

In meeting minutes  
on 3-5-1990

V I L L A G E   O F   H A M E R S V I L L E

ORDINANCE 1990-10

AN ORDINANCE REGULATING THE ACCUMULATION OF GARBAGE, LITTER,  
RUBBISH, AND SCRAP IN THE VILLAGE OF HAMERSVILLE,  
AND DECLARING AN EMERGENCY.

BE IT ORDAINED, by the Council of the Village of Hamersville,  
Ohio, with at least three-fourths (3/4) of it's members  
concurring:

Section 1:

DEFINITIONS

**Garbage** -shall include every waste or refuse animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storage of meat, fish, fowl, fruit, or vegetables.

**Litter** -shall include cans, paper, furniture, furniture parts, motor vehicle parts including tires and appliances which are unfit for further use due to defective or missing parts.

**Rubbish** -shall mean and include foods, wire, chips, shavings, bottles, broken glass, crockery, tins, cast or wooden ware, boxes, rags, dead tree parts, paper, circulars, hand bills, boots, shoes, ashes, and other waste materials other than garbage or offal "used building materials" mean and include any materials such as wood, stone, brick, cement block, or any composition thereof used or useful in the erection of building of structure, which has been used previously for such erection or construction by the same person or other persons.

**Scrap metal**- shall include pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or other materials, whether intact or in parts whether in it's original manufactured form or crushed, damaged, or compacted, and which can no longer be used for is useful for it's originally intended purpose.

PROHIBITIONS

SECTION 2. No owner, lessee, agent, or tenant or person having charge of or responsibility for any lot or land within the Village of Hamersville shall cause or allow rubbish, used building materials, scrap metals, motor vehicle parts, garbage, or litter to be collected, stored, or allowed to remain on upon such lands. Such action is declared to be a health hazard and nuisance.

## PROCEDURE FOR ENFORCEMENT

SECTION 3. In the event of a violation of Section 2 of this ordinance, a police officer, administrator appointed by the Village Council or and/or Housing Inspector shall give notice to the owner, lessee, agent, tenant, or occupant having charge of the premises upon which the violation occurs to correct such violation.

SECTION 4. Such notice shall be in writing and shall contain the date of the violation, the location of the property, the name of the owner, occupant, lessee, agent, or tenant having charge or responsibility for the premises, a description of the violation and the action necessary to correct the violation.

SECTION 5. Such notice shall be served personally upon the owner, tenant, lessee, agent, or person having charge or responsibility of the premises. A duplicate copy of such notice shall be retained by the Village Official issuing the same, who shall record the date of service and upon whom, service was made. In the event personal service cannot be made, a copy of such notice shall be sent, via certified mail, return receipt requested, to the owner, lessee, agent, or tenant having charge or responsibility of the premises.

SECTION 6. If an owner, tenant, lessee, agent, or person having charge or responsibility of the premises, shall fail within 10 days after the date such the notice was served upon him (either personally or date of certified mail service) shall be subject to the penalty provided in Section 9 herein. A separate offense shall be deemed committed each 10 days thereafter.

## SECTION 7.

### EXCEPTIONS AND DEFENSES

7.1 Notwithstanding the provisions of Section 2 herein, it shall not be unlawful for any person to purchase used building materials and place or store them on any lot or land within the Village of Hamersville, when such materials are to be used by the purchaser or owner in later construction on the same lot or any lot owned or controlled by such person within the Village, provided that such materials shall not remain on said lot or premises for a period of more than 30 days, unless the construction or erection plan for the use of said materials has commenced and provided further that such materials are used or consumed in the construction or removed from the premises within the period of four months from the time said materials are first placed on the lot of the premises. It shall be unlawful for any person or persons to move any materials so stored or placed to another location within the Village for the purpose of avoiding the intent of this Section, except any such materials shall be moved to another lot or parcel when the same have been sold to a bonafied purchaser for value for such purchaser's own use.

