

**VILLAGE  
OF  
BURBANK**



**Code  
of  
Miscellaneous Ordinances**

**VILLAGE OF BURBANK  
CODE OF MISCELLANEOUS ORDINANCES**

	PAGE
<b>I. ADMINISTRATIVE</b>	
A. Council Rules	unnumbered
B. Fiscal Officer	1
C. Hazard Mitigation Plan	1
D. Open Records Policy	1
E. Purchasing Policy	2
	4
<b>II. DANGEROUS ANIMALS</b>	7
<b>III. OPEN BURNING</b>	9
A. Definitions	9
B. Open Burning Restrictions	9
C. Relation to Other Laws	10
D. Penalty	10
<b>IV. PROPERTY</b>	
A. Building Regulations	11
B. Building Department	11
C. Trash, Rubbish and Other Materials in Yards	12
D. Foreclosure Registration Procedure	12
E. Clandestine Drug Labs	15
	19
<b>V. SEXUALLY ORIENTED BUSINESSES</b>	22
<b>VI. STORAGE OF MOTOR VEHICLES</b>	26
<b>VII. STREETS</b>	28
A. Establish Speed Limits	28
B. Limited Use	28
C. Name of Streets and Alleys	28
D. Parking	29
E. Compression Brakes Prohibited	29
	30
<b>VIII. VILLAGE PARK</b>	31
<b>ZONING FEES</b>	32
<b>CURFEW FOR MINORS</b>	33

# **VILLAGE OF BURBANK**

## **CODE OF MISCELLANEOUS ORDINANCES**

### **I. ADMINISTRATIVE**

#### **A. Council Rules**

##### **RULES OF COUNCIL**

###### **1. TIME AND PLACE OF REGULAR MEETINGS**

Council of the Village of Burbank will meet in regular session on the first Thursday of each month at 8:00 p.m. at Village Hall. Council may change the regular meeting date by majority of the vote at a previous meeting.

If the regular scheduled meeting falls on a holiday, the meeting will be held the next day unless Council deems otherwise by a majority of tie vote at a previous meeting.

If any Regular Council meeting is to be resumed and completed on a later date or must be rescheduled due to the lack of a quorum, it shall be held at a new date and time specified by the Mayor, with the same notice as provided in Section 2 hereof as would be given for a "Special Meeting".

###### **2. TIME AND PLACE OF SPECIAL MEETING**

The Mayor or any three (3) Council Members may call a special meeting by giving at least twenty-four (24) hours' notice to each member of Council. Such notice shall be served personally upon each Council Member or left at his/her residence. Meetings of Council are open to the public (RC 731.46).

The notice of Special Meetings shall specify the time and place of such meeting and shall indicate the subject matter to be considered. If a Council Member is unable to attend a regular or special meeting, he/she shall notify the Mayor or President Pro Tempore of Council a minimum of 2 hours prior to the meeting. Council will by a majority vote determine if the absence is excused or unexcused.

The Mayor shall be the Presiding Officer of legislative authority and shall preside at all regular and special meetings thereof, but shall have no vote except in the case of a tie. (RC 733 .24) A Council seat of a member may be declared vacant when he/she has been absent from meetings for two (2) consecutive meetings without valid excuse. Such action requires the affirmative vote of two-thirds (2/3) of the members of Council. Under this procedure, the accused member of Council must be given notice and an opportunity to answer charges, which are brought against him/her. (RC 731.45)

The Fiscal Officer is responsible for notifying the newspaper of all Regular and Special Council Meetings. All Special Meetings will be posted locally. "Posted locally" means placing a written notice of the date and time of the meeting at the following locations at least twenty-four (24) hours before the meeting: the Village Hall, Robert's Auto Care, and Burbank Community Park.

### 3. POSTING OF ORDINANCES AND RESOLUTIONS

Ordinances and Resolutions or Summaries of them as provided by law shall be published by posting them by the Fiscal Officer in the following five (5) places designated by Council in the Village: the Village Hall, Robert's Auto Care, Faith United Church, Burbank Community Park and, Burbank Parke Care Center.

### 4. COMMITTEE MEETINGS

Committee Meetings shall be the first Thursday of each month to be held at 6:00 p.m. at the Village Hall. It shall be the responsibility of the Committee Members to notify the Chairperson if unable to attend. All Committee Meetings are to be advertised and open to the public. The Committee Chairperson is to give a report at the next scheduled regular Council Meeting following the Committee Meeting

### 5. ORDER OF BUSINESS

The business of Council shall be transacted in the following manner at all regular meetings:

1. Call to order
2. Roll Call
3. Reading and Approval of Minutes (unless with a motion to suspend reading)
4. Committee Reports
5. Reports of Village Officers
6. Old Business
7. New Business
8. Public Speech - each speaker will be requested to identify himself/herself by name and state his/her business. At this time the Mayor will decide whether the matter will be treated as old or new business or assign the proper committee for further consideration. There will be a two (2) minute time limit for each speaker.
9. Adjournment

The Mayor and any Council Member may make a motion to change the order of business from time to time with the majority of Council present in favor of the change. Obscene language, disruptions or any derogatory gestures will not be tolerated by anyone at any public meeting. Anyone conducting themselves in this matter shall be called out of order by the Mayor and will be removed. All public officials and employees of the Village are to conduct themselves in a professional manner and abide by the policies, rules and procedures. Council may vote to expel any disorderly Council Member from a meeting.

### 6. ORGANIZATION: PRESIDENT PRO TEMPORE

On or before the 15<sup>th</sup> day of January each year Council shall meet at the Village Hall and organize. Attention shall be given to the Rules of Council, the election of the President Pro Tempore of Council, appointments to be made by the Mayor, and to such other recommendations, appointments, and business as may properly come before Council by way of organizations.

The Council President Pro Tempore shall be elected by a majority of the members of Council and shall serve for a term of one (1) year. In the event of a tie vote being cast the Mayor will cast the deciding vote.

#### 7. RULES, ENACTMENT, SUSPENSION AND AMENDMENT

The rules of Council, as now constituted or subsequently amended, shall govern the conduct of regular and special Council Meetings until revoked or superseded by a majority vote of all Council Members. The Rules may be temporarily suspended upon motion passed by affirmative vote of the majority of Council present and they will continue year after year unless modified or changed by majority of all Council Members to temporarily suspend. The Rules of Council shall be considered for re-enactment or amendment at the organizational meeting. The Rules of Council shall be considered for re-enactment of amendment at the organizational meeting. The Rules of Council shall be amended by a majority vote of Council.

#### 8. COMMITTEES: DESIGNATION, APPOINTMENT

The advice of the Mayor, Council will organize itself into the following standing committees:

- A. Streets, alleys, drains, storm sewers, environmental and Snow Removal
- B. Safety, animal control and environmental
- C. Finance and Town Hall
- D. Zoning, Annexation and Building
- E. Water and Sewer
- F. Park and Recreation

#### 9. COMMITTEES: REFERRAL OF MATTER

The Mayor may refer to the appropriate Committee any information, proposed legislation or other matters, which promptly require or might require study, consideration, investigation, or other action by Council. Selection of the appropriate Committee shall be the responsibility of the Mayor. Any proposed legislation or other matter requiring the legislative consideration which has been referred to a Committee may be withdrawn from such Committee for dispositive consideration by Council by a majority of vote of Council Members.

##### a. MUNICIPAL BUDGET

Not later than March or early April: All Committees, so formed by Council, shall meet and prepare an estimate of contemplated expenditures for the ensuing fiscal year and file the same with Council and the Fiscal Officer before June 1st.

Not later than June 15th Fiscal Officer should present the budget in its tentative form to the Council for its consideration and study.

Not later than ten (10) days before its adoption: Council shall file two (2) copies of the proposed budget with the Fiscal Officer for public inspection and provide for at least one (1) public hearing.

Not later than July 15th Council shall adopt the budget for the next succeeding fiscal year.

