nuisance:

- 1) Disconnect or have the electric service and other utilities disconnected to the property pending inspection(s);
  - 2) Retain a certified building inspector or other necessary professionals to inspect the Premises, including all structures thereon, to determine the nature and extent of the hazards created by both houses, other structures, and the real property;
  - 3) Retain properly licensed professionals, laborers, other personnel, or use Village Employees to bring the property into compliance with all local, state and federal laws;
  - 4) Remove all debris, trash, vehicles, boats, and rubbish sitting on the Premises and dispose of the same in any manner deemed appropriate by the Village;
  - 5) Remove all debris, trash, furniture, vehicles, boats, rubbish, or other items maintained in holes in the real property, fill in the hole, and level out and grade the yard, i.e., fill in the hole with clean fill;
  - 6) Demolition of all structures, residences, and buildings on the property;
  - 7) Remove the debris caused by demolition of all structures, residences and buildings on the property;
  - 8) All other actions necessary to abate the nuisance and bring the Premises into compliance with the Village of Mogadore Codified Ordinances, Summit County Building Code, the National Electric Code, and other applicable laws; and,
  - 9) Invoice Kevin J. Landenberger for the costs associated with all actions taken by the Village to abate the public nuisance on the Premises.
- F. All costs associated incurred by the Village of Mogadore to abate the public nuisance shall be paid by Defendant within thirty (30) days of the date on the Village's

invoice. The Defendant's failure to tender payment of any invoice from the Village within thirty (30) days shall cause the amount of the invoice to be added to the tax duplicate on said Premises for collection with other real estate taxes and assessments.

- G. That a tax of three hundred dollars (\$300.00) be imposed upon said nuisance and against Defendant pursuant to R.C. § 3767.08.

**IT IS SO ORDERED, ADJUDGED AND DECREED.**



---

JUDGE JOY MALEK OLDFIELD

Copies to all counsel of record and unrepresented parts.

RECORD OF ORDINANCES

Ordinance No. 2024-53

Passed \_\_\_\_\_, 2024

SPONSOR: FINANCE COMMITTEE

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY LOCATED AT 3768 ARGONNE STREET, MOGADORE, OHIO 44260, AND DECLARING AN EMERGENCY.

WHEREAS, in July 2023, the Village brought suit in the Summit County Court of Common Pleas against Bruce Hagerman, as the owner of the real property located at 3768 Argonne Street, Mogadore, Ohio 44260, PPN 5500325 (the "Property"), seeking to enjoin Mr. Hagerman's violation of the Village's Property Maintenance Code, said case being captioned as the Village of Mogadore v. Bruce Hagerman, Case. No. CV-2023-07-2630; and

WHEREAS, on October 19, 2023, the Court in the above-captioned matter issued a Default Judgment Entry enjoining Mr. Hagerman's violations of the Village's Property Maintenance Code upon the Property, granting the Village the authority to prevent, enjoin, abate, or remove any non-conforming use of the Property in violation of the Village's Property Maintenance Code, requiring all costs of the Village in doing so to be reimbursed by Mr. Hagerman, and authorizing the Village to assess any unreimbursed costs as special assessments against the Property. A copy of said Order is attached hereto as Exhibit A; and

WHEREAS, Section 93.05 of the Codified Ordinances of the Village also authorizes the Village to place charges for the repair and abatement of hazardous property conditions by the Village as special assessments on the tax duplicate of real property within the Village to be collected as other taxes and assessments upon such real property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, Section 93.53 of the Codified Ordinance of the Village further authorizes the Village to assess an administrative fee of \$100.00 for each occurrence wherein the Village is required to serve notice of violation in addition to the charges for the repair and abatement of hazardous property conditions, and said administrative fee may also be placed upon the tax duplicate of said real property as a special assessment to be collected as other taxes and assessments upon such real property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, the Village has incurred costs for the repair of unfinished siding on the Property pursuant to the Default Judgment Entry in the amount of \$8,150.00, which has been unpaid by Mr. Hagerman following presentation of an invoice for the same by the Village; and