7.2 This ordinance shall not prohibit the collection of garbage, used building materials, scrap metal, and litter when such material are stored in a suitable manner or container to facilitate their collection and removal from the Village within

7.3 This ordinance does not apply to land being used under a municipal or county building or construction permit, a municipal permit or a licensed, or conditional zoning permit or variance to operate a junk yard, scrap metal processing facility, or similar business or a permit or license pursuant to Ohio Revised Code chapter 3734, 4737.05, to 4737.12 or Ohio Revised Code chapter 6111.

7.4 It shall be a complete defense to this action that the garbage, used building materials, rubbish, motor vehicle parts, and litter have been removed from the property at the time of hearing.

#### SECTION 8.           ALTERNATE METHOD OF DISPOSAL

8.1 In addition to the remedies herein provided, the Mayor, at least 10 days after said notice is served upon the owner, lessee, agent, tenant, or person having charge or responsibility of the lot or premises and such person having have failed to comply with such notice order that such garbage, rubbish, used building materials, scrap metal, motor vehicle parts, and litter to be collected and removed from the premises, and for such purpose he may employ the necessary labor to carry out the provisions of this Section. All expenses for labor, trucking, and costs incurred shall, when approved by Council, be paid out of municipal funds not otherwise appropriated.

8.2 When the Mayor causes garbage, rubbish, used building materials, motor vehicle parts, and/or litter to be removed from the premises, a statement of the cost thereof shall be mailed to the owner of such land by certified mail, return receipt requested. Such statement of costs shall include the following costs of the municipality:

- a. Administrative in supervision.
- b. Transportation of equipment.
- c. Equipment rental.
- d. Equipment operator.
- e. Incidental labor.

The minimum fee to be charged in any case shall be \$50.00 for the first hour or portion thereof and \$40.00 for each additional hour or portion thereof.

8.3 All statements sent to the owner shall include a notice that the amount to be collected may be appealed to Village Council, the owner filing a written notice of appeal with said Council within 10 days of receipt of the statement. Each person filing

an appeal shall have the right to apprear before the Council, to offer evidence and call witnesses. Council shall determine the reasonabliness of the charges for each appeal. Appeals shall be heard at the next regular councilmeeting after recipt of the of appeal.

8.4 In the event that the owner shall fail to file an appeal; or in the event upon the filing of the appeal and hearing, Council by a majority of it's members thereof deny the owners appeal, then the Village Clerk shall file a written account with the County Auditor under Section 557.01 through 557.05 along with a when allowed, shall be entered upon the tax duplicate to be a lien upon the lots or land after the entree and to be collected as other taxes and returns to municipal general funds.

#### **PENALITY**

SECTION 9. Penalty. Any owner, tenant, lessee, agent, or occu-  
prier of lands who fails to remove the specified materials after  
notice shall be fined not more than \$100.00 for a first offense  
and fined not more than \$250.00 an incarcerated for not more than  
30 days or both upon being convicted of a violation of this  
ordinance within 30 days of a previous conviction of this ordi-  
nance.

#### **MISCELLANEOUS PROVISIONS**

SECTION 10. Should any section or provision of this ordinance be  
declared by the Courts to be unconstitutional or invalid, such  
decisions shall not effect the validity of the ordinance of a  
whole or any other part thereof other than the part declared to  
be unconstitutional or invalid.

SECTION 11. All ordinances and resolutions or parts of ordi-  
nances or resolutions in conflict with this ordinance or incon-  
sistent with the provisions of this ordinance. hereby repealed to  
the extent necessary to give this ordinance full force and ef-  
fect.

ADOPTED \_\_\_\_\_

\_\_\_\_\_  
STEVEN BOWYER, Mayor

ATTEST:

\_\_\_\_\_  
Village Clerk

SECTION 4. Penalty. Any person found in violation of this ordinance shall be fined not more than \$100.00 and each twenty-four (24) hour period shall be deemed a separate offense.

SECTION 5. This ordinance is declared to be an emergency measure as the unrestricted repair of automobiles upon public streets, rights of way, and public property is deemed a nuisance and danger to the public and directly affects the health safety and welfare of the residents of the Village.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
STEVEN BOWYER, Mayor

Attest:

\_\_\_\_\_  
, Village Clerk