Not later than July 20th Council shall after adopting the budget, submit the budget to the Fiscal Officer, who shall submit the same to the County Auditor.

##### b. ANNUAL APPROPRIATIONS

Before January 1st of each year the Council is required to pass the appropriation measure. The appropriation measure is based on the official certificate of estimated resources issued by the County Budget Commission. If the estimated resources are not available prior to January 1, Council may pass a temporary appropriation measure to treat the expenses.

Committees so formed by Council, shall meet by March 1st and determine what funds need to be appropriated from the budget estimates allocated for the fiscal year. The Chairperson of each Committee shall compile a report of their estimated figures and submit appropriations, with the assistance of the Fiscal Officer, using the figures from the Committee Chair. After passage of the annual permanent appropriations, the Fiscal Officer shall file a copy with the county Auditor on or before April 1<sup>st</sup>.

#### 10. VOTING

At all meetings of Council, regular or special, voting shall be by oral roll call and the Fiscal Officer shall call the name of each Council Member present and record specifically whether such member has voted affirmatively or negatively. The Fiscal Officer shall also record any abstentions or failures to note.

#### 11. FISCAL OFFICER DUTIES

- a. The Fiscal Officer shall attend all regular and special meetings, record all proceedings in the minutes, attend to all correspondence incidental to the Fiscal Officer's Office and to perform such other duties as may assigned to him/her by Council or are required by law.
- b. The Fiscal Officer will date-stamp all receipts on the work day (excluding weekends and holidays) that such receipts are received by the Fiscal Officer and all such receipts will be deposited and/or posted no later than three (3) days after receiving the receipt. In the event that a receipt is received by the Fiscal Officer on a weekend or holiday, the receipt will be date- stamped for the first business day following the weekend and/or holiday involved. In the event that a receipt is received while the Fiscal Officer is on vacation or ill, the receipt will be date- stamped the first business day upon his return.

#### 12. MINUTES OF MEETINGS AND FINANCIAL REPORTS

The Fiscal Officer will have a draft form of the minutes and the financial reports for the previous month prepared and provided to each Council Member by the 20th day of the month. Council Members will have corrected copies returned to the desk of the Fiscal Officer by the 25th of the month so that the Fiscal Officer can make any changes necessary in order to have the final form ready by the next Council Meeting.

#### 13. VILLAGE KEYS

Village Council Members and other persons designated by them will be entitled to keys to the Village Hall. The keys will be numbered and at the end of a Council Member's term or other person's employment, they shall return their key to the Mayor. The Fiscal Officer will keep a record of when the key has been received. If any key cannot be returned or must be replaced because it is lost, the person who lost the key will pay for re-keying of the lock and replacement of all keys.

#### 14. AUDIT COMMITTEE

The Audit Committee is created consisting of three (3) Council members appointed by the Mayor.

The Audit Committee will review and approve each Purchase Order issued by the Fiscal Officer. The Fiscal Officer will submit the Purchase Orders for the Audit Committee to review and sign. The signed Purchase Orders will be left at the Village Hall each Saturday or at other times as the Purchase Orders are generated.

Each Purchase Order requires the signatures of no less than two (2) Audit Committee members.

The Fiscal Officer will advise the Audit Committee when the documents are available for signature. The timely execution of Purchase Orders is essential to maintain prompt and efficient payment of Village obligations.

The Audit Committee will compare the budgeted appropriations against each Purchase Order before signing documents. The Audit Committee will be familiar with each Fund's Purchase Orders authorizing purchases/charges and forms a working knowledge of the Village's appropriations for each fund. This will allow the Fiscal Officer to issue checks and make payments without the need to wait for the Council meetings.

This cannot be a "casual signing" process which happens if the Audit Committee just "signs" anything put in front of them; otherwise this will require that the process be discontinued and the Village revert to the existing system of Council approval at Council meetings. It is recommended that the Audit Committee be subject to an audit such as the Village is every two years.

After the signatures by the Audit Committee the Fiscal Officer will issue checks.

Authorized check signers must also sign the checks in a timely manner as soon as they are issued, or we will revert to the current condition, that being no checks are being mailed until signed and has the potential for late payments or late fees.

## **B. Fiscal Officer**

### **ORDINANCE NO. 2006-02**

Eliminates position of Assistant Fiscal Officer  
*[Amends Ordinance No. 2004-12]*

SECTION I: Effective January 1, 2006, the position of Assistant Fiscal Officer of the Village, which was created by Ordinance No. 04-12 adopted December 6, 2004, is hereby eliminated.

SECTION II: Effective January 1, 2006, the salary of the Village Fiscal Officer shall be Five Hundred Dollars (\$500.00) per month, payable monthly.

## **C. Hazard Mitigation Plan**

### **ORDINANCE NO. 2006-16**

Adopts Wayne County Hazards Mitigation Plan

WHEREAS, political entities in Wayne County have experienced severe damage from flooding, tornadoes and winter storms on several occasions in the past, resulting in property loss, loss of life, economic hardship, and threats to public health and safety; and

WHEREAS, a Hazards Mitigation Plan (the Plan) has been developed through the efforts of the Wayne County Planning Department and the Wayne County Emergency Management Agency and a core committee of volunteers; and

WHEREAS, the Plan recommends hazard mitigation measures that may protect the people and property potentially affected by the natural hazards probable in the Village of Burbank; and

WHEREAS, the Plan is required by the Federal Disaster Mitigation Act of 2000 and is required for the Village of Burbank to qualify under the Hazard Mitigation Grant Program (HMGP), the National Flood Insurance Program (NFIP), and the Flood Mitigation Assistance Program (FMA); and

WHEREAS, several public meetings were held to review the Plan during the planning on process and the Plan was adopted by the Wayne County Commissioners on March 8, 2006:



## **D. Open Records Policy**

### **ORDINANCE NO. 2007-06**

#### Adoption of Open Records Policy

**Introduction:** It is the policy of this Village that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of this Village to strictly adhere to the state's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation must also be in writing.

#### **Section 1. Public records**

This office, in accordance with the Ohio Revised Code, defines records as including the following: Any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of this village are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

##### **Section 1.1**

It is the policy of this village that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See Section 4 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

#### **Section 2. Record requests**

Each request for public records should be evaluated for a response using the following guidelines:

##### **Section 2.1**

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

##### **Section 2.2**

The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this office's general policy that this information is not to be requested.

### **Section 2.3**

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. “Prompt” and “reasonable” take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.

### **Section 2.4**

All records requests shall be answered in a reasonable time.

### **Section 2.5**

Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

### **Section 3. Costs for Public Records**

Those seeking public records will be charged only the actual cost of making copies.

**Section 3.1** The charge for paper copies is 5 cents per page.

**Section 3.2** The charge for downloaded computer files to a compact disc is \$1 per disc.

**Section 3.3** There is no charge for documents e-mailed.

### **Section 3.4**

Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

### **Section 4. E-mail –**

The Village of Burbank is including this position statement as a part of our “records retention schedule” to clarify and define e-mails that need to be retained as an official record.

If an email **does not** set policy, **does not** establish guidelines or procedures, **does not** certify a transaction, or **does not** become a receipt, it will be considered a “non-record” aka a “transient document” that does not need to be retained, that can be eliminated or discarded and does not need to be provided in a records request.

If, in the opinion of the Village Solicitor and/or Village Fiscal Officer, an email is considered “necessary” even though it may be a “non-record”, such emails will be retained as public records and provided in a records request.

Emails that do set policy, that **do** establish guidelines or procedures, that **do** certify a transaction, or that **do** become a receipt are considered public records and will be retained and provided in a records request.

This position statement is in line with the approved Ohio Electronic Records Committee document dated September 1, 2019 as found at [www.ohioerc.org](http://www.ohioerc.org).

### **Section 5. Failure to respond to a public records request**

The Village recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the Village's failure to comply with a request may result in a court ordering the village to comply with the law and to pay the requester attorney's fees and damages.