WHEREAS, to levy such costs as special assessments against the Property, this Council must certify said special assessments to the Summit County Fiscal Officer to be placed on the tax duplicate for the Property, collected as other taxes and assessments upon the Property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Mogadore to certify to the Summit County Fiscal Officer the amount set forth in Exhibit A to be placed on the tax duplicates for the Property, collected as other taxes and assessments upon said Property, and remitted to the Village for deposit





ORDINANCE #

2024-53

PARCEL  
No #

5500325

FISCAL  
USE

EFFECTIVE  
TAX YEAR

2024

ANNUAL  
AMOUNT

8,150.00

# of Years

1

PROJECT  
TYPE

90

OPTIONAL JURISDICTION USE

Address, Property Description, Notes, etc.  
3768 ARGONNE AVE ZONING VIOLATION  
UNFINISHED SIDING

TOTALS

8,150.00

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

---

CASE NUMBER: CV-2023-07-2630

---

VILLAGE OF MOGADORE, OHIO vs BRUCE T. HAGERMAN

JUDGE: ALISON E. MCCARTY

ORDER FILED: 10/19/2023

NOTICE

TO:

JASON DANIEL DODSON  
222 S. Main Street, Suite 400  
Akron, OH 44308

**YOUR ARE HEREBY NOTIFIED THAT A FINAL APPEALABLE ORDER IN THE ABOVE CASE HAS BEEN FILED WITH THE CLERK OF THE COMMON PLEAS COURT. SAID NOTIFICATION IS REQUIRED BY THE OHIO SUPREME COURT AND CIVIL RULE 58 (b)**

---

DEFAULT JUDGMENT GRANTED THE VILLAGE OF MOGADORE EXTERIOR PROPERTY MAINTENANCE CODE ON THE PROPERTY IS HEREBY GRANTED IN FAVOR OF PLAINTIFF AGAINST DEFENDANT, SAID INJUNCTION GRANTING PLAINTIFF AND ITS OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES THE EXPRESS PERMISSION TO ENTER UPON THE PROPERTY TO TAKE ALL ACTIONS APPROPRIATE TO ABATE ANY NUISANCE ON THE PROPERTY (IV) ALL COSTS ACTUALLY INCURRED BY PLAINTIFF TO ABATE ANY NUISANCE ON THE PROPERTY SHALL BE REIMBURSED BY DEFENDANT TO PLAINTIFF UPON PRESENTATION OF AN INVOICE FROM PLAINTIFF TO DEFENDANT FOR THE SAME, AND (V) ALL COSTS INVOICED TO DEFENDANT BY PLAINTIFF PURSUANT TO THIS ORDER SHALL BE PAID BY DEFENDANT TO PLAINTIFF WITHIN THIRTY (30) DAYS OF THE DATE ON THE PLAINTIFF'S INVOICE, AND DEFENDANT'S FAILURE TO TENDER PAYMENT TO THE PLAINTIFF WITHIN SUCH THIRTY (30) DAYS SHALL CAUSE THE UNPAID AMOUNT TO BE ASSESSED AND ADDED TO THE TAX DUPLICATE FOR THE PROPERTY FOR COLLECTION WITH OTHER REAL ESTATE TAXES AND ASSESSMENTS. THIS IS A FINAL, APPEALABLE ORDER. AEM

---

October 20, 2023

SCANNED

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

THE VILLAGE OF MOGADORE	:	CASE NO. CV-2023-07-2630
	:	
Plaintiff,	:	ALISON MCCARTY
	:	
vs.	:	
	:	
BRUCE HAGERMAN	:	<b>DEFAULT JUDGMENT ENTRY</b>
	:	
Defendant.	:	
	:	

Upon consideration of Plaintiff, Village of Mogadore's ("Plaintiff"), Motion for Default Judgment, and for good cause shown, the Court hereby enters the following Default Judgment Entry against Defendant Bruce Hagerman ("Defendant").

