

ORDINANCE NO. O-2010-8

**AN ORDINANCE FINDING THAT LITTER, AS DEFINED HEREIN,
CONSTITUTES A DETRIMENT TO THE PUBLIC HEALTH, SAFETY AND
WELFARE OF THE COMMUNITY, PROVIDING FOR NOTICE TO REMOVE
LITTER TO RESPONSIBLE PARTY(S) AND ARRANGING FOR ASSESSMENT
TO THE PROPERTY OWNER OF UNPAID COSTS ADVANCED BY THE
VILLAGE OF WINDHAM**

WHEREAS, Ohio Revised Code 731.51 *et seq.* provides that a municipal corporation may find that litter on lands within the Village is detrimental to public health; and

WHEREAS, Ohio Revised Code 731.54 establishes a procedure wherein the Village Council can make a determination as to when litter exists on property within the municipal corporation, provides for service of written notice on the owner, and, if different, on the lessee, agent or tenant having charge of the littered land to remove such litter, provides that in the event the owner or lessee does not remove the litter within fifteen (15) days the Village may remove the litter, and in the event of a failure of the owner or lessee to reimburse the Village for its costs to remove the litter the Village may report the costs advanced by the Village of Windham for said removal to the Portage County Auditor to be collected as other taxes are in the manner provided by law; and

WHEREAS, the Council of the Village of Windham desires to establish an Ordinance in conformity with the Ohio Revised Code and in conformity with the Village's home rule authority to provide for removal of said litter and for reimbursement to the municipality for the costs advanced to remove such litter, and to provide the lessee or landowner due process with respect to the actions taken hereunder.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Windham, Portage County and State of Ohio, the majority or more of the members thereto concurring that:

SECTION 1. The Council hereby defines litter, to include "garbage, waste, peelings of vegetables or fruits or rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature."

SECTION 2. The Council hereby designates as its agent and representative the Village Administrator, and hereby authorizes the Village Administrator to investigate and memorialize if litter exists on lands located within the municipal corporation limits and to memorialize if such litter constitutes a detriment to the public health.

SECTION 3. That the Village Administrator is hereby authorized as the agent for the Village Council to cause a notice to be served upon the owner, and if different, additionally upon the lessee, agent or tenant having charge of the lands memorialized by the Village Administrator to be the location where litter exists, said notice to provide that the litter must be collected and removed within fifteen (15) days after service of the notice. The notice may be served by certified mail or by personal service by a police officer, clerk of the legislative assembly of the municipal corporation or a deputy thereof.

If the owner or other person having charge of the land is a nonresident of the Village of Windham whose address is unknown it is sufficient to publish the notice once in a newspaper of general circulation in Portage County. Regardless of the type of service, the notice shall be in the form attached to this Ordinance, which notice is marked for identification as Exhibit "A".

SECTION 4. Upon the failure of the owner, lessee, agent or tenant to remove the litter, within fifteen days of service of the notice set forth in Section 3 hereof, the Village Administrator shall cause the litter to be removed and report all of the expenses incurred in said removal to this Council.

SECTION 5. The Village Administrator, in addition to reporting all of the expenses for enforcement and for removal of the litter to the Village Council, shall also submit an invoice of all the expenses to the owner, and if different, additionally upon the lessee, agent or tenant having charge of the lands.

SECTION 6. In the event said invoice is not paid within thirty (30) days, the Council shall consider a Resolution setting forth, finding, authorizing and ratifying the following:

- a. If litter existed on land located within the Village of Windham as memorialized by the Village Administrator.
- b. If written notice of the presence of the litter and the obligation to remove was served in conformity with this ordinance by the Village Administrator on the owner, and if different, additionally upon the lessee, agent or tenant having charge of the land.
- c. Did the litter continue to exist on the land 15 days after service of the notice.
- d. Was the owner, and if different, additionally upon the lessee, agent or tenant having charge of the land invoiced for the amount of Village funds expended serve the notice required herein and to remove the litter from the land in question and has the amount owed been outstanding for more than 30 days.
- e. Should the amount of the invoice be reported to the Portage County Auditor for collection in the manner of other taxes and as provided by law.

SECTION 7. This Ordinance shall permit the Council of the Village of Windham to consider the reporting of more than one unpaid invoice for reimbursement to the Village in a single resolution, and to report invoices for more than one property and/or owner by a single resolution to the Portage County Auditor to assess those unpaid amounts on the land upon which the litter was located and removed.

SECTION 8. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were accepted in an open meeting of this Council, and that deliberations of this Council and any of its committees that resulted in such formal actions were in meeting open to the public, in compliance with Section 121.22 of the Ohio Revised Code.

First Reading: February 23, 2010

Second Reading: March 23 2010

PASSED IN COUNCIL this 23rd day of March, 2010.

Vote of Council: Ayes: Mr. Snyder, Mrs. Barrett, Mrs. Miranda, Mr. Garrett, Mrs. Meszaros, Mrs. Rininger. Nays: None.

ATTEST:

APPROVED:

Lloyd Billman, Fiscal Officer

Robert Donham, Mayor

I hereby certify that the above Ordinance was duly published by public posting at predesignated posting places.

Lloyd Billman, Fiscal Officer

APPROVED AS TO FORM:

Thomas Reitz, Solicitor

Exhibit A. Ordinance No. O-2010-8

NOTICE TO REMOVE LITTER

To: _____

In accordance with Ordinance O-2010-8 and the Ohio Revised Code 731.51, you are notified that you are required to remove the litter on your land located at _____.

If the litter is not removed by _____ (at least fifteen (15) days), the Village will cause the litter to be removed at your cost and will send you an invoice for such expense upon completion of the work.

If you fail to pay the invoice within thirty (30) days, the expense will be assessed upon the land described above and made a lien thereon and collected in the manner provided by law. A copy of Ordinance O-2010-8 is attached.

Respectfully,

VILLAGE OF WINDHAM

By: _____

Date: _____