

ORDINANCE NO. 54-1988

Offered by Mr. Smith

AN ORDINANCE AMENDING SECTION 303.09 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF RICHFIELD, REGULATING ABANDONED AND JUNK VEHICLES WITHIN THE VILLAGE, AND DECLARING AN EMERGENCY

WHEREAS, abandoned and junk vehicles create an unsightly and unhealthful nuisance in the community.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, State of Ohio, that:

SECTION 1: Section 303.09 of the Codified Ordinances of the Village of Richfield be amended as follows:

"SECTION 303.091 - Definitions

"Abandoned motor vehicle" means any motor vehicle which is left on private property for more than seventy-two (72) hours without the permission of the person owning or having possession of the property, or any motor vehicle which is left on public property for forty-eight (48) hours or longer without notifying the Chief of Police.

"Collector's motor vehicle" means any motor vehicle twenty-five (25) years or older having a fair market value of three hundred dollars (\$300.00) or more, whether operable or not, that is owned, operated, collected, preserved, restored, maintained or used essentially as a collector's item, leisure pursuit or investment, but not as the owner's principal means of transportation.

"Junk motor vehicle" means any motor vehicle three (3) years old or older; extensively damaged, such as missing a wheel, tire, motor, or transmission; apparently inoperable; and having a fair market value of three hundred dollars (\$300.00) or less.

"Unlicensed motor vehicle" means any motor vehicle, whether operable or not, required to be licensed pursuant to Chapter 4503 of the Revised Code when used on public roads or highways, but not so licensed, or any motor vehicle whose license has expired for longer than thirty (30) days.

"Private property" means any real property within the Village which is privately owned or used for solely private operations.

"Public property" means any public street, highway, road, alley, sidewalk, bikeway, and the right-of-way thereof; any property open to the public for purposes of vehicular travel or parking; and any property owned or operated by Summit County or the Village.

SECTION 303.092 - Junk Motor Vehicles on Private Property.

(1) No person shall leave any junk motor vehicle, whether attended or not, for longer than forty-eight (48) hours upon any private property within the Village, unless such vehicle is completely enclosed within a building or garage.

(2) No person in charge or control of any private property within the Village, whether as owner, tenant, occupant, lessee or otherwise, shall allow any junk motor vehicle to remain upon such property for longer than forty-eight (48) hours, unless such vehicle is completely enclosed within a building or garage.

SECTION 303.093 - Unlicensed Motor Vehicles on Private Property.

(1) No person shall park or leave any unlicensed motor vehicle, whether attended or not, for longer than forty-eight (48) hours upon any private property within the Village, unless such vehicle is completely enclosed within a building or garage.

(2) No person in charge or control of any private property within the Village, whether as owner, tenant, occupant, lessee or otherwise, shall allow any unlicensed motor vehicle to remain upon such property for longer than forty-eight (48) hours, unless such vehicle is completely enclosed within a building or garage.

SECTION 303.094 - Collector's Vehicles on Private Property.

(1) No person shall park or leave any unlicensed collector's motor vehicle, whether attended or not, for longer than forty-eight (48) hours upon any private property within the Village unless such vehicle is completely enclosed within a building or garage.

(2) No person in charge or control of any private property within the Village, whether as owner, tenant, occupant, lessee or otherwise, shall allow any unlicensed collector's motor vehicle to remain on such property for longer than forty-eight (48) hours, unless such vehicle is completely enclosed within a building or garage or entirely covered and secured with a tarpaulin or other waterproof covering and located as not to be able to be seen from any public street, highway or road.

SECTION 303.095 - Abandoned Vehicles on Private Property.

No person shall park or leave, whether attended or not, any abandoned motor vehicle on private property.

SECTION 303.096 - Abandoned and Junk Vehicles on Public Property.

No person shall park or leave, whether attended or not, any abandoned motor vehicle or junk motor vehicle on public property.

SECTION 303.097 - Disposition of Abandoned Motor Vehicles

(1) The Chief of Police may order into storage any motor vehicle which has been left on public property for forty-eight (48) hours or longer without notification of the Chief of Police of the reasons for leaving the motor vehicle in such place. The Chief of Police shall designate the place of storage of any motor vehicle removed by him and make disposition of such motor vehicle in the manner provided by Section 4513.61 of the Revised Code.

(2) The Chief of Police, upon complaint of any person adversely affected, may order into storage any motor vehicle which has been left on private property for more than seventy-two (72) hours without the permission of the person having right of possession of the property. The Chief of Police, upon complaint of the owner of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, which has been left at the garage or place of storage for a period longer than that agreed upon. The Chief of Police shall designate the place of storage of any motor vehicle removed by him and make disposition of such motor vehicle in the manner provided by Section 4513.61 of the Revised Code.