## **E. Purchasing Policy**

### **Resolution No. 2005-01**

#### **PURCHASE ORDERS - OAC 117-3-05**

Section 505.41 of the Ohio Revised Code states that no contracts or orders involving the expenditure of money may be made unless the fiscal officer has certified "the amount required to meet the obligation has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances." The vehicle to present this certification is the purchase order.

Any contract made without this certification shall be void and no warrant shall be issued in payment. The only exception to this comes under the provision of a "then and now" certificate. Basically this provision allows for the legislative body to approve a purchase order after the goods or services have been purchased if two (2) conditions have been met: (1) there were appropriations to cover the payment at the time the contract or order was placed, and (2) currently there are appropriations to cover the payment. If the order is for \$3,000.00 or less, the fiscal officer may authorize the expenditure. Otherwise, the legislative body must pass an ordinance or a resolution or a motion authorizing the expenditure.

The process of using purchase orders not only facilitates the ordering of the merchandise or services, it is also a part of the budgetary process. The amount of each purchase order shall be posted to the proper appropriation ledger page(s). This is known as "encumbering" or "setting aside" a portion of the appropriation. The fiscal officer's certificate appears on the bottom of the purchase order. This states that the funds are available and/or in the process of collection. This means that the legislative body has appropriations and the cash to pay for this purchase or the money is estimated to be collected. The posting of the purchase order reduces the amount of available appropriation. When an appropriation account reflects zero, then no purchase orders can be entered into until the taxing authority increases that account's appropriations.

Each purchase order will provide the following information:

1. Purchase order number (consecutively numbered)
2. Date
3. Name of Village of Burbank
4. Name of Vendor
5. Account Code

6. Quantity, unit description, price per unit, and amount
7. Name and title of person authorizing purchase order
8. Destination
9. Method of shipment
10. Fiscal officer's certification

There are two (2) types of purchase orders, regular and blanket, as described below.

### **REGULAR PURCHASE ORDER**

A regular purchase order is issued when a purchase of specific items is planned. For example, the local government issues a purchase order for a calculator. A regular purchase order is done to issue orders for payment, and make contracts or obligations calling for or requiring the payment of money made for specified permitted purposes from a specific line-item appropriation account in a specified fund. Upon the certification by the fiscal officer that this sum of money has been lawfully appropriated, authorized, or directed for a permitted purpose and is in the treasury or in the process of collection. These purchase orders are usually for specific expenditures that are recurring and are reasonably predictable operating expenses for the current year. More than one such purchase order may be outstanding at any time. An example of such a purchase would be the entity's telephone expense for the year. If a purchase order is issued at the beginning of the year for the current year telephone expense, then the certificate of availability of funds would set aside the amount from the appropriate appropriation at that time for this specific expense.

### **BLANKET PURCHASE ORDER**

A regular blanket purchase order is used to purchase a variety of items over a period of time. The maximum length of time a blanket purchase order can be outstanding is until the end of the fiscal year. The maximum amount of the blanket purchase order is that of the final budgeted appropriation amount. Blanket purchase orders can be issued to a variety of vendors or a specific vendor. For example, a road employee periodically needs different supplies while working on the repairs or road equipment. The purchase order would be encumbered against the appropriate account. The dollar amount should be based on an estimate of what will be needed. If the purchase order is depleted before the time element has expired, a new blanket purchase order may be issued. A blanket purchase order should be labeled as such and state the effective dates and maximum dollar amount.

## **ORDERING AND RECORDING THE PURCHASE**

The purchase order, once given to a vendor, not only constitutes an order to pay; it is a record to compare to an actual shipment of materials and a document which, when accompanied by an invoice from the vendor, will authorize the fiscal officer to prepare a voucher for the purchase.

Once a purchase order is approved and signed by the appropriate official, the following copies will be distributed:

1. The original copy is filed in an "Open Purchase Order" file in the fiscal officer's office.
2. A copy is mailed or hand-carried to the vendor.
3. A copy is used as a "receiving" copy, is given to the department user for his or her use in comparing the purchase order with the actual materials or services

Upon receiving the actual materials or services ordered by the purchase order, the requesting department will check the shipment against the receiving copy of the purchase order and inform the fiscal officer.

1. If the shipment is complete, the requester will indicate such on the receiving copy of the purchase order and forward that copy to the fiscal officer.
2. If the shipment is only partial, the department will indicate on the receiving copy those items received and mark the copy as a partial shipment. The copy may then be forwarded to the fiscal officer to authorize partial payment; however, the original must be returned to the requesting department for subsequent documentation of receipt of final shipment.

Upon receipt of the receiving copy of the purchase order from the requesting department, the fiscal officer will match the receiving copy with its corresponding copy in the open purchase order file. These copies are then re-filed until receipt of the vendor's invoice.

## **PAYMENT OF INVOICES**

When an invoice is received by the fiscal officer for goods or services, the fiscal officer will compare the copies of the purchase order with the invoice. No invoice will be paid without a corresponding purchase order confirming receipt of the goods or services. No vendor will be paid from a periodic "statement" nor from a duplicate invoice to assure that the proper amount is paid and no duplicate payments are made.

When the fiscal officer has matched the invoice to a purchase order, he or she will compare the amount of the invoice with the amount of the purchase order. If the invoice billing is greater than the purchase order authorization and the purchase order amount was derived from a firm quote by the vendor, the fiscal officer must consult the vendor to determine the reason for the

difference and have the legislative authority or authorized officer approve the difference before a voucher is written. When the purchase order amount was derived from an estimate, the fiscal officer will have discretion to authorize an expenditure of up to 10% in excess of the purchase order amount.

The fiscal officer will create a voucher and check on the Uniform Accounting Network computer to be attached to the receiving copy of the purchase order, the invoice, with the expenditure posting detail written on it. The fiscal officer will sign the check and forward it to either the Mayor or President Pro Tern for signature along with the voucher and attached documents.

Once the check and the attached documents have been returned to the fiscal officer, he or she will mail the check to the vendor and file the voucher, invoice and receiving copy of the purchase order in a file by month labeled "Paid Warrants".

#### **PURCHASE OF CONTINUING OR CONTRACTUAL SERVICES**

A separate purchase order for contractual services will be initiated at the time a contract is entered into by the Village of Burbank. The purchase order will show the title and date of that contract and the amount appropriated for the contract during the fiscal year. If the contract carries beyond any fiscal year, a new purchase order should be initiated for the new year. All payments for invoices under the contract will then be associated with this purchase order number.

Each month, upon receiving a bill and confirming the existence of adequate cash and unencumbered funds, the fiscal officer will prepare a voucher for the amount of the bill for those contractual services.

#### **PURCHASE OF CAPITAL ASSETS**

When a purchase order is initiated for the purchase of capital assets out of the Permanent Improvement Fund, Village of Burbank Council must first approve the purchase of capital assets prior to purchase, even though there may be appropriations to cover the purchase. This allows Council to be aware of significant purchases made for the Village.

## **II. DANGEROUS ANIMALS**

### **ORDINANCE NO. 2003-14**

Regulates dangerous animals within the Village

### **DANGEROUS ANIMALS:**

A. Definition and Prohibition. No person shall keep, maintain or have in his or her possession or under his or her control within the Village any dangerous animal. A “dangerous animal” means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which because of its size, vicious nature or other characteristics would constitute a danger to human life or property. Dangerous animals include, but are not limited to, the following:

1. Any poisonous animal, fish or reptile
1. Alligators
2. Apes, chimpanzees, gibbons, gorillas, orangutans, siamangs
3. Baboons
4. Bears
5. Bison
6. Bobcats
7. Cheetahs
8. Crocodilians
9. Constriction snakes
10. Coyotes
11. Deer
12. Elephants
13. Foxes
14. Game cocks and other fighting birds
15. Hippopotami
17. Hyenas
18. Jaguars
19. Leopards
20. Lions
21. Lynxes
22. Ostriches
23. Piranha fish
24. Pumas, also known as cougars, mountain lions and panthers
25. Rhinoceroses
26. Snakes
27. Snow leopards
28. Tigers
29. Wolves

B. Exceptions. This section does not apply to any circus or to any person while transporting any animal, fish, fowl or reptile through the Village provided that the animal, fish, fowl or reptile is adequately restrained to avoid injury to persons or damage to property; the keeping of such animals in a bona fide, licensed veterinary hospital for treatment; the keeping of such animals for exhibit to the public by an exhibit or show temporarily within the Village, for a period not to exceed seven (7) days unless prior written approval for a longer period is received from the Mayor; or the keeping of such animals in bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public view, or for the purpose of instruction or study. Dangerous or poisonous reptiles may be maintained by bona fide

educational or medical institutions for the purpose of instruction or study, provided such reptiles are securely confined.

