

Name	BECKENBACH			BENJAMIN			BURKE-JONES			HUFFMAN			MURPHY			PUFFENBERGER		
Vote	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs
Suspension																		
Passage																		

ORDINANCE NO: 3999

INTRODUCED BY:

AN ORDINANCE UPDATING CHAPTER 1319 OF THE  
BUILDING CODE BY AMENDING SECTION 1319.03  
ENTITLED "INSPECTION PRIOR TO ISSUANCE" TO COMPLY  
WITH CURRENT LAW AND DECLARING AN EMERGENCY

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Bratenahl, State of Ohio, that:

SECTION 1. Section 1319.03 of the Building Code be amended as follows:

**"1319.03 INSPECTION, RIGHT OF ENTRY AND WARRANTS PRIOR TO ISSUANCE.**

**(a) Inspection.** Within fifteen (15) days of the receipt of an application for an occupancy permit, the Commissioner of Buildings shall ~~may~~ cause to be made an inspection of the premises covered therein. Such inspection shall be made for the purpose of determining compliance or noncompliance with the provisions of the Building Code and the Zoning Code of this Municipality, and other ordinances and regulations of the Municipality applicable to the construction, alteration, maintenance or operation of dwelling structures. ~~The applicant shall cooperate with the Commissioner and his inspectors in arranging for entry into the dwelling structure for the purpose of making such inspection. No change of occupancy shall take place during the required fifteen (15) day notification period.~~

**(b) Right of Entry; Warrants.**

- (1) For the purpose of making any inspections required or permitted under this Chapter, the Commissioner of Buildings, upon presentation of proper credentials is authorized to enter, examine and survey at all reasonable times all dwelling, dwelling units, rooming units, occupiable structures, structures and premises provided for in this Code. The owner and occupant of every such dwelling, dwelling unit, rooming unit, occupiable structure and premises and the person in charge thereof shall give such official free access to such dwelling, dwelling unit, rooming unit, occupiable structure and premises at all reasonable times for the purpose of such inspection, examination and survey.**
- (2) Every occupant of a dwelling, dwelling unit or occupiable structure shall give the owner thereof or his agents and employees access to any part of such dwelling, dwelling unit, occupiable structure or their premises at all reasonable times for the purpose of making such**

repairs or alterations as are necessary to effect compliance with the provisions of this Code.

- (3) Except as may be permitted by law in exigent or emergency situations, no penalty under the penalty provisions of this Code, or adverse administrative action permitted under this Code, shall apply or be made against any owner or other party who refuses the right of entry granted to the Commissioner of Buildings hereunder until a search warrant is obtained.
- (4) If the owner or occupant does not consent to the proposed inspection, the Commissioner of Buildings may appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within fifteen (15) calendar days after the non-consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the code provisions identified in this Code. The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall be issued:
- A. eyewitness account of violation;
  - B. citizen complaints;
  - C. tenant complaints;
  - D. plain view violations;
  - E. violations apparent from village records;
  - F. property deterioration;
  - G. age of property;
  - H. nature of alleged violation;
  - I. condition of similar properties in the area;
  - J. documented violations on similar properties in the area;
  - K. passage of time since last inspection; and
  - L. previous violations on the property.
- (5) If a warrant is issued, no owner or occupant shall fail or neglect, upon presentation of a warrant, to properly permit entry therein by the Commissioner of Buildings for the purpose of conducting an inspection and examination pursuant to this section and consistent with the terms of the warrant. If the court declines to issue a warrant, or if no warrant is sought, the inspection may still take place but the scope thereof shall be limited to such areas as are in plain view."

SECTION 2. The Section 1319.03 of the Building Code as it existed prior to the effective date of this Ordinance and all other ordinances and resolutions inconsistent with, be, and the same hereby are, repealed.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, safety, health and welfare of the inhabitants of the Village of Bratenahl by reason of the immediate necessity to update Chapter 1319 of the Building Code by amending Section 1319.03 of the Codified Ordinances of the Village of Bratenahl to comply with

current law; therefore, this Ordinance shall take effect and be in full force immediately after its passage and approval by the Mayor.

PASSED:

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John M. Licastro, Mayor

ATTEST:

\_\_\_\_\_  
Thomas M. Cornhoff, Village Fiscal Officer

Name	BECKENBACH			BENJAMIN			BURKE-JONES			HUFFMAN			MURPHY			PUFFENBERGER		
Vote	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs
Suspension																		
Passage																		

ORDINANCE NO: 4000

INTRODUCED BY:

AN ORDINANCE ENACTING AND ADDING SECTION 1319.035  
ENTITLED "RENTAL DWELLING UNIT INSPECTION PRIOR TO ISSUANCE"  
TO CHAPTER 1319 OF THE BUILDING CODE AND DECLARING AN EMERGENCY

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Bratenahl, State of Ohio, that:

SECTION 1. Section 1319.035 to Chapter 1319 of the Building Code be enacted and added to read as follows:

**"1319.035 RENTAL DWELLING UNIT INSPECTIN PRIOR TO ISSUANCE.**

**Within fifteen (15) days of the receipt of an application for an occupancy permit covering a rental dwelling unit, the Commissioner of Buildings shall cause to be made an inspection of the premises covered therein. Such inspection shall be made for the purpose of determining compliance or noncompliance with the provisions of the Building Code and the Zoning Code of this Municipality, and other ordinances and regulations of the Municipality applicable to the construction, alteration, maintenance or operation of dwelling structures. The applicant shall cooperate with the Commissioner and his inspectors in arranging for entry into the dwelling structure for the purpose of making such inspection. No change of occupancy shall take place during the required fifteen (15)-day notification period."**

SECTION 2. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, safety, health and welfare of the inhabitants of the Village of Bratenahl by reason of the immediate necessity to enact and add Section 1319.035 of the Codified Ordinances of the Village of Bratenahl. Wherefore, this Ordinance shall be in full force and effect immediately after its passage.

PASSED:

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John M. Licastro, Mayor

ATTEST:

\_\_\_\_\_  
Thomas M. Cornhoff, Village Fiscal Officer

Name	BECKENBACH			BENJAMIN			BURKE-JONES			HUFFMAN			MURPHY			PUFFENBERGER		
Vote	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs
Suspension																		
Passage																		

ORDINANCE NO: 4001

INTRODUCED BY:

AN ORDINANCE UPDATING CHAPTER 1319 OF THE  
BUILDING CODE BY AMENDING SECTION 1319.04  
ENTITLED "ISSUANCE OF OCCUPANCY PERMIT" TO COMPLY  
WITH CURRENT LAW AND DECLARING AN EMERGENCY

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Bratenahl, State of Ohio, that:

SECTION 1. Section 1319.04 of the Building Code be amended as follows:

**"1319.04 ISSUANCE OF OCCUPANCY PERMIT.**

(a) If no inspection is conducted, or if, upon inspection of the premises for which an occupancy permit has been requested, it is determined that the same is in compliance with such codes, ordinances and regulations noted in Section 1319.03 or Section 1319.035, the Commissioner of Buildings shall collect the required fee and issue an occupancy permit.

(b) If, upon inspection it is determined that the premises for which an occupancy permit has been requested is in substantial compliance with such codes and ordinances, the Commissioner may at his discretion issue a qualified occupancy permit, subject to the correction of minor violations within a specified period of time. Such qualified permit shall be issued only upon completion of an agreement signed by the owner or his agent or a prospective occupant, specifying a time period for completion of such corrections, which period has been approved by the Commissioner of Buildings. Failure to complete within the agreed time period shall void such qualified permit. No qualified permit shall be issued where corrections required as a result of a prior change of occupancy have not been completed.

(c) Where extensive violations are found, or where conditions exist which are determined to be a hazard to the health, safety or welfare of the occupants of a dwelling structure, the Commissioner of Buildings shall refuse to issue an occupancy permit. Such refusal shall be in writing, and shall list the corrective measures required and the time limit for correction. No change of occupancy shall take place until such corrections have been made and approved and an occupancy permit has been issued. Where there is noncompliance with a written notice, or in case of an emergency situation, the Commissioner of Buildings shall proceed in the manner prescribed by ~~Sections 1319.04 or 1319.05 of~~ this Building Code.

(d) All occupancy permits shall be issued in the name of the owner of record as of the date of issuance, but shall be effective as to subsequent owners where no change of occupancy occurs, and no alterations or additions are contemplated under the new occupancy.

(e) An occupancy permit shall become void under any of the following circumstances:

- (1) If any false statement has been made by the applicant for a permit issued.
- (2) For noncompliance of a structure or its use with the requirements of this Code or other applicable codes, ordinances or regulations.
- (3) For refusal or failure of the owner, agent or person in charge of a dwelling structure to comply with the provisions of this Code, a written order of the Commissioner issued pursuant to such provisions, or for failure to comply with a written agreement made pursuant to the issuance of a qualified occupancy permit.
- (4) A change in the occupancy, tenancy or use of a residential building or part thereof covered by an occupancy permit except as provided otherwise in Section 1319.01 herein.
- (5) Five (5) years after the date of issuance, where the occupancy permit was issued for a rental dwelling unit."**

SECTION 2. The Section 1319.04 of the Building Code as it existed prior to the effective date of this Ordinance and all other ordinances and resolutions inconsistent with, be, and the same hereby are, repealed.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, safety, health and welfare of the inhabitants of the Village of Bratenahl by reason of the immediate necessity to update Chapter 1319 of the Building Code by amending Section 1319.04 of the Codified Ordinances of the Village of Bratenahl to comply with current law; therefore, this Ordinance shall take effect and be in full force immediately after its passage and approval by the Mayor.