SECTION 303.098 - Disposition of Abandoned Junk Motor Vehicles.

The Chief of Police may order any abandoned junk motor vehicle located on private or public property to be disposed of in the manner provided by Section 4513.63 of the Revised Code.

SECTION 303.099 - Disposition of Vehicles on Private Property.

When any motor vehicle is found upon private property in violation of Sections 303.092, 303.093 and 303.094 hereof, the Chief of Police shall serve written notice, by personal service or certified mail with return receipt requested, upon the registered owner of the motor vehicle, the person in charge or control of the property upon which the vehicle is located, or both of them, that such motor vehicle violates the provisions of this Code, and that within five (5) days the motor vehicle is to be removed to a place of lawful storage or to be housed or stored in conformity with said Code. If no person in charge or control of such private property can be found, notice may be served by advertisement published once a week for two (2) consecutive weeks in a newspaper of general circulation within the Village.

SECTION 303.0910 - Removal of Vehicles on Private Property.

In addition to and not in lieu of any other procedure or penalty prescribed in this Code, if the registered owner or person in charge and control of private property notified pursuant to Section 303.093 hereof, fails, neglects or refuses to remove, house or store such motor vehicle in accordance with the notice given, the Chief of Police may remove and dispose of such motor vehicle in accordance with the provisions of this Chapter. The owner of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage upon presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle. If the motor vehicle remains unclaimed by the owner for ten (10) days, it may be disposed of in the manner provided by Sections 303.097 and 303.098 hereof.

SECTION 303.0911 - Right of Entry.

The Chief of Police, and any employee of the Police Department, and any contracting agent of the Village and any employee of said contracting agent, and each of them, are hereby expressly authorized to enter upon private property, other than within any private structure, for the purpose of enforcing the provisions of this Code. No person shall hinder or interfere with any law enforcement officer or contractual agent or employee in the inspection or removal of any motor vehicle under the provisions of this Chapter.

SECTION 303.0912 - Disposal of Unclaimed Motor Vehicles.

Unclaimed motor vehicles ordered into storage pursuant to Sections 303.097 and 303.098 hereof, shall be disposed of at the order of the Chief of Police at public auction, after giving notice thereof by advertisement published once a week for two (2) consecutive weeks in a newspaper of general circulation within the Village. Any motor vehicle not receiving a bid shall be disposed of to a motor vehicle salvage dealer. Any moneys accruing from the disposition of such unclaimed motor vehicles that are in excess of the expenses resulting from the removal, storage and sale of the vehicle shall be credited to the general fund of the Village.

SECTION 303.0913 - Non-applicability to Commercial Enterprises

Sections 303.092, 303.093 and 303.094 shall not apply to bona fide and currently operating commercial garages, automobile repair or body shops, tow yards, licensed car dealers or licensed junk yards and scrap metal processing facilities operated in a lawful manner and properly zoned for such activity, where the presence of such motor vehicle is connected with and necessary to the operation of the business enterprise.

SECTION 303.0914 - Penalties.

(1) Whoever violates Sections 303.091, 303.092 or 303.093 hereof, is guilty of a minor misdemeanor on a first offense; on a second offense within one (1) year after the first offense, such person is

guilty of a misdemeanor of the fourth degree. For every day such violation shall thereafter exist, it shall be deemed to constitute a separate offense. In addition to any other penalty imposed by the court, an offender shall also be assessed any costs incurred by the Village in disposing of such vehicle, less any money accruing to the Village from such disposal.

(2) Whoever violates Sections 303.095 and 303.096 hereof, is guilty of a misdemeanor of the fourth degree on a first offense; on a second offense within one (1) year after the first offense, such person is guilty of a misdemeanor of the third degree. For every day such violation shall thereafter exist, it shall be deemed to constitute a separate offense. In addition to any other penalty imposed by the court, an offender shall also be assessed any costs incurred by the Village in disposing of such vehicle, less any money accruing to the Village from such disposal.

(3) Whoever violates Section 303.0911 hereof, is guilty of a misdemeanor of the second degree."

SECTION 2: Sections 303.09 and 303.99(a)(3) as they existed prior to the effective date of this Ordinance be, and the same hereby are, repealed.

SECTION 3: This Ordinance is declared an emergency to regulate abandoned and junk motor vehicles within the Village in the interest of the health, safety and welfare of the citizens of the Village of Richfield and provided this Ordinance receives the affirmative vote of two-thirds (2/3) of the members of Council elected or appointed, it shall take effect immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time provided by law.

Passed: 11/15, 1988

David W. Howard
President of Council

Raymond R. Waples
Mayor

ATTEST:

Dated: 11/15/88

Mary L. Higley
Clerk of Council