The Court finds that service of the Complaint and a Summons was completed on Defendant on July 31, 2023 and Defendant was required to answer, plead, or otherwise respond to the action no later than August 28, 2023. The Court finds that Defendant has failed to answer, plead, or otherwise respond in this matter. Therefore, upon the motion of Plaintiff and for good cause shown, Plaintiff's Motion for Default Judgment is hereby granted.

Based upon the uncontested allegations in the Complaint and the exhibits thereto, the Court finds that the real property located at 3768 Argonne Street, Mogadore, Ohio 44260 and further identified as Parcel No. 5500325 in the Summit County Records (the "Property") is currently being used by Defendant in violation of the Village of Mogadore's Property Maintenance Code (the "Maintenance Code"). Further, the Court finds that Defendant was served with notices of these violations and has failed to comply with the Maintenance Code. As such, the real property is declared to be in violation of the Village of Mogadore Property Maintenance Code, specifically Sections 93.26(A) and 93.26(B)(1)(a) thereof, and Plaintiff is entitled to a permanent injunction under Section 90.03 of the Maintenance Code and Ohio R.C. 715.44, to authorize agents and

representatives of Plaintiff to enter upon the Property and take whatever action is appropriate to remedy the violation of the Maintenance Code and abate any nuisance thereto.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that (i) Plaintiff shall be granted a default judgment, (ii) this Court declares that Defendant is currently using the Property in violation of the Village of Mogadore Exterior Property Maintenance Code, (iii) a permanent injunction to prevent, enjoin, abate, or remove any non-conforming use of land in violation of the Village of Mogadore Exterior Property Maintenance Code on the Property is hereby granted in favor of Plaintiff against Defendant, said injunction granting Plaintiff and its officers, agents, representatives and employees the express permission to enter upon the Property to take all actions appropriate to abate any nuisance on the Property (iv) all costs actually incurred by Plaintiff to abate any nuisance on the Property shall be reimbursed by Defendant to Plaintiff upon presentation of an invoice from Plaintiff to Defendant for the same, and (v) all costs invoiced to Defendant by Plaintiff pursuant to this Order shall be paid by Defendant to Plaintiff within thirty (30) days of the date on the Plaintiff's invoice, and Defendant's failure to tender payment to the Plaintiff within such thirty (30) days shall cause the unpaid amount to be assessed and added to the tax duplicate for the Property for collection with other real estate taxes and assessments. This is a final, appealable order that shall be served by the Clerk upon all parties under Civ.R. 58.

**IT IS SO ORDERED.**



---

JUDGE ALISON McCARTY

RECORD OF ORDINANCES

Ordinance No. 2024-54

Passed \_\_\_\_\_, 2024

SPONSOR: FINANCE COMMITTEE

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY LOCATED AT 3651 PROSPECT AVENUE, MOGADORE, OHIO 44260, AND DECLARING AN EMERGENCY.

WHEREAS, Sections 93.05 and 93.60 of the Codified Ordinances of the Village authorize the Village to place charges for services for the removal of trees by the Village as special assessments on the tax duplicate of real property within the Village to be collected as other taxes and assessments upon such real property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, Section 93.53 of the Codified Ordinance of the Village further authorizes the Village to assess an administrative fee of \$100.00 for each occurrence wherein the Village is required to serve notice of violation in addition to the charges for services for removal of trees, and said administrative fee may also be placed upon the tax duplicate of said real property as a special assessment to be collected as other taxes and assessments upon such real property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, the Village has incurred the costs for the removal of a dead ash tree from the property located at 3651 Prospect Avenue, Mogadore, Ohio 44260 (the "Property"); and

WHEREAS, to levy such costs as special assessments against the Property, this Council must certify said special assessments to the Summit County Fiscal Officer to be placed on the tax duplicate for the Property, collected as other taxes and assessments upon the Property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Mogadore to certify to the Summit County Fiscal Officer the amount set forth in Exhibit A to be placed on the tax duplicates for the Property, collected as other taxes and assessments upon said Property, and remitted to the Village for deposit into the General Fund.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: This Council hereby certifies to the Summit County Fiscal Officer the costs and fees set forth in Exhibit A, attached hereto and incorporated herein by reference, to be placed on the tax duplicates for the Property as a special assessment, collected as other taxes and assessments upon the Property, and remitted to the Village for deposit into the General Fund.

