

## ORDINANCE 26-22

### AN ORDINANCE AMENDING SECTIONS 521.08(A), 521.08(F), 521.08(G), 521.10(D), 521.10(E) AND ENACTING SECTION 521.08(H) OF CHAPTER 521 OF THE PORT CLINTON CODIFIED ORDINANCES REGULATING LITTER AND DECLARING AN EMERGENCY

WHEREAS, the City of Port Clinton has previously adopted regulations on littering in the City, and

WHEREAS, this Council finds and determines that Sections 521.08(a), 521.08(f), 521.08(g), 521.10(d), and 521.10(e) of the Codified Ordinances regulating littering should be updated and amended and Section 521.08(h) be enacted to protect the health, safety, and welfare of all persons and occupants of all premises and to prevent persons from littering on public and private property in the City; and

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORT CLINTON, OTTAWA COUNTY, STATE OF OHIO:**

**Section 1.** Existing Section 521.08(a) of the Codified Ordinances is hereby amended to read as follows:

#### **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 owned by the person**, 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.

**Section 2.** Existing Section 521.08(f) of the Codified Ordinances is hereby replaced with this new section to read as follows:

#### **521.08(f). LITTER ON PRIVATE PROPERTY**

**No person shall throw or deposit litter on any private property within the City, whether owned by such person or not, except that the owner or person in control of private property shall at all times maintain their premises free of litter**

**and shall maintain authorized trash receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.**

**Section 3.** Existing Section 521.08(g) of the Codified Ordinances is amended to read as follows:

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

**Section 4.** Existing Section 521.08 (f) is now renamed as Section 521.08(h) and continues to read as follows:

This section does not apply to land being used under a city building or construction permit or license, a city permit or license, or a conditional zoning permit or variance to operate a junk yard, scrap metal processing facility, or similar business, or a permit or license issued pursuant to Chapter 3734, Section 4737.05 to 4735.12, or Chapter 6111 of the Revised Code.

**Section 5.** Existing Section 521.10(d) of the Codified Ordinances is hereby amended to read as follows:

#### **521.10(d) NOTICE OF VIOLATION**

(1) Whenever the Chief of Police determines, or has reasonable grounds to believe, that there exists a condition that violates the provisions of Section **521.08 (f)**, the Chief shall issue a notice setting forth the alleged violation and advising the owner of the land, or the person having charge of the land that such violation must be corrected.

(2) All notices of violation **on private property** shall be in writing and shall be served on the person from whom action or compliance is required. The notice shall identify the provision of Section 521.08 to which it applies; shall provide a description of the land where the violation is alleged to exist; shall specify a reasonable time, which shall not be less than **five days** from the service of the notice, for compliance with the order. All notices of violation shall advise the owner, or the person having charge of the land, that if the order is not complied with by the specified date of compliance, that the City may initiate a civil and/or criminal complaint against the owner or person having charge of the land.

(3) A notice of violation shall be served upon the owner or any person from whom action or compliance is required. The notice shall be served by one of the following methods:

- A. Certified mail, return receipt requested; or
- B. Personal Service; or
- C. Residence Service
- D. Regular mail service to an address that is reasonably believed to be a place of residence of the owner, or a location at which the owner regularly receives mail; or
- E. If the residence of the owner is unknown, by publication one time in a newspaper of general circulation in the city.

**Section 6.** Existing Section 521.10(e) of the Codified Ordinances is hereby amended to read as follows:

**521.10(e) PROCEDURE UPON FAILURE TO COMPLY WITH A NOTICE OF VIOLATION**

- (1) When a notice issued pursuant to this section is not complied with by the owner or person from whom action or compliance is requested, the Chief may:
- A. Cause a Criminal Complaint to be filed in a Court of competent jurisdiction.
  - B. Cause litter to be removed from any land, and with the assistance of the Director of Safety and Service, may employ the necessary labor to perform the task;
  - C. Upon performance of the labor as provided in division (B) with respect to the removal of litter from the land, the Chief and the Director of Safety and Service shall, with respect to parcel of land, provide a statement of the charges for the services, the amount paid for performing labor, and the fees of the officers who made the service of the notice and return to the City Auditor;
  - D. Upon receipt of the statement, the City Auditor shall make a return in writing to the Auditor of Ottawa County of such statement which shall be entered upon the tax duplicate of the county.
  - E. Cause to be filed a Civil Complaint for injunctive relief seeking abatement of the litter, and/or for collections of the amount of expenses paid to employ the necessary labor to remove the litter from the premises.

**Section 7.** Existing Codified Ordinance sections 521.08(a), 521.08(f), 521.08(g), 521.10(d), and 521.08(e) are hereby repealed.

**Section 8.** Each section and each part of each section of this Chapter of the Codified Ordinances is hereby declared to be an independent Section or part of a Section and, notwithstanding any other evidence of legislative intent, it is hereby declared that if such section or part of a section, or any provision thereof, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or parts of sections and the application of such provision to any other person or circumstances, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Chapter of the Codified Ordinances would have been adopted independently of such Section, Sections, or parts of a Section so held to be invalid.

**Section 9.** This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council, and any of its committees, that resulted in those actions were in meetings open to the public, in compliance with the law.

**Section 10.** This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that the new regulations on litter needs to be effective immediately to keep the City clean and free of litter on public and private property throughout the City, wherefore, this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Passed: \_\_\_\_\_, 2022

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
Clerk of Council

Approved \_\_\_\_\_, 2022

\_\_\_\_\_  
Mayor