PASSED:

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John M. Licastro, Mayor

ATTEST:

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Thomas M. Cornhoff, Village Fiscal Officer

Name	BECKENBACH			BENJAMIN			BURKE-JONES			HUFFMAN			MURPHY			PUFFENBERGER		
Vote	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs	Aye	Nay	Abs
Suspension																		
Passage																		

ORDINANCE NO: 4004

INTRODUCED BY:

AN ORDINANCE UPDATING TITLE SEVEN ENTITLED "PROPERTY MAINTENANCE CODE" OF PART THIRTEEN OF THE BUILDING CODE BY AMENDING SECTION 1345.05(g) ENTITLED "AMENDMENTS" FOR MORE EFFICIENT AND PROACTIVE REGULATION OF GRASS AND WEEDS AND DECLARING AN EMERGENCY

Ohio, that: NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Bratenahl, State of

SECTION 1. Section 1345.05(g) of the Building Code be amended to read as follows:

1345.05(a) through (f) \* \* \* \* No Change

"(g) Section 302.4 Weeds. Shall be amended to read as follows:

~~"All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches." All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.~~

~~Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 1345.99 below. Upon failure to comply with the notice of violation, any duly authorized employee or contractor hired by the Village shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.~~

**CHAPTER 3 General Requirements**

**Section 302.4. ~~Weeds~~ Excessive Grass or Plant Growth**

(a) As used in this chapter, "excessive grass or plant growth" shall mean lawn grasses in the front, side and rear yards of land within the Village, from which an average sample is approximately ten (10) inches or more in length from the ground surface to tip of the plant, as measured by the Commissioner of Buildings or his designee. Trees, ornamental grasses, flowering or shrub plant growth, or gardens in an established plant or garden bed are excluded from this section.

(b) No owner, lessee, agent or tenant having charge of any lot or land shall permit any grass, or plant growth in excess of ten (10) inches, to grow upon or otherwise accumulate upon such lot or land within the Village. Any growth of grass, weeds, plant growth, is hereby declared to be a public nuisance.

(c) Whoever violates this section shall be subject to the penalty provided in Section 1303.99.

#### 302.4.1 Notice to Cut Grass, Weeds, Plant Growth

(a) Upon written information that excessive grass or plant growth in excess of ten (10) inches are growing on lands in the Village, the Commissioner of Buildings shall cause a written notice to be served upon the owner, lessee, agent or tenant having charge of such land, notifying him or her that excessive grass or plant growth are growing on such lands and that such excessive grass or plant growth must be cut and destroyed within five (5) days after the service of such notice.

(b) If the owner or other person having charge of the land regulated under this section is a nonresident of the Village whose address is known, the notice shall be sent to his or her address by certified mail. If the address of the owner or other person having charge of the land regulated hereunder is unknown, it is sufficient to send the notice to the address on record with the County Fiscal Officer.

#### 302.4.2 Removal of Grass, Weeds, Plant Growth; Assessment of Costs.

(a) If the owner, lessee, agent or tenant having charge of the land fails to comply with the notice required by such section 302.4.1, the Commissioner of Buildings shall cause such grass, plant growth, or weeds to be cut and destroyed and may employ the necessary labor to perform the required tasks. All expenses shall, when approved by the Mayor or his designee, be paid out of any money in the Village Treasury not otherwise appropriated.

(b) The Fiscal Officer shall make a written return to the Cuyahoga County Fiscal Officer of the Village's action under Section 302.4.2 (a) with a statement of the charges for its services, the amount paid for performing such labor, the fees of the officers who made the service of the notice and return, and a proper description of the premises. Such amounts, when allowed, shall be entered upon the tax duplicate, shall be a lien upon such lands from the date of the entry and shall be collected as other taxes and returned to the Village with the General Fund.

(c) In addition to charges incurred for labor used to remedy the grass, plant growth, or weeds to be cut and destroyed, the Street Commissioner shall assess Administrative Fees for their services:

<u>Event:</u>	<u>Fee:</u>
<u>First Failure to Comply</u>	<u>\$150.00</u>
<u>Second Failure to Comply</u>	<u>\$250.00</u>
<u>Third and Subsequent Failure to Comply</u>	<u>\$500.00</u>

(d) The Mayor or his designee is authorized to establish policies to waive administrative fees assessed under the previous section (c) in any manner deemed appropriate.

#### 302.4.3 Provisions of Chapter Not Exclusive.

The provisions of this chapter apply in addition to any other provisions of State or local laws relating to the control of the subject matter herein and are not intended to pre-empt any other regulations, ordinances or laws of the Village or of any other jurisdiction.



SECTION 2. The Section 1345.05(g) of the Building Code as it existed prior to the effective date of this Ordinance and all other ordinances and resolutions inconsistent with, be, and the same hereby are, repealed.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, safety, health and welfare of the inhabitants of the Village of Bratenahl by reason of the immediate necessity to update Chapter 1345 of the Building Code by amending Section 1345.05(g) of the Codified Ordinances of the Village of Bratenahl for more efficient and proactive regulation of grass and weeds; therefore, this Ordinance shall take effect and be in full force immediately after its passage and approval by the Mayor.

PASSED:

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John M. Licastro, Mayor

ATTEST:

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Thomas M. Cornhoff, Village Fiscal Officer