SECTION 2: The special assessment in the amounts set forth on Exhibit A against the Property is hereby adopted.

RECORD OF ORDINANCES

Ordinance No. 2024-54

Passed \_\_\_\_\_, 2024

SECTION 3: The Clerk-Treasurer shall deliver a copy of this Ordinance to the Summit County Fiscal Officer within five (5) business days after its adoption.

SECTION 4: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 5: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately authorizing said special assessments within the time period allowed by law so that the Village may recover its costs incurred, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Clerk-Treasurer

ORDINANCE #

2024-54

PARCEL  
No #

5500819

FISCAL  
USE

EFFECTIVE  
TAX YEAR

2024

ANNUAL  
AMOUNT

950.00

# of Years

1

PROJECT  
TYPE

33

OPTIONAL JURISDICTION USE

Address, Property Description, Notes, etc.  
3651 PROSPECT AVE TREE REMOVAL

TOTALS

950.00



RECORD OF ORDINANCES

Ordinance No. 2024-55

Passed \_\_\_\_\_, 2024

SPONSOR: SAFETY COMMITTEE

AN ORDINANCE AMENDING CHAPTER 76 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MOGADORE, ENTITLED "PARKING REGULATIONS," FOR THE PURPOSE OF CREATING CONSISTENT PARKING REGULATIONS WITHIN THE VILLAGE, AND DECLARING AN EMERGENCY.

WHEREAS, Chapter 76 of the Village of Mogadore Codified Ordinances sets forth the parking regulations within the Village; and

WHEREAS, the Mayor has recommended that this Council amend Chapter 76 of the Codified Ordinances of the Village, entitled "Parking Regulations," as set forth on Exhibit A, attached hereto and incorporated herein by reference, to create consistency in how parking is regulated within the Village; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village to amend Chapter 76 for the reasons set forth above.

NOW, THEREFORE BE IT ORDAINED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: This Council hereby amends Chapter 76 of the Codified Ordinances of the Village, entitled "Parking Regulations," as set forth on Exhibit A, attached hereto and incorporated herein by reference.

SECTION 3: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 4: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately ensuring the safety of the residents of the Village by providing consistent regulations and restrictions concerning parking within the Village and, provided this Ordinance receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.



## CHAPTER 76: PARKING REGULATIONS

### § 76.01 PROHIBITION AGAINST PARKING ON HIGHWAYS.

(A) (1) Upon any highway, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the highway if it is practicable to stop, park, or so leave such vehicle off the paved or main traveled part of the highway. In every event a clear and unobstructed portion of the highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway.

(2) This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

(B) Except as otherwise provided in this division, whoever violates this section shall pay a civil parking fine in the amount of \$50.00.~~is guilty of a minor misdemeanor~~. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more predicate motor vehicle or traffic offense, whoever violates this section is guilty of a minor misdemeanor ~~of the fourth degree~~. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the ~~third~~fourth degree.

### § 76.02 CONDITION WHEN MOTOR VEHICLE LEFT UNATTENDED.

(A) (1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

(2) The requirements of this section relating to the stopping of the engine, locking of the ignition, and removing the key from the ignition of a motor vehicle do not apply to any of the following:

- (a) A motor vehicle that is parked on residential property;
- (b) A motor vehicle that is locked, regardless of where it is parked;
- (c) An emergency vehicle;
- (d) A public safety vehicle.

(B) Except as otherwise provided in this division, whoever violates this section shall pay a civil parking fine in the amount of \$25.00.~~is guilty of a minor misdemeanor~~. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a minor misdemeanor ~~of the~~

~~fourth degree~~. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the ~~third~~ fourth degree.

### **§ 76.03 POLICE MAY REMOVE ILLEGALLY PARKED VEHICLE.**

(A) Whenever any police officer finds a vehicle standing upon a highway in violation of R.C. § 4511.66 or a substantially equivalent municipal ordinance, such officer may move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or improved or main traveled part of such highway.

