

521.08 SOLID WASTE MANAGEMENT; LITTER CONTROL.

(a) As used in this section, "garbage" means all discarded putrescible materials including, but not limited to, animal, vegetable or fruit wastes resulting from the handling, storage, preparation or eating of food and handling and disposal of small dead animals.

As used in this section, "solid waste" means such unwanted residual solid or semisolid materials as results from industrial, commercial, agricultural and community operations, excluding earth or material from construction, mining or demolition operations, or other waste materials of the type that would normally be included in demolition debris, nontoxic fly ash, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, tires, combustible and noncombustible material, street dirt and debris. Solid waste does not include any material that is an infectious waste, a hazardous waste, an asbestos waste or material defined in Section 935.02(h).

For the purpose of this definition, "materials from construction operations or demolition operations" are those items affixed to the structure being constructed or demolished, such as brick, concrete, stone, glass, wall board, framing and finishing lumber, roofing materials, plumbing, plumbing fixtures, wiring and insulation but excludes material whose removal has been required prior to demolition.

For the purpose of this definition, semisolid material does not contain liquids which can be readily released under normal climatic conditions as determined by Method 9095 (Paint Filter Liquids Test) in SW 846: "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods."

(b) Each owner, tenant or occupant of premises shall remove or cause to be removed any solid waste or any other materials on such premises within 24 hours after having been served written notice by the Health Commission to remove or cause to be removed such material from the premises.

No owner, occupant, or person in control of any premises shall keep solid waste or waste of any kind on premises in the City for such a period of time as to endanger the health, welfare and safety of the residents of the City, as determined by the Health Commissioner. Fermenting, putrefying or odoriferous garbage or accumulated solid waste is hereby declared to be a nuisance. Broken furniture or upholstered furniture not designed or sold for outdoor use, mattresses or other household furnishings, nonusable appliance, is hereby declared to be a nuisance. Requirements for the disposal of bulk material include:

1) Bulk material (boards, fencing, paneling, carpeting, etc.) intended for disposal shall be in four foot lengths and tied in eighteen inch bundles, weighing not more than fifty pounds.

2) Brush and branch clippings intended for disposal must be tied securely in bundles not exceeding four feet in length or fifty pounds. Yard waste (leaves, grass clippings, weeds, shrub trimmings, holidays trees and tree trimmings) shall be collected at proscribed times by the City or may be taken to the City's Yard Waste Transfer Site by the subscriber.

3) Loose material (rock, bricks, blocks, dirt, sand, cement, etc.) intended for disposal must be properly containerized.

4) Large items (discarded furniture, appliances, etc.) intended for disposal shall be placed at the usual place of collection at the usual time of collection.

5) No person shall deposit or cause to be deposited hazardous waste, asbestos, asbestos-containing waste materials or infectious waste into any public or private garbage or rubbish receptacle.

(c) Loose Litter Each owner, tenant, occupant or person in control of any premises, private or public, shall at all times keep the premises clean of excessive loose litter, uncontainerized solid waste, or any other material dangerous to the public health, deposited on such premises and shall take measures including, but not limited to, daily clean up of the premises to prevent such litter from drifting or blowing to adjoining premises. As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature that is not stored in a proper solid waste receptacle as described in section 521.08 (d).

(d) Solid Waste Storage Receptacles of sufficient size and number shall be placed on all premises, public and private, for the disposition of litter and solid waste. Such receptacles shall be maintained in a sanitary manner and prevent the contents from being scattered upon such premises. Each owner, occupant, or person in control of any premises that requires the removal of solid waste shall provide suitable containers for storing solid waste on the premises. No person shall store any solid waste in any street, alley or other public place, or upon any private property whether owned by such person or not, within the City except in proper containers for storage.

(1) Receptacles shall be of rigid plastic or metal, watertight and equipped with tight fitting lids.

(2) Plastic bags may be used for receptacles for nonputrescible material only, provided that such bags have a thickness of at least 1.5 mils and are twist tied. Loaded weight of such bags shall not exceed ten pounds. If used as receptacles, plastic bags may only be placed curbside for pickup, but no earlier than 7:00 a.m. on collection day.

(3) When the property is in violation of section 521.08 (d) more than twice in a twelve month period, the Health Commissioner may order the property owner to provide additional storage receptacles. Under the following conditions the property owner, operator or agent of the premises shall provide additional or larger bulk storage receptacles (e.g., dumpster) capable of holding all accumulated solid waste between collections or provided additional collection as is required to abate the overflow:

A. When a receptacle is filled to the point that loose garbage or open and/or torn bags of garbage are scattered on the ground around the receptacle;

B. The lid on a receptacle cannot be tightly closed.

(4) Any solid waste receptacle spillage which may occur upon the ground, sidewalk, street or alley shall be promptly cleaned up after spillage.

(5) Any solid waste receptacle not collected regardless of reason shall be promptly removed from the curb.

(6) All receptacles shall be stored behind the front edge of the house except when the receptacles are at the curbside for pickup.

(e) Collection Time Period Each container placed at the curb or alley, and each other item set out for collection, shall be placed at the location no earlier than 7:00 p.m. of the day before collection, in the locality as established by the City's Refuse and Recycling Contractor.

(f) Container Retrieval The empty solid waste receptacles and recycle storage containers shall be removed from the curbside by 7:00 p.m. the day collection has taken place.

(g) In the event the owner, tenant, occupant or person having the care of any building or lot of land does not remove or cause to be removed materials in accordance with the provisions of this section, the Director of Public Service and/or Health Commissioner is authorized and it shall be his/her duty to enforce the provisions of this section and cause such materials to be removed from such location.

Whenever materials are removed by the City in accordance with the provisions of this section, notice by regular mail shall be given to the owner of such lot or parcel of land at his/her last known address to pay the costs of the removal of such materials and such owner shall be given five