

ORDINANCE NO. 231

AN ORDINANCE TO REGULATE AND PROHIBIT THE ACCUMULATION AND STORAGE OF UNSIGHTLY, UNWHOLESOME, UNSAFE OR OBNOXIOUS MATERIALS

WHEREAS, the accumulation and/or storage of unsightly, unwholesome, unsafe and obnoxious materials is not only detrimental to property values in the various neighborhoods of our community, but is offensive to the public, and often provides a place of refuge to mice, rats, insects and other noxious organisms thereby endangering the public health;

WHEREAS, the Board of Trustees of the Town of Middlebury, Indiana is empowered by law to impose regulations concerning materials, and provide remedies and punishment for the violation of such regulations;

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Middlebury, Indiana, as follows:

SECTION 1. Except for premises permitted for such use under the terms of the applicable zoning ordinances for the Town of Middlebury, Indiana, it shall be unlawful for any person, firm, business entity or corporation to accumulate or to allow the accumulation upon any premises within the corporate limits of the Town of Middlebury, Indiana of garbage, ashes, refuse, rubbish, manure, carcasses, junk, automobile parts and bodies, dirt, debris, tires, junk appliances, bedding, junk furniture, junk machinery, clippings from growth, old newspapers and all other kinds and types of organic or inorganic materials generally classified as junk or refuse, provided, however, that nothing herein contained shall prevent the accumulation and storage of items of value which are stored in a secured building out of the sight of the public and the occupiers of adjoining property, when such storage does not constitute a health or fire hazard; and, provided further, that this Section shall not prevent the accumulation and storage in the manner provided by existing Town ordinance of items to be picked up by the Company with the Sanitation Contract with the Town of Middlebury.

SECTION 2. It shall be the duty of the Town Marshall to notify the owner(s) and/or occupying tenant(s) of any property found to have accumulations in violation of Section 1 hereof, directing both the removal and disposal of such unlawful accumulations within a reasonable time not to exceed thirty (30) days from the date of such notice. Such notice shall be in writing and delivered to the applicable owner(s) and/or occupying tenant(s) responsible for the accumulation. If no such person shall be available or admit to the ownership thereof, the Town Marshall shall attach such written notice to the premises in a clearly visible place, which attachment shall serve as effective notice to the owner(s) of the real estate upon which the accumulation has occurred and to any occupying tenant(s).

In the event such accumulation has not been removed within the period designated by the Marshall's Office, the Street Department of the Town of Middlebury is hereby authorized and directed to enter upon said premises and remove and dispose of such unlawful

accumulations. Such disposal shall be in the form of removal to sanitary landfill, burning, burying, or such other disposal as the Street Department shall determine. The cost of removal and the disposal of such unlawful accumulations shall be the responsibility of the owner(s) of the real estate upon which such was situate, and any occupying tenant(s). The Superintendent of the Street Department shall certify the cost of such removal and disposal to the Clerk-Treasurer of the Town of Middlebury. Upon certification to the Clerk-Treasurer of such expenses the same shall be a lien upon the real estate at issue. The Clerk-Treasurer shall in turn certify such costs and expenses to the Treasurer of Elkhart County for collection in the same manner as real estate taxes are collected upon said premises.

In addition to placing such lien upon such real estate, the Town of Middlebury shall have the right through appropriate civil proceedings to collect the costs and expenses of such removal and disposal from both the owner(s) of the real estate upon which the accumulation occurred, and any occupying tenant(s) thereof. The owner(s) and tenant(s) shall be responsible for all costs of collection arising from such proceedings for the Town, to include reasonable attorney fees.

SECTION 3. Any person violating the provisions of Section 1 hereof, or failing to comply with any directive of the Town Marshall for the removal and disposal of any unlawful accumulation, consistent with the provisions of Section 2 hereof, shall have committed an Infraction, and upon finding of the commission of such Infraction, by a preponderance of the evidence, shall be fined a sum of not more than Five Hundred Dollars (\$500.00). Any such fine so imposed, or Court costs arising from such Infraction proceedings, shall be in addition to the imposition of any liens or other collection rights for the costs of removal and disposal of the accumulation or accumulations as provided in Section 2 above.

SECTION 4. This Ordinance shall be in full force and effect as of July 1, 1986. The Clerk-Treasurer of the Town of Middlebury, Indiana is hereby directed to publish notice of the adopting of this Ordinance as provided by Law prior to such effective date.

IN WITNESS WHEREOF, the above stated Ordinance was duly adopted and approved this 2nd day of June, 1986.

BOARD OF TRUSTEES OF THE TOWN OF MIDDLEBURY,
INDIANA

By Ernest L. Miller
Ernest L. Miller, President

By Kenneth Copp
Kenneth Copp

By _____
Robert Dumford

By Robert Christiansen
Robert Christiansen

Attest:

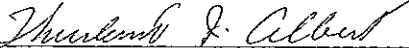
Thurland J. Albert
Thurland J. Albert
Clerk-Treasurer

By Cecil Yoder
Cecil Yoder

NOTICE OF PASSAGE OF ORDINANCE IMPOSING PENALTY

Notice is hereby given that on June 2, 1986 the Board of Trustees of the Town of Middlebury, Indiana adopted an Ordinance to Regulate and Prohibit the Accumulation and Storage of Unsightly, Unwholesome, Unsafe or Obnoxious Materials. Said Ordinance shall take effect July 1, 1986. The Ordinance as adopted reads as follows:

(INSERT ENTIRE ORDINANCE, TOGETHER WITH SIGNATURES)



Thurland J. Albert, Clerk-Treasurer
Town of Middlebury, Indiana

Publish twice, one week apart, in The Middlebury Independent