

ORDINANCE O-2020-21

AN ORDINANCE AMENDING SECTION 521.08, LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC. AND SECTION 1341.03 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

WHEREAS, the Village Administrator and the Police Chief have recommended revisions to Windham Codified Ordinance 521.08 and 1341.03; and

WHEREAS, upon review, the Council has determined that the revisions to the Windham Codified Ordinances as are set forth in Exhibit A and Exhibit B hereto are appropriate and should be enacted.

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

Section One: Section 521.08 and Section 1341.03 of the Windham Codified Ordinances is hereby repealed.

Section Two: Section 521.08 of the Windham Codified Ordinances as are set forth on the attached Exhibit "A" are hereby enacted.

Section Three: Section 1341.03 of the Windham Codified Ordinances as are set forth on the attached Exhibit "B" are hereby enacted.

Section Four: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

Passed in Council: First Reading: August 25, 2020
Second Reading: September 22, 2020
Third Reading: October 27, 2020


Vote of Council: Ayes: 6
Nays: 0

ATTEST:



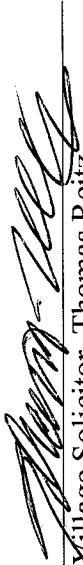
Fiscal Officer, Cheree M. Taylor

APPROVED:



Scott Garrett, Mayor.

APPROVED AS TO FORM:



Village Solicitor, Thomas Reitz

Exhibit A

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

(a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property ~~not owned by the person~~, or in or on waters of the State, or Municipality, unless one of the following applies:

(1) The person is directed to do so by a public official as part of a litter collection drive;

(2) Except as provided in subsection (b) hereof, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;

(3) The person is issued a permit or license covering the litter pursuant to Ohio R. C. Chapter 3734 or 6111.

(b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property ~~not owned by the person~~, unless one of the following applies:

(1) The litter was generated or located on the property on which the litter receptacle is located.

(2) The person is directed to do so by a public official as part of a litter collection drive.

(3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the litter receptacle.

(4) The litter consists of any of the following:

A. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;

B. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;

C. Beverage containers and food sacks, wrappings and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;

D. Beverage containers, food sacks, wrappings, containers and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(c) (1) As used in subsection (b)(1) hereof, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in subsection (b)(4) hereof, "casual passerby" means a person who does not have depositing litter in a litter receptacle as the person's primary reason for traveling to or by the property on which the litter receptacle is located.

(d) As used in this section:

(1) "Litter" means garbage, trash, waste, rubbish, junk, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(2) "Deposit" means to throw, drop, discard or place.

(3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal.

(ORC 3767.32)

(e) No person shall cause or allow litter to be collected or remain in any place to the damage or prejudice of others or of the public, or unlawfully obstruct, impede, divert, corrupt or render unwholesome or impure, any natural watercourse.

~~—(f) Whoever violates any provision of subsections (a) to (d) hereof, is guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this subsection require a person who violates subsections (a) to (d) hereof to remove litter from any public or private property, or in or on any waters.~~

~~(ORC 3767.99(C))~~

~~—(g) The penalties for violating subsection (e) of this section are as follows:~~

~~—(1) For a first violation of subsection (e) hereof within one year the offense is a minor misdemeanor.~~

~~—(2) For a second violation of subsection (e) hereof within one year the offense is a fourth degree misdemeanor.~~

~~—(3) For a third violation of subsection (e) hereof within one year the offense is a third degree misdemeanor.~~

~~—(4) For a fourth violation of subsection (e) hereof within one year the offense is a second degree misdemeanor.~~

~~—(5) For a fifth violation of subsection (e) hereof within one year the offense is a first degree misdemeanor.~~

(f) The owner, occupant or person having the charge or management of any lot or parcel of land situated within the Village, whether the land is improved or unimproved, vacant or

occupied, shall remove any and all Litter in violation of this Section within five (5) days of written Notice by the Village. Notice under this section shall be served in person on the owner, occupant or person having charge of management of the lot or parcel, or service may be made and is also sufficient when posted on the door of the last known place of residence of such property owner. A photograph (electronic or otherwise) demonstrating the posting shall be acceptable evidence that Notice has been served under this section.

(g) Whoever violates any of the provision of this section is guilty of an unclassified misdemeanor offense. The first such offense shall be punished by a fine of up to a maximum of one hundred fifty dollars (\$150.00). A second offense within one calendar year of the initial offense shall be punished by a fine of up to a maximum of two hundred fifty dollars (\$250.00). Any third or subsequent offense within one calendar year shall be punished by a fine of up to five hundred dollars (\$500.00). Each day such violation exists beyond the period stipulated in the Notice, shall constitute a violation.