C. Penalty. Whoever violates this section is guilty of a misdemeanor of the fourth degree. Each day that such violation continues shall be considered a separate violation.

### **REPORT OF ESCAPE OF DANGEROUS ANIMAL.**

A. The owner or keeper of any member of a species of the animal kingdom that escapes from his custody or control and that is not indigenous to this State or presents a risk of serious physical harm to persons or property, or both, shall, within one (1) hour after he discovers or reasonably should have discovered the escape, report it to:

1. A law enforcement officer of the Municipality and the Sheriff of the county where the escape occurred; and
2. The Clerk of the Municipal Legislative Authority.

B. If the office of the Clerk of the Legislative Authority is closed to the public at the time a report is required by subsection (a) hereof, then it is sufficient compliance with subsection (a) hereof if the owner or keeper makes the report within one (1) hour after the office is next open to the public.

C. Whoever violates this section is guilty of a misdemeanor of the first degree.

## **III. OPEN BURNING**

**ORDINANCE NO.2000-5**, [Amended by Ordinance No. 2012-11 prohibiting open burning in barrels or other structures not designed for clean burning fires.]

Regulates Open Burning

Section I. The following provisions shall regulate Open Burning of materials within the Village of Burbank:

### **OPEN BURNING REGULATIONS**

A. DEFINITIONS. As used in this Ordinance:

(1) "Open Burning" means the burning of any materials wherein air contaminants resulting from combustion are admitted directly into the ambient air without passing through a stack or chimney.



(2) “Waste” shall include agricultural waste, garbage, land clearing waste, landscape waste and residential waste as defined in this Ordinance and all other materials refuse, and debris reasonably and commonly classified as waste materials.

(3) “Agricultural Waste” means any matter generated by crop, horticultural or livestock production practices, and includes such items as bags, cartons, structural materials and landscape wastes that are generated in agricultural activities, but does not include land clearing waste, buildings, garbage, dead animals, motor vehicles and parts thereof, nor economic poisons and containers therefor, unless the manufacturer has identified open burning as a safe disposal procedure.

(4) “Garbage” means any manner resulting from the handling, processing, preparation, cooking and consumption of food or food products.

(5) “Land clearing waste” means plant matter which is removed from land, including plant matter removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial or industrial development.

(6) “Landscape waste” means any plant matter, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.

(7) “Residential waste” means any matter, including landscape wastes, generated on a one, two or multi-family residence as a result of residential activities, but not including garbage.

(8) “Clean Burning Fire” means a fire burning dry firewood only and no other contaminating materials. A clean burning fire as defined herein does not include the burning of any waste materials as they are defined in this Ordinance.

## B. OPEN BURNING RESTRICTIONS

(1) No property owner or other person shall cause or allow open burning in the Village of Burbank or in proximity to the Village where the contaminants or combustion products of such burning either enter the Village or can be reasonably expected to enter the Village through the air, except as specifically provided in this Ordinance.

(2) Open burning shall be allowed for the following purposes:

(a) Cooking food for human consumption;

(b) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs;

(c) If contained in a fire ring or other structure, a clean burning fire is permitted on private property, without a permit, provided such fire does not exceed the dimensions of four (4) feet by four (4) feet by four (4) feet and is attended by a responsible person;

(d) Open burning of “waste” as defined herein is not allowed under any circumstances.

(3) Open burning shall not be allowed anywhere in the Village in barrels or other containers or structures which are not specifically designed for clean burning fires.

C. RELATION TO OTHER LAWS.

In the event any provision of this Ordinance violates any provision of Chapter 3745-19 of the Ohio Administrative Code, any other rules or regulations promulgated by the Ohio E.P.A. or any Federal provisions regarding open burning, that portion of this Ordinance shall be invalid and of no force and effect. In addition, this Ordinance shall not prohibit open burning that may be allowed upon permit issued by the Ohio E.P.A. pursuant to the authority of O.R.C. Chapter 3704 or Chapter 3745-19 of the Ohio Administrative Code.

D. PENALTY.

Whoever violates any of the provisions of this “Ordinance” is guilty of an unclassified misdemeanor and subject to a penalty consisting of a fine in the minimum amount of One Hundred Dollars (\$100.00) and maximum amount of Two Hundred Fifty Dollars (\$250.00) for each offense.

A second offense shall be deemed committed each day during or on which a violation occurs or continues.

In addition, the offender shall be required to pay the cost of proper disposal of the materials burned and the cost of extinguishing any fire. The cost of proper disposal of the materials burned shall be the amount it would have cost to dispose of the materials in a manner that is consistent with the air, water and solid waste laws, ordinances and regulations of the Municipality and the State.

## **IV. PROPERTY**

### **A. Building Regulations**

#### **ORDINANCE NO. 2001-07**

Regulates Building within the Village

SECTION I. The Village hereby adopts “The Ohio Residential Code for 1, 2 and 3-Family Dwellings 1999,” which shall apply to new construction, remodeling, renovation or other alterations of residential structures within the Village of Burbank commencing the effective date of this Ordinance.

SECTION II. The Village hereby establishes a Building Department. The Mayor, Clerk and Council are hereby authorized and directed to take the necessary steps to comply and secure certification of the Building Department of the Village by the Ohio Department of Industrial Relations, Board of Building Standards, pursuant to Section 3781.10 of the Ohio Revised Code. Provided, however, that applications, inspections and all necessary approvals and enforcement

with respect to construction in the Village shall be performed by the Wayne County Building Department pursuant to an agreement with said Department.

SECTION III. The Mayor of the Village is hereby authorized and directed to enter into an agreement with the Wayne County Commissioners providing that administration and enforcement of “The Ohio Residential Code for 1, 2 and 3-Family Dwellings 1999” for residential structures and the Ohio Basic Building Code for commercial structures in the Village shall be performed by the Wayne County Building Department. The Wayne County Building Department shall have sole authority to take applications thereunder, approve plans, perform all necessary inspections, and do all other acts necessary to administer and enforce said standards on behalf of the Village. A copy of said Agreement is attached hereto and incorporated herein.

SECTION IV. This Ordinance is hereby declared to be an emergency measure necessary for the preservation and fostering of the public health, safety and welfare of the Village of Burbank and its inhabitants by reason of the immediate need to establish residential building standards for dwellings in the Village, there being no standards whatsoever prior to the enactment of this Ordinance, and to provide a mechanism for application and enforcement of such standards by the Wayne County Building Department, for the reason that the Village is incapable of funding and establishing certified and qualified Building Department personnel of its own, and to further provide for local regulation of standards for construction of commercial structures within the Village, all of which is in accordance with the recommendation and advice of the Wayne County Auditor and other public officials as an immediate and pressing need of the Village for safety and public welfare reasons, and, therefore, this Ordinance shall go into immediate operation and effect.

## **B. Building Department**

### **ORDINANCE NO. 2005-09**

Expands Building Dept. to include Commercial Structures  
*[Amends Ordinance No. 2001-07]*

SECTION I: The Village Building Department, that is maintained and administered by the Wayne County Building Department pursuant to an Agreement executed between the Village and the Wayne County Commissioners, is hereby expanded to include the regulation of commercial structures as well as residential structures in the Village in accordance with the Ohio Building Code.