(B) Whenever any police officer finds a vehicle unattended upon any highway, bridge, or causeway, or in any tunnel, where such vehicles constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle to the nearest garage or other place of safety.

### **§ 76.04 PARKING PROHIBITIONS.**

(A) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this title, or while obeying the directions of a police officer or a traffic-control device, in any of the following places:

- (1) On a sidewalk, except as provided in division (B) of this section;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;
- (7) Within 30 feet of, and upon the approach to, any flashing beacon, stop sign, or traffic-control device;
- (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by a traffic-control device;
- (9) Within 50 feet of the nearest rail of a railroad crossing;
- (10) Within 20 feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within 75 feet of the entrance when it is properly posted with signs;
- (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;

- (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or elevated structure upon a highway, or within a highway tunnel;
- (14) At any place where signs prohibit stopping or parking;
- (15) Within one foot of another parked vehicle;
- (16) On the roadway portion of a freeway, expressway, or thruway;
- (17) On bicycle path;
- (18) On bridle path;
- (19) Blocking an alley;
- (20) Alongside a curb marked with a yellow line;
- (21) Within a fire lane.

(B) A person shall be permitted, without charge or restriction, to stand or park on a sidewalk a motor-driven cycle or motor scooter that has an engine not larger than 150 cubic centimeters, or a bicycle or electric bicycle, provided that the motor-driven cycle, motor scooter, bicycle, or electric bicycle does not impede the normal flow of pedestrian traffic. This division does not authorize any person to operate a vehicle in violation of R.C. § 4511.711, or any substantially equivalent municipal ordinance.

(C) ~~Except as otherwise provided in this division, w~~

(1) Whoever violates division (A)(1)-(A)(3) or (A)(5)-(A)(20) of this section shall pay a civil parking fine in the amount of \$25.00.

(2) Except as otherwise provided in this division, whoever violates division (A)(4) or A(21) of this section shall pay a civil parking fine in the amount of \$50.00. ~~is guilty of a minor misdemeanor.~~ If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates division (A)(4) or (A)(21) of this section is guilty of a minor misdemeanor ~~of the fourth degree~~. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates division (A)(4) or (A)(21) of this section is guilty of a misdemeanor of the ~~fourth~~third degree.

## **§ 76.05 PARKING NEAR CURB; PRIVILEGES FOR PERSONS WITH DISABILITIES.**

(A) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and not more than 12 inches from the right-hand curb, unless it is impossible to approach so close to the curb; in such case the stop shall be made as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise. Local authorities by ordinance may permit angle parking on any roadway under their jurisdiction, except that angle

parking shall not be permitted on a state route within the municipality unless an unoccupied roadway width of not less than 25 feet is available for free-moving traffic.

(B) Local authorities by ordinance may permit parking of vehicles with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of a one-way roadway.

(C) No vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.

(D) Notwithstanding any statute or any rule, regulation, resolution, or ordinance, air compressors, tractors, trucks, and other equipment, while being used in the construction, reconstruction, installation, repair, or removal of facilities near, on, over, or under a street or highway, may stop, stand, or park where necessary in order to perform such work, provided a flagperson is on duty or warning signs or lights are displayed as may be prescribed by the Director of Transportation.

(E) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces, shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division and R.C. § 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the top edge of the sign shall measure five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

(F) (1) No person shall stop, stand, or park any motor vehicle at special parking locations provided under division (E) of this section, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with that division, unless one of the following applies:

(a) The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates; or

(b) The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

(2) Any motor vehicle that is parked in a special marked parking location in violation of division (F)(1)(a) or (F)(1)(b) of this section may be towed or otherwise removed from the parking location by the law enforcement agency of the municipality. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be

released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles.

(3) If a person is charged with a violation of division (F)(1)(a) or (F)(1)(b) of this section, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in R.C. § 4503.44(A)(1).