Exhibit B

1341.03 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(a) No person shall let to another person any dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with all applicable legal requirements of the State of Ohio, and the Village of Windham (see licensing).

(b) Every owner of a dwelling containing a dwelling unit shall maintain in a clean and sanitary condition the shared or public area of a dwelling and premises thereof. The owner or operator of multiple rental units will supply a minimum of one trash pick-up per week.

(c) Every occupant of a rental unit shall store all his/her rubbish in a clean, sanitary, and safe manner in rodent-proof containers they must provide.

(d) Every occupant of a residential rental unit shall dispose of all his/her ashes, garbage, refuse, rubbish and any other organic wastes which might provide food for rodents in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage storage containers required by subsection (d)(1) and/or (d)(2) below.

(1) Garbage and refuse cans in storage areas shall be placed on concrete slabs or on fixed platforms which are at least eighteen (18) inches above the ground, or in some other manner which the Housing Inspector considers rodent-proof.

(2) Bulk storage containers which are used for the storage of ashes, garbage, refuse, rubbish ~~garbage, refuse~~ and/or other putrescible waste shall be placed on concrete platforms which are constructed to minimize spillage onto the adjacent areas and shall be equipped with drains properly connected to an approved sewer system. In the immediate vicinity of the bulk storage container, there shall be a water faucet for use in cleaning each bulk storage container at the site of storage or there shall be provided some other means approved by the Housing Inspector for the cleansing of the container. All bulk storage containers shall be equipped with self-closing lids.

(3) Trash containers may only be placed near the street for collection after 6:00 p.m. on the day prior to pick-up and shall be removed before 6:00 p.m. on the day of the pick-up. This shall be the tenants' responsibility and violation of this subsection shall be a minor misdemeanor.

(e) The owner of a residential rental unit shall be responsible for providing and hanging all window screens and doors for the rental units. This also applies to storm windows and doors. This will hold true whenever this is required under the provisions of this chapter or any rule or regulations adopted pursuant thereto. The screens, while ordinary summer conditions exist, and storm doors and windows, while ordinary winter conditions exist, once installed in any one (1) season shall be the responsibility of the occupant. The occupant's responsibility shall be exclusive to his or her dwelling unit.

(f) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of insects, and/or rodents, on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(g) No occupant of a dwelling or dwelling unit shall accumulate ashes, garbage, refuse, rubbish, and shall not allow rubbish, boxes, lumber, scrap metal, or any other materials to exist on a premises in such a manner that may provide a rodent harborage in or about any dwelling or dwelling unit. Stored materials shall be stacked neatly in piles elevated at least eighteen inches above ground or floor.

(h) No owner of a dwelling containing three or more dwelling units shall accumulate or permit the accumulation of ashes, garbage, refuse, rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide a rodent harborage in or about the shared or public areas of a dwelling or its premises. Materials stored by the owner or permitted to be stored by the owner shall be stacked neatly in piles elevated at least eighteen inches above the ground floor.

(i) No owner or occupant of a dwelling or dwelling unit shall store, place, or allow to accumulate any materials which may serve as food for rodents in a site accessible to rodents.

(j) Every occupant of a dwelling unit shall keep all supplied fixtures and facilities therein in a clean, sanitary, and operable condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(k) In every dwelling unit and/or rooming unit when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least 68 degrees F shall be maintained in all habitable rooms, bathroom, and water closet compartments at a distance of eighteen inches above the floor level.

(l) Every owner of a dwelling or dwelling unit shall provide and maintain the dwelling or dwelling unit free from hazards to health due to the presence of toxic substances, e.g. lead-based paint, as determined by the Housing Inspector.

(m) No owner or occupant shall apply a lead-based paint to any surface in any dwelling, dwelling unit, rooming house and/or rooming unit.

(n) The owner, occupant or person having the charge or management of any dwelling or dwelling unit situated within the Village shall remove any materials in violation of this Section within five (5) days of written notice by the Village. Notice under this Section shall be served in person on the owner, occupant or person having charge of management of the dwelling or dwelling unit, or service may be made and is also sufficient when posted on the door of the last

known place of residence of such property owner. A photograph (electronic or otherwise) demonstrating the posting shall be acceptable evidence that Notice has been served under this section.

(o) Whoever violates any of the provision of this section is guilty of an unclassified misdemeanor offense. The first such offense shall be punished by a fine of up to a maximum of one hundred fifty dollars (\$150.00). A second offense within one calendar year of the initial offense shall be punished by a fine of up to a maximum of two hundred fifty dollars (\$250.00). Any third or subsequent offense within one calendar year shall be punished by a fine of up to five hundred dollars (\$500.00). Each day such violation exists beyond the period stipulated in the Notice, shall constitute a violation.