SECTION II: The Village shall apply for certification of the expanded Building Department by the Ohio Department of Industrial Relations, Board of Building Standards.

SECTION III: The Contract, a copy of which is attached hereto and incorporated herein, providing for administration and enforcement of the Ohio Building Code for residential and commercial structures in the Village with the Wayne County Commissioners is hereby approved and the Mayor of the Village is authorized to execute the Contract on behalf of the Village.

## **C. Trash, Rubbish and Other Materials in Yards**

### **ORDINANCE No. 2013-02**

1. All exterior property areas shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish or garbage defined as follows for this Ordinance:
  - A. GARBAGE is the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food;
  - B. RUBBISH is combustible and noncombustible waste material, except garbage, and the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rages, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials.
2. All garbage and rubbish must be removed from premises within the Village at least once per week.
3. The following household materials and furnishings may not be stored or kept outside in yards, or any open areas of properties: indoor carpeting, appliances, plumbing and plumbing fixtures, upholstered furniture, beds, mattresses, coffee tables, dining room furniture, kitchen tables, chairs, curios, sideboards, buffets, bookcases, and any other furniture or furnishings not designed for outdoor use.
4. All construction materials, construction refuse, and construction debris must be removed from properties within seven (7) days of completion of the construction or alteration project.
5. No building or construction materials may be stored in the yards or other open areas of a property unless the resident has a valid Zoning Permit and Building Permit for work involving use of those materials, and the same are subject to removal as provided in the subparagraph 4 hereof.
6. Lawnmowers, riding tractors, rototillers and other motorized property maintenance items of equipment may only be stored in yards or other open areas of properties if they are in working condition

SECTION II: The Zoning Inspector, Mayor or any law enforcement officer acting on behalf of the Village may give notice in writing of any violation of this Ordinance to the property owner or occupant and order correction of all conditions which are found in violation within a time limit specified by such Village official. Any violation not corrected within the specified time may be subject to prosecution for a violation of this Ordinance.

SECTION III: A violation of any provision of this Ordinance shall be a minor misdemeanor and each day's continuation of the violation may be considered a separate offense.

VILLAGE OF BURBANK  
WAYNE COUNTY, OHIO

**NOTICE OF PROHIBITED ACCUMULATION OF MATERIAL  
ORDER TO CORRECT**

TO: \_\_\_\_\_  
(OWNER OR OCCUPANT)

REGARDING: \_\_\_\_\_  
(PROPERTY ADDRESS)

\_\_\_\_\_  
\_\_\_\_\_

Pursuant to Ordinance 2013-02 of the Village of Burbank Zoning  
**YOU ARE HEREBY ORDERED TO CORRECT THE FOLLOWING:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Please be advised that the condition(s) listed above are in violation of Section(s) \_\_\_\_\_ of Ordinance No. 2013-02, and if the same is not corrected within \_\_\_\_\_ days of the date of this notice, you may be prosecuted for a violation of Ordinance No. 2013-02

A VIOLATION OF ORDINANCE NO. 2013-02 IS A MINOR MISDEMEANOR AND SUBJECT YOU TO A MAXIMUM FINE OF \$150.00 AND COURT COSTS AND EACH DAY'S CONTINUATION OF THE VIOLATION MAY BE A SEPARATE OFFENSE.

If you have any questions regarding this Notice, please contact: \_\_\_\_\_  
\_\_\_\_\_ at telephone: \_\_\_\_\_.

THE VILLAGE OF BURBANK

BY: \_\_\_\_\_  
PRINT NAME AND TITLE

Date: \_\_\_\_\_

## **D. Foreclosure Registration Procedure**

### **ORDINANCE NO. 2013-05 – Adopted 5/7/13**

*Establish a foreclosure registration procedure for vacant properties.*

#### **A. APPLICATION OF ORDINANCE**

This Ordinance shall apply to all properties located within the Village.

#### **B. DEFINITIONS**

1. “Person” means a natural person or any legal entity included, but not limited to, a corporation, firm, partnership, trust or association, and the attorney or law firm representing a party initiating a foreclosure action.
2. “Vacant” means that no person actually resides in any part of the building or structure on the property, or that no person conducts a lawful business in any part of the building or structure located on the property, or that there is no building or structure on the property.

#### **C. NOTICE OF FORECLOSURE FILING**

1. Any person who files a complaint in any court of competent jurisdiction for foreclosure involving real property located with the Village shall notify the Village of the filing of the foreclosure complaint within thirty (30) days after filing of the complaint.

#### **D. PERSON RESPONSIBLE FOR MAINTENANCE IN THE EVENT OF FORECLOSURE:**

1. If the building or structure on a property that is the subject of a foreclosure proceeding is vacant at the time the foreclosure complaint is filed with a court of competent jurisdiction, then the person filing the foreclosure complaint shall notify the Village in writing of the name, address and contact information for the person who will be responsible for maintaining the property in compliance with all applicable provisions of the Ordinances of the Village.
2. If the building of structure on the property that is the subject of a foreclosure proceeding becomes vacant at any time after the foreclosure complaint is filed with a court of competent jurisdiction, then the person filing the foreclosure notice shall notify the Village in writing of the name, address and contact information for the person who will be responsible for maintaining the property in compliance with all applicable provision of the Ordinances of the Village.
3. If at any time during the foreclosure proceedings there is a change in the person(s) responsible for maintaining the property, then the person filing the foreclosure

complaint shall notify the Village in writing of the name, address and contact person who will, or who has, assumed responsibility for maintaining the property within ten (10) business days of the changes.

#### E. PENALTY

Whoever fails to file any of the foregoing notices with the Village as required by this Ordinance shall be deemed guilty of an unclassified misdemeanor and subject to a fine of five hundred dollars (\$500.00). Each day during which non-compliance continues shall constitute a separate offense.

**VILLAGE OF BURBANK  
WAYNE COUNTY, OHIO**

**NOTIFICATION OF FORECLOSURE FILING**

Ordinance No. \_\_\_\_\_ of the Village of Burbank, Wayne County, Ohio requires a party who files a foreclosure action for any property located within the Village to provide the Village with notice of the foreclosure, and the following information within thirty (30) days after the filing of the complaint.

Whoever fails to file Notice of the Foreclosure or fails to identify the person responsible for such property is guilty of an unclassified misdemeanor and subject to a fine of Five Hundred Dollars (\$500.00).

**I. COURT INFORMATION**

Court Case No. \_\_\_\_\_ Foreclosure File Date: \_\_\_\_\_

Is Structure Occupied: \_\_\_\_\_ YES \_\_\_\_\_ NO

Party/Company Filing Complaint: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**II. PROPERTY OWNER INFORMATION**

Name(s) \_\_\_\_\_

Current Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**III. PROPERTY DESCRIPTION**

Address of Property: \_\_\_\_\_

Parcel Number(s): \_\_\_\_\_

Type of Property: \_\_\_\_\_ Single Family \_\_\_\_\_ Multi-Family \_\_\_\_\_ Commercial  
\_\_\_\_\_ Industrial



**IV. INDIVIDUAL RESPONSIBLE FOR MAINTENANCE\*\***

Name: \_\_\_\_\_ Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

\*\*If the property subsequently becomes vacant or if the individual responsible for maintenance changes, the person who filed the foreclosure complaint shall notify the Village of the name, address, telephone number and contact information for the person who will be responsible for maintaining the property within ten (10) days of the change.

**V. VACANT BUILDING PLAN**

( ) Demolition \_\_\_\_\_

( ) Secure and maintain \_\_\_\_\_

( ) Rehabilitation \_\_\_\_\_

( ) Other – Explain: \_\_\_\_\_

\_\_\_\_\_

I certify that the information given herein is true and complete to the best of my knowledge.

