

Ordinance No.

Passed 19

ORDINANCE NO. 06-51-92

AN ORDINANCE AMENDING SECTION 521.12 OF THE CODIFIED ORDINANCES
OF THE CITY OF CIRCLEVILLE CLARIFYING THE STORAGE OF JUNK
AND THE DISPOSITION OF JUNK MOTOR VEHICLES AND DECLARING AN EMERGENCY

WHEREAS, the City of Circleville is empowered by statute to regulate removal and storage of junk including junk motor vehicles; and

WHEREAS, the Council has determined a need to amend that procedure under which junk as well as junk motor vehicles are removed from this City and to insure the expeditious removal and processing of junk and junk motor vehicles;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Circleville as follows:

SECTION I That Section 521.12 of the Codified Ordinances is hereby amended so as to read as follows:

521.12 STORAGE OF JUNK

a) As used in this Section, "refuse" means paper, boxes, baskets, wood, rags, old shoes, leather, broken glass, crockery, tin cans, rubber, ashes and all other discarded materials. However, it does not include any material in the nature of earth, sand, block, stone, plaster or other substances that may accrue as a result of building operations.

b) No person, firm, or corporation shall keep, place or allow to remain building materials, junk motor vehicles, automobile or motor vehicle parts, scrap metal, refuse or rubbish on any lot or parcel of land within the City.

1.) For purposes of this Section, "junk motor vehicle" means any motor vehicle meeting the criteria established in Section 303.11.

2.) The provisions of this subsection shall not apply to motor vehicles, automobile parts and building materials which are kept inside an enclosed building, a garage, in a licensed towing service facility, in a licensed motor vehicle salvage facility, in a licensed scrap processing yard, in a licensed auto repair garage yard, in a licensed paint spray shop yard, in a licensed gasoline station yard, in a licensed vehicle dealership yard, in a licensed auto wrecking yard, in a licensed junk yard, or in any other lawful storage area not within the public view.

3.) Provisions of this subsection relating to building materials only shall not apply to lots or parcels of land which are zoned

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"heavy industry," by the zoning code of the City.

c) Disposition of junk motor vehicles shall be in accordance with Section 303.08 to 303.11 of these Codified Ordinances or Section 4513.65 of the Ohio Revised Code.

d) In the event of a violation of this Section, the City Law Director, Safety Director, Service Director, Mayor, Public Health Department official, Chief of Police or his designate, or municipal zoning authority shall cause Notice to be given to the owner of the lots and lands, or the lessee, agent, or tenant having the right to possession of such real property upon which the violation occurs to cease such violation within ten (10) days of the Notice. Any of the items left uncovered in the open for more than 72 consecutive hours is hereby declared a nuisance and shall be abated in accordance with the provisions of this Section. For purposes of this Section, Notice may be served in any manner permitted under the Ohio Rules of Civil Procedure. If the address of the titled owner of the lots or lands or the lessee, agent or tenant having the right to possession of such property is unknown, it shall be sufficient to publish the Notice of the violation once in the Circleville Herald or other newspaper of general circulation in this municipality.

e) The Notice required to be given as set forth in subsection (d) shall state the following information:

- 1.) The nature of the public nuisance;
- 2.) The description and location of the building materials, automobile or motor vehicle parts, scrap metal, refuse or rubbish in issue;
- 3.) A statement that the materials must be removed from the premises within 10 days after service of such Notice and Order of the same or be removed;
- 4.) A statement that removal of the materials must be to a location permitted by subsection (b) (2);
- 5.) A statement of the penalties provided for noncompliance; and
- 6.) A statement that the property owner will be assessed the costs incurred by the City in removing and storing the materials.

RECORD OF ORDINANCES

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f) If the owner of the lots or lands or the person upon whom Notice is given fails to comply with this Section within ten (10) days of receipt of the Notice, then, it shall be conclusively presumed to establish that the building materials, automobile or motor vehicle parts, scrap metal, refuse or rubbish in question is a public nuisance and shall be abated in accordance with provisions of this Section. In addition to any other penalty as set forth in this section, the Director of Public Safety, the Police Chief or his designate, the Mayor, the Service Director, the Department of Health, or the municipal zoning authority may cause such building materials, automobile or motor vehicle parts, scrap metal, refuse or rubbish to be removed for the preservation of the life, health, comfort and safety of the public by the direct employment of labor or by authorizing another person to remove such items on behalf of the City and assess the costs of removal against either the owner of the lots or lands or the person upon whom Notice was served. The fact that the building materials, automobile or motor parts, scrap metal, refuse or rubbish is left on private property for more than ten (10) days after receipt of the Notice as set forth in this Section is prima-facie evidence of willful failure to comply with the Notice.

g) In the event that the owner of the lots or lands in question, the lessee, agent, or tenant having the right to possession of such real property violates this Section more than two times within any calendar year, then the Notice of violation and 10 day compliance period shall not apply and such person shall be deemed guilty of a violation of this Section in the event that such materials prohibited under this Section are kept, stored, placed or allowed to remain on the property for more than 72 consecutive hours and shall thereafter be subject to the penalty established under this Section. A separate offense shall be deemed committed each day subsequent to the 10 day Notice period or, in the event of a second violation within any calendar year, any day after the 72 hour period provided for in this subsection on which a violation occurs or continues.

h) (1) Notwithstanding the provisions of this Section, any person may purchase used building materials and place or store them on any lot of parcel of land when such materials are to be used by the purchaser or owner in construction on the same lot owned or controlled by such person. Such materials, however, shall not remain on the lot or parcels for a period of more than thrity (30) days unless the construction or erection plan for the use of the used materials has commenced. Further, such materials shall be used or consumed in the construction or removed from the premises within 120 days from the time the materials were first placed on the lot or parcel. However, no

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Y LAW DIRECTOR

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person shall move any such building materials so stored and placed to another location within the City for the purpose of avoiding the intent of this Section unless such materials are used within ten (10) days at the lot or parcel to which they are removed, for the construction of a building for which a permit has been properly issued by the City.

(2) In the event that such building materials are permitted to remain on the premises beyond the period set forth in paragraph (h) (1), however, the Director of Public Safety, the Police Chief or his designate, the Mayor, Service Director, Public Health official, or municipal zoning authority, shall cause Notice to be given as provided in subsection (d) and (e) hereof.

i) Whoever violates any provisions of this Section is guilty of a minor misdemeanor on the first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense such person is guilty of a misdemeanor of the third degree. In addition, any person violating this Section shall also be assessed any costs incurred by the municipality in disposing of the building materials, automobile or motor vehicle parts, scrap metal, refuse or rubbish, less any money accruing to the municipality from such disposal.

SECTION II Any ordinance or resolution in conflict with this Ordinance is hereby repealed.

SECTION III That this ordinance is hereby declared to be an emergency measure, necessary for the preservation of the public peace, health and safety of the City of Circleville, and its inhabitants, by reason of the necessity of providing for the orderly removal of refuse and other junk from the City and this Ordinance shall therefore take effect and be in force immediately from and after its passage and approval by the Mayor.

PASSED:

June 16, 1992

ATTEST:

Mary Ellen Kline

APPROVED:

June 16, 1992

APPROVED AS TO FORM:

Mary Kenworthy
CIRCLEVILLE CITY LAW DIRECTORPatricia Klabough
PRESIDENT OF COUNCILThomas Ruyter
MAYOR

D. KENWORTHY

CITY LAW DIRECTOR

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