(G) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person, and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(H) No owner of an office, facility, or parking garage where special parking locations are required to be designated in accordance with division (E) of this section shall fail to properly mark the special parking locations in accordance with that division or fail to maintain the markings of the special locations, including the erection and maintenance of the fixed or movable signs.

(I) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(J) As used in this section:

HANDICAPPED PERSON means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.

PERSON WITH A DISABILITY THAT LIMITS OR IMPAIRS THE ABILITY TO WALK has the same meaning as in R.C. § 4503.44.

SPECIAL LICENSE PLATES and REMOVABLE WINDSHIELD PLACARD mean any license plates or removable windshield placard or temporary removable windshield placard issued under R.C. § 4503.41 or 4503.44, and also mean any substantially equivalent license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country, or sovereignty.

(K) Penalty.

(1) Whoever violates division (A) or (C) of this section shall pay a civil parking fine of \$25.00~~is guilty of a minor misdemeanor~~.

(2) (a) Whoever violates division (F)(1)(a) or (F)(1)(b) of this section is guilty of a misdemeanor and shall be punished as provided in division (K)(2)(a) and (K)(2)(b) of this section. Except as otherwise provided in division (K)(2)(a) of this section, an offender who violates division (F)(1)(a) or (F)(1)(b) of this section shall be fined not less than \$250 nor more than \$500. An offender who violates division (F)(1)(a) or (F)(1)(b) of this section shall be fined not more than \$100 if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

1. At the time of the violation of division (F)(1)(a) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in division (F)(1)(a) of this section.

2. At the time of the violation of division (F)(1)(b) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in division (F)(1)(b) of this section.

(b) In no case shall an offender who violates division (F)(1)(a) or (F)(1)(b) be sentenced to any term of imprisonment.

(c) An arrest or conviction for a violation of division (F)(1)(a) or (F)(1)(b) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(d) The clerk of the court shall pay every fine collected under division (K)(2) of this section to the village. Except as provided in division (K)(2) of this section, the village shall use the fine moneys it receives under division (K)(2) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in division (E) of this section. The village may use up to 50% of each fine it receives under divisions (K)(2) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the municipality that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

(3) Whoever violates division (H) of this section shall be punished as follows:

(a) Except as otherwise provided in division (K)(3) of this section, the offender shall be issued a warning.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (H) of this section or of a municipal ordinance that is



substantially equivalent to that division, the offender shall not be issued a warning but shall be fined not more than \$25 for each parking location that is not properly marked or whose markings are not properly maintained.

#### **§ 76.06 REMOVAL OF VEHICLES FROM VILLAGE STREETS DURING SNOWFALL.**

(A) In order to facilitate the cleaning of village streets and to expedite the free flow of vehicular traffic, motor vehicles shall not be parked on the village streets at such times as the United States Weather Bureau records indicate that two inches of snow have fallen and there is a prospect of a further snowfall. Any motor vehicle parked in violation of this prohibition shall be removed at the order of the Chief of Police.

(B) (1) It shall be the responsibility of the owners or operators of motor vehicles to ascertain whether weather conditions require the removal of their motor vehicles from the village streets and to remove all motor vehicles parked in violation of this section. The Chief of Police shall make every effort to inform the public of the existence of weather conditions requiring removal of parked automobiles from the streets, through the radio, newspaper and all other available media to the extent feasible.

(2) Nevertheless, the owners and operators of motor vehicles parked on the village streets shall have full responsibility to determine existing weather conditions and to remove parked automobiles if the weather conditions are such as require their removal under the terms of this section.

(C) After the United States Weather Bureau records indicate that two inches of snow have fallen and there is a prospect of further snowfall, the Chief of Police shall order the removal of all vehicles parked on the village streets which have not been removed by the owners or operators. Such vehicles shall, at the owner's and operator's expense, be removed to a motor vehicle pound within the municipal boundaries. Records shall be kept in the Police Department of all vehicles removed.

(D) Except as otherwise provided in this division, whoever violates section shall pay a civil parking fine in the amount of \$30.00. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the fourth degree.

#### **§ 76.07 PROCESSING OF PARKING VIOLATIONS.**

(A) The processing of parking violations shall be handled under the jurisdiction of the Mayor's Court.