I understand that any false or misleading information may subject me to prosecution under Ohio Revised Code §2921.13.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Email

\_\_\_\_\_  
Address

\_\_\_\_\_  
Fax Number

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Telephone

## **E. Clandestine Drug Labs**

### **ORDINANCE NO. 2013-04 – Adopted 5/7/13**

*Provides for recovery of the costs of abatement and clean up of hazardous conditions and materials in clandestine drug labs.*

#### **A. DEFINITIONS**

1. **CHEMICAL DUMPSITE** means any place or area where chemicals or other waste materials used, intended to be used, or produced in a clandestine drug lab have been located.
2. **CLANDESTINE DRUG LAB** means a location used for the unlawful manufacture or attempt to manufacture controlled substances.
3. **CLANDESTINE DRUG LAB SITE** means any place or area where law enforcement has determined that conditions associated with the operation of a clandestine drug lab exist. A clandestine drug lab site may include residential, commercial, industrial or institutional structures, accessory buildings, accessory structures, motor vehicles, a chemical dumpsite or any land.
4. **CONTROLLED SUBSTANCE** means a drug, compound, mixture, preparation, or substance included in schedules “I” through “V” of Ohio Revised Code §3719.41 or as amended from time to time. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
5. **EXPENSE** means any expense incurred due to the use of employees, materials, and/or equipment of the Village or its agent to investigate, mitigate, minimize, remove or abate any hazardous condition.
6. **HOUSEHOLD HAZARDOUS WASTES** means waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner consistent with all federal, state and local regulations.
7. **MANUFACTURE** means the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing repacking, tableting, encapsulation, labeling, relabeling, filling, or by other process, of controlled substances. This does not include manufacturing which occurs in a pharmacy or a licensed pharmaceutical manufacturing facility.
8. **OWNER** means any person, firm or corporation who along or jointly or severally with others has legal title to any land, buildings, or structures associated with a clandestine drug lab site or chemical dumpsite, with or without accompanying actual possession thereof. Owner also includes vendor or vendee under a land contract, whether recorded or not, or the executor, executrix, administrator,

Administratrix, trustee, or guardian of the estate of either the person with legal title or the land contract vendor or vendee.

## **B. NOTICE AND ORDER TO OWNER**

Where a law enforcement officer determines that an emergency condition caused by hazardous conditions associated with a clandestine drug lab site or chemical dumpsite exists, the Village may dismantle and dispose of drug processing apparatus and/or chemicals. Upon identification of such emergency condition, a law enforcement officer or other representative of the Village shall serve written notice to the owner, agent, lessee, occupant, tenant or other person in charge of the premises that an emergency condition exists and ordering that the cost of abating the emergency condition be paid to the Village. The Notice and Order shall be served by personal service to both an occupant of the property and the owner of the property, or if personal service is not accomplished, then by posting in a conspicuous location at the property affected and mailing, by regular mail, to the address of the affected property if there is a dwelling thereon and to the property owner at the location to which the Auditor mails the tax bill for the property affected.

## **C. REQUEST FOR HEARING**

Any person affected by any Notice and Order to pay the cost of abating an emergency condition may request and shall be granted a Hearing on the matter before the Mayor of the Village or his/her designee. The person shall file, in the office of the Mayor a written request for a Hearing and shall set forth the name, address and phone number of the appellant and a brief statement of the grounds for the Hearing and appeal from the Notice and Order to pay the cost of abating the emergency condition. Requests must be filed within seven (7) days after the Notice and Order is personally served, mailed or posted, whichever occurs first and shall be accompanied by a non-refundable deposit of fifteen dollars (\$15.00).

1. On receipt of the Request for Hearing, the Mayor or his designee shall set a time and place for a hearing. Written notice of the hearing shall be sent by regular mail to the address provided by appellant in the Request for Hearing. The Hearing shall be held within a reasonable time after a request has been filed.
2. At the Hearing, the appellant shall be given an opportunity to be heard and to show cause why the Notice and Order should be modified or dismissed. The failure of the appellant or his/her representative to appear and present his position at the hearing shall be grounds for dismissal of the request.
3. Upon consideration of the evidence presented at the hearing, the Mayor or his/her designee may affirm, disaffirm, modify or dismiss the Notice and Order. The appellant shall be notified forthwith in writing of the decision.

4. Any person aggrieved by the decision of the Mayor of his/her designee may seek Court review of the decision pursuant to the Ohio Revised Code.

**D. EXPENSES AND LIEN**

All expenses incurred to remedy the emergency condition by the Village together with an administrative charge and/or fine, as described below, shall be reported to the Clerk/Treasurer or Fiscal Officer of the Village who shall mail a statement thereof to the owner of the property, if his address is known. If after thirty (30) days, the amount remains unpaid, the Fiscal Officer shall certify the total amount of the expense, the name of the owner of the land, and a sufficient description of the premises, to the Auditor of the County, to be entered upon the tax duplicate, to be a lien on the land to be collected as other taxes and assessments and returned to the Village pursuant to R.C. §731.54. In addition to the actual expenses described above, the owner of the premises must pay an administrative charge to be set by Village Council.

## **V. SEXUALLY ORIENTED BUSINESSES**

### **ORDINANCE NO. 2003-02**

Regulates Sexually Oriented Businesses

SECTION I: The regulations and provisions which are attached hereto and identified as Sexually Oriented Businesses, Section 1 through 4, are hereby adopted by the Council of the Village of Burbank and shall apply to any such businesses located anywhere within the Village of Burbank.

SECTION II: Violation of any provision of the regulations entitled "Sexually Oriented Businesses," attached hereto and incorporated herein, shall be an unclassified misdemeanor which shall subject the person or entity responsible for such violation to a fine of not less than \$50.00 nor more than \$500.00 per day. Each day's continuation of a violation, after notice of the same by the Village, shall constitute a separate offense.

### **FINDINGS, PURPOSE AND INTENT.**

(a) Village Council finds that reasonable regulations relating to the location of adult entertainment land uses will provide for the protection of the community and its property values and will protect the residents of the community from the adverse secondary effects of such adult entertainment land uses, while providing to those who desire to patronize adult entertainment land uses such an opportunity in areas within the Village which are appropriate for the location of such adult entertainment land uses.

(b) Village Council further finds that the initial location of adult entertainment land uses will lead to the location of additional and similar uses within the same vicinity, thus multiplying the adverse impact of the initial location of adult entertainment land uses upon residential areas, locally oriented business areas, churches, parks, libraries and schools.

(c) It is the purpose of this chapter to reasonably regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the residents of the Village and to establish reasonable and uniform regulations to prevent any concentration of sexually oriented businesses within the Village.

(d) The provisions of this Ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials.

(e) It is not the intent of Village Council to deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

## **DEFINITIONS.**

As used in this chapter:

- (a) “Adult arcade” means any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically or mechanically-controlled still or motion picture machines, projectors or other image-producing devices are maintained, to show images to five or fewer persons, per machine, at any one time, and where the images so displayed are distinguished or characterized by the depicting of describing of specified sexual activities or specified anatomical areas.
- (b) “Adult bookstore” or “adult video store” means a commercial establishment which, as one of its principal business purposes, offers for sale or rental, for any form of consideration, any one or more of the following:
- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, which depict or describe specified sexual activities of specified anatomical areas; or
  - (2) Instruments, devices or paraphernalia, other than medical or contraceptive devices, which are designed for use in connection with specified sexual activities.
- (c) “Adult cabaret” means a nightclub, bar, restaurant or similar commercial establishment which regularly features:
- (1) Persons who appear in a state of nudity;
  - (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities or specified sexual activities; or
  - (3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (d) “Adult motion picture theater” includes a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, are regularly shown.
- (e) “Adult theater” includes a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity, or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

(f) “Nude model studio” means any place where a person who appears in a state of nudity or who displays specified anatomical areas is provided solely to be sketched, drawn, painted, photographed or similarly depicted by other persons.

(g) “Nudity” and “state of nudity” mean:

(1) The appearance of a human bare anus, genitals or the areola of the female breast; or

(2) A state of dress which fails to cover opaquely a human anus, genitals or the areola of the female breast.

(a) “Sexually oriented business” means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theater or adult theater. “Sexually oriented business” does not include a nude model studio and is not considered a recreation and amusement enterprise, music or dance studio, art shop, indoor theater, auditorium, lodge hall or social club for purposes of this chapter.

(b) “Specified sexual activities” means any of the following:

(1) The fondling or other erotic touching of human genitals, the pubic region, buttocks, the anus or female breasts;

(2) Sex acts, actual or simulated, including intercourse, oral copulation and sodomy; or

(3) Masturbation, actual or simulated.

## **LOCATION RESTRICTIONS.**

A sexually oriented business may be located only in accordance with the following restrictions:

(a) Such business shall be in a Zoning District, when the same are established, where such use is allowed or permitted as a conditional use, provided a permit or certificate has been issued for it.

(b) No such business shall be located with seven hundred fifty (750) feet from the following:

(1) Another such business.

(2) A public or private elementary or secondary school, pre-school or day care facility.

(3) A playground, park or other public recreational facility.

(4) A library.

(5) A church.

(6) Any residence.

(a) For purposes of subsection (b) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises identified in (b)(1) through (6) hereof.

(b) Nothing in this section shall be construed to prohibit or limit the display, sale or rental of descriptive, printed, film or video materials or any live performance, which, taken as a whole, contains serious literary, artistic, political, medical, educational or scientific value.

**PREVALENCE OF CONFORMING USE.**

A sexually oriented business lawfully operating as a conforming use is not rendered a permitted non-conforming use by the subsequent location of a use described in Section 3 (b)(1) through (b) hereof within seven hundred fifty (750) feet of the sexually oriented business.



## VI. STORAGE OF MOTOR VEHICLES

### ORDINANCE NO. 2001-18

Regulates Storage of Motor Vehicles and parts in the Village

[Amended by Ordinance 2013-08, June 4, 2013; amended by Ordinance 2016-07, June 2, 2016]

#### SECTION I: STORAGE OF MOTOR VEHICLES AND MOTOR VEHICLE PARTS:

A. **DEFINITIONS:** For the purpose of this Ordinance the following definitions are hereby established:

1. “Motor Vehicle” means any vehicle, including manufactured homes and recreational vehicles, propelled or drawn by power other than muscular power, other than construction equipment not designed for or employed in general highway transportation, or farm machinery.
2. “Inoperable Motor Vehicle” means any motor vehicle which is unable to move under its own power due to defective or missing parts.
3. “Motor Vehicle Part” means any portion or part of any motor vehicle as detached from the vehicle.
4. “Unsafe Vehicle” means any motor vehicle which does not comply with all safety laws and equipment provisions for motor vehicles found in the Codified Ordinances of the Village of Burbank or requirements of the State of Ohio.
5. “Unlicensed Vehicle” means any motor vehicle which does not display in plain view on the front and rear of such motor vehicle the distinctive number and registration mark, including any county or identification sticker and a current validation sticker issued under Sections 4503.19 and 4503.91 of the Ohio Revised Code.

B. **PROHIBITION:**

No person, firm or corporation shall park, store or leave or permit the parking or storing of any dismantled, inoperable or unsafe motor vehicle, motor vehicle parts, or unlicensed vehicle, upon any private or public property within the Village of Burbank.

C. **EXCEPTION:**

This Ordinance shall not apply to the storage of motor vehicles or motor vehicle parts which are completely enclosed within a building, fence or other structure which completely obscures the view of said motor vehicles and their parts from view of the general public. Any such building, fence or structure shall be constructed in compliance with applicable building and zoning codes within the Village.

D. **NUISANCE:**

The accumulation and storage of inoperable motor vehicles, unsafe motor vehicles and motor parts in violation of this Ordinance is hereby declared to be a nuisance, detrimental to the health, safety and welfare of the Village of Burbank and its inhabitants.

E. **NOTICE OF VIOLATION:**

It shall be the duty of the Zoning Inspector, Mayor or any police officer of or acting for the Village of Burbank to give notice to the registered owner of the motor vehicle or to the owner or lessee of the private land upon which any unlawfully stored motor vehicle or parts thereof are situated. Such notice may be given by personal service, or by certified mail, or by leaving said notice affixed in a prominent place on the property at which such motor vehicle or parts are situated. The notice shall describe the vehicle(s) or parts and shall state that said vehicle(s) or part(s) will be removed by the Village and stored at the violator's expense within a time limit stated in the Notice if it is not properly enclosed, licensed, or removed in compliance with this Ordinance.

F. **REMOVAL BY VILLAGE:**

If the motor vehicles or parts have not been removed or enclosed within the time limit stated in the Notice of Violation pursuant to Subsection E, the Mayor, Zoning Inspector, or any police officer acting for the Village may cause said motor vehicles or parts to be moved and placed in storage at a place designated by the Mayor, at the expense of the owner.

G. **COMPLIANCE – UNLICENSED VEHICLES:**

The owner of an unlicensed vehicle receiving a notice hereunder who brings a vehicle into compliance by obtaining current registration for it, may mail a copy of the valid registration obtained to the Village to avoid further proceedings hereunder.

H. **PENALTY:**

Whoever fails to remove or enclose a violating motor vehicle or part hereunder, after notice, hearing and the time limit imposed by Council is guilty of a minor misdemeanor. Each day's continuation thereof may be considered a separate offence.

## **VII. STREETS**

### **A. Establish Speed Limits**

#### **ORDINANCE NO. 2009-04**

Establishes uniform speed limit

SECTION I: It is hereby established that the speed limit for all streets and roads within the Village of Burbank shall be twenty-five (25) miles per hour with the exception of S.R. 83.

SECTION II: The Mayor of the Village is hereby directed to cause appropriate speed limit signs to be erected on all such streets and roads in the Village in order that this provision be enforced.

### **B. Limited Use**

#### **ORDINANCE NO. 2001-17**

Designates limited use streets and roadways

SECTION I: The following are hereby designated as limited access local streets within the Village and subject to the prohibition contained in this Ordinance: South Street, Mill Street, Water Street and Depot Road.

SECTION II: No person shall operate a motor vehicle exceeding a size as specified in Section 339.03, or exceeding the gross vehicle weight of five (5) tons as set forth in Section 339.02(a), of the Village of Burbank Traffic Code upon any of the foregoing limited access local streets, unless such operation is necessary to load or unload property on such street, to go to and from the usual place of storage of such vehicle, or to perform any other legitimate business or act upon such street other than passage through the street.

SECTION III: The Mayor shall cause to be erected upon such streets appropriate signs designating said streets as “no through trucks” streets.

SECTION IV: Violation of this Ordinance shall be a minor misdemeanor.

SECTION V: State Route 83 (Front Street) and Wayne County Route 70 (Middle Street) shall remain as truck routes, with no restriction upon motor vehicle traffic under this Ordinance, however such restrictions may exist under other Ordinances, state statutes or other regulations shall remain in full force and effect with respect to such streets.

## **C. Naming Streets and Alleys**

### **ORDINANCE NO. 2003-19**

Designates names of certain streets and alleys

SECTION I: The streets and alleys which are identified as follows are hereby given the following names:

- A. The street which is bounded by Lot Numbers 88, 89 and F in the Village is hereby designated **BISHOP AVENUE**.
- B. The street which is bounded by Lot Numbers 85, 86, 87, 88, 89, 90, 91 and 92 in the Village is hereby designated **MOSIER AVENUE**.
- C. The alley which is bounded by Lot Numbers 5, 6, 19 and 20 in the Village is hereby designated **HOWER BOULEVARD**.
- D. The alley which is bounded by Lot Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23 and 24 in the Village is hereby designated **HENRIETTA AVENUE**.
- E. The alley which is bounded by Lot Numbers 71, 72, 73, 74, 64 and 65 in the Village is hereby designated **REED COURT**.
- F. The street which begins at its intersection with East Middle Street and is bounded by Lot Numbers H, I, J, K, L, M, N, O, P and Q in the Village is hereby designated **DIAGONAL STREET**.