(B) The jurisdiction of such parking violations shall include handling of all parking violations occurring within the limits of the village ordinances and code of ordinances; and such violations shall be deemed not to be considered a criminal offense for any purpose.

(C) The Clerk of Court's office of the Mayor's Court shall be authorized to receive and collect in the same manner as all other traffic offenses are handled by the Mayor's Court.

**§ 76.08 WILLFULLY LEAVING VEHICLES ON PRIVATE OR PUBLIC PROPERTY.**

(A) No person shall willfully leave an abandoned junk motor vehicle as defined in Section 4513.63 of the Ohio Revised Code on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the sheriff of the county or chief of a law enforcement agency of the municipal corporation, township, port authority, conservancy district, or township or joint police district of the reasons for leaving the motor vehicle in such place.

For purposes of this section, the fact that a motor vehicle has been so left without permission or notification is prima-facie evidence of abandonment.

(B) Whoever violates this section is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the Village in disposing of the abandoned junk motor vehicle that is the basis of the violation, less any money accruing to the Village from this disposal of the vehicle.

~~(A) In order to facilitate the cleaning of village streets and to expedite the free flow of vehicular traffic, motor vehicles shall not be parked on the village streets at such times as the United States Weather Bureau records indicate that two inches of snow have fallen and there is a prospect of a further snowfall. Any motor vehicle parked in violation of this prohibition shall be removed at the order of the Chief of Police.~~

~~(B) (1) It shall be the responsibility of the owners or operators of motor vehicles to ascertain whether weather conditions require the removal of their motor vehicles from the village streets and to remove all motor vehicles parked in violation of this section. The Chief of Police shall make every effort to inform the public of the existence of weather conditions requiring removal of parked automobiles from the streets, through the radio, newspaper and all other available media to the extent feasible.~~

~~(2) Nevertheless, the owners and operators of motor vehicles parked on the village streets shall have full responsibility to determine existing weather conditions and to remove parked automobiles if the weather conditions are such as require their removal under the terms of this section.~~

~~(C) After the United States Weather Bureau records indicate that two inches of snow have fallen and there is a prospect of further snowfall, the Chief of Police shall order the removal of all vehicles parked on the village streets which have not been removed by the owners or operators. Such vehicles shall, at the owner's and operator's expense, be removed to a motor vehicle pound within the municipal boundaries. Records shall be kept in the Police Department of all vehicles removed.~~

**§ 76.09 PARKING OF CERTAIN COMMERCIAL VEHICLES AND TRAILERS PROHIBITED.**

(A) No person shall park any semi-truck, tractor or trailer, garbage truck, cement truck/mixer, tanker truck, dump truck, large earth moving construction equipment (i.e. bulldozer or backhoe), in or on any lot within the village that is zoned R-1, R-2 or R-3 by the Codified Ordinances, except in situations where that vehicle is parked in or on that lot for the purpose of performing a service at the property where said vehicle is parked.

(1) Additionally, no person shall park any trailer or non-commercial trailer as defined in this chapter on any public roadway, except in situations where the trailer is parked on the public roadway for the purpose of performing a service at or near the property where the trailer is parked.

(2) TRAILER means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle. TRAILER does not include manufactured homes or travel trailers.

(B) No vehicles listed in division (A) of this section may be parked on any street or right-of-way within or bordering an R-1, R-2 or R-3 zoning district unless said vehicle is performing a service to a lot directly adjacent to where the vehicle is parked or is performing construction work within the street or right-of-way where the vehicle is parked.

(C) No person, other than the village or a person who has contracted with the village for the provision of services, may park any vehicle listed in division (A) of this section in any parking area or lot owned by the village unless said vehicle is performing a service to a property adjacent to or directly across the street from said lot.

(D) Any violation of this section shall be a minor misdemeanor, punishable by a fine of no more than \$150. Any second or additional violation of this section shall not be a waivable offense. Each day that a vehicle is parked in a prohibited area, as set forth in this section, shall constitute a separate violation of this section.