SECTION II: The speed limits for said streets and alleys within the Village shall be as provided in Section 4511.21 of the Ohio Revised Code.

### **ORDINANCE NO. 2003-20**

Designates part of Henrietta Avenue one-way

SECTION I: Henrietta Avenue south of East Middle Street is hereby designated as a one-way alley in the Village with legal traffic to be in the northbound direction only on Henrietta Avenue and signs shall be placed on Henrietta Avenue and indicated the same immediately following passage of this Ordinance.

### **ORDINANCE NO. 2013-09**

To conform the status of Henrietta Street to its actual usage and signage

SECTION I: Henrietta Street North of East Middle Street shall be a two-way street from its intersection with East Middle Street to its intersection with Water Street and necessary signage to reflect that shall be installed or removed

## **D. Parking**

### **ORDINANCE NO. 2001-8**

Regulates Parking

SECTION I: The parking of motor vehicles on streets, roadways and other public locations within the Village shall be regulated as follows:

- A. Depot Road – Parking on East side only.
- B. West Middle Street – Parking on North side only.

- C. East Middle Street – Parking on North side only from Reed Court to the Village limits.
- D. Front Street – Parking from curb out on both sides, but not on tree lawns.
- E. Water Street – Parking on both sides permitted.
- F. South Street – Parking on South side only.
  
- G. Mill Street – Parking on West side only.
- H. Henrietta Avenue – No parking.
- I. Diagonal Street – Parking on South side only.
- J. Grant Street – Parking on East side only.
- K. Reed Court – No parking.
- L. Parking at the Village Hall shall be restricted to parking for official Village business only.
- M. When parked on streets or roadways within the Village, all motor vehicles shall be aligned so they are facing in the same direction as traffic flow on the side of the street or roadway on which the vehicle is parked.
- N. Parking on any streets, roadways or other public property within the Village that is not specifically permitted under this Section is prohibited.

SECTION II: The Mayor is authorized to cause suitable signs to be erected and displayed as may be necessary to enforce this Ordinance.

SECTION III: **PENALTY:** Violation of any provision of this Ordinance shall be deemed a misdemeanor and punishable by a fine of \$20.00.

## **E. Compression Brakes Prohibited**

### **ORDINANCE NO. 2001-16**

Prohibits use of engine compression brakes within Village

SECTION I: The driver or operator of a motor vehicle which is equipped with special engine compression brakes, also referred to as “engine brakes,” shall not operate such braking system within the limits of the Village of Burbank, Ohio.

SECTION II: The Mayor is instructed to cause to be erected signs on roadways in the Village sufficient to provide notice to the operators of motor vehicles of the prohibition contained in this Ordinance.

SECTION III: Violation of this Ordinance shall be a minor misdemeanor.

## **VIII. VILLAGE PARK**

### **ORDINANCE NO. 2012-2**

#### **Village Park Rules**

SECTION I: The following rules are hereby adopted by Village Council and shall govern the use of the Burbank Community Park and the Burbank School Park and any other park areas of the Village:

#### **VILLAGE PARK RULES**

1. The Parks will be open each day from sunrise to sunset.
2. No alcohol is permitted.
3. No littering is permitted.
4. No snowmobiles, dirt bikes or four-wheelers are permitted, except for Village Maintenance vehicles.
5. No vehicles are permitted on grass.
6. No bicycles are permitted on ball diamond.
7. Skateboarding is not permitted in any of the Park pavilions or on any Park property including picnic tables, benches and the like.
8. No swimming or ice skating.
9. Anyone found damaging the park in any way will be prosecuted and responsible for payment of repairing any damage caused.
10. The parks or pavilions can be rented for special events. For further information please contact the Village.

SECTION II: Violation of any of the foregoing Village Parks Rules shall be considered a minor misdemeanor and the violator shall be subject to restitution to the Village for the cost of repair of all damages done.

## **IX. ZONING FEES**

### **ORDINANCE NO. 2006-14**

Establishes Schedule of Fees

SECTION I: The following shall be the schedule of fees for zoning matters and proceedings, effective immediately:

### **ZONING FEE SCHEDULE**

#### **ALL FEES PAYABLE IN ADVANCE**

#### **APPLICATION FOR ZONING PERMIT:**

Residential Construction or Alteration	\$ 50.00
Miscellaneous such as decks, gazebos, swimming	25.00
Commercial/Industrial construction or Alteration In excess of 1,000 sq. feet	\$100.00
First 1,000 square feet	\$.05 cents per sq. ft.

#### **APPLICATION FEES FOR:**

Conditional Use	\$100.00
Site Plan Review	\$100.00
Rezone an Area (Map Change)	\$250.00
Variance	\$100.00
Text Amendment	\$100.00

#### **COST FOR A COPY OF VILLAGE**

<b>ORDINANCE</b>	\$ 3.50
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Note: Zoning Permits expire one (1) year after day of issue if no construction has been started or the Permit is changed in any way, and another fee will be charged.

#### **Located in Separate Document Files:**

Criminal Code  
Flood Damage Reduction Ordinance  
Traffic Code  
Zoning Code

## **X. CURFEW FOR MINORS**

### **ORDINANCE NO. 2012-09**

Establishes a curfew for minors

### **CURFEW FOR MINORS**

(A) Definitions: For the purpose of this ordinance, the following terms, phrases, words or their derivations, have the meanings given herein:

(1) "Minor" means any person less than eighteen (18) years of age.

(2) "Parent" means any person having legal custody of a minor;

a. As a natural or adoptive parent, or

b. As a legal guardian, or

c. As a person to whom legal custody has been given by court order.

(3) "Public place" means any street, highway, alley or right-of-way, to include sidewalks; any park, playground, ground, place or building open to the public, including parking lots and other areas adjacent thereto; and any vacant lot or land or, without the consent of the owner, any private property.

B. Curfew Hours: No minor shall be in or upon any public place in the Village between 10:00 p.m. and 5:30 a.m.

(C) Penalty for Minor: Any minor violating the provisions of this section shall be guilty of curfew violation, a minor misdemeanor for the first offense. If the offender has been previously convicted of curfew violation, all subsequent violations of this ordinance are a misdemeanor of the fourth degree.

(D) Adult Responsibility:

(1) No person having legal custody of a minor shall knowingly permit, or by inefficient control allow such minor to be in or upon any public place under circumstances not constituting an exception to, or otherwise beyond the scope of this chapter. "Knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.

(2) It shall be an affirmative defense to this section that such parent has within thirty (30) days preceding the alleged violation, filed or caused to be filed, a complaint against such minor under Ohio Revised Code 2151.27.

(3) No responsible adult person eighteen years of age or older shall be in the company of any minor under the age of eighteen in or upon any public place during the hours specified in Section (B) hereof unless such adult has permission from such minor's parent to be in the company of



said minor during such hours.

(E) Penalty for Adult. An adult who violates this section is guilty of a minor misdemeanor for the first offense and a misdemeanor of the fourth degree for each subsequent offense.

(F) Exceptions: In the following exceptional cases it shall be a defense, and a minor in or upon a public place during the nocturnal hours for which this Ordinance is intended to provide the maximum limits of regulation, shall not be considered in violation of this chapter:

(1) When accompanied by a parent of such minor.

(2) When accompanied by an adult authorized by a parent of such minor to take the parent's place in accompanying the minor for a designated period of time and purpose within a specified area.

(3) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion and freedom of speech.

(4) In case of reasonable necessity after such minor's parent has communicated to the Mayor or police officers acting for the Village the facts establishing such reasonable necessity and designating the minor's proposed location, route, purpose, and the period of time the minor will be in or upon a public place.

(5) When returning home by a direct route from, and within thirty minutes of, the termination of verifiable employment or participation in an official school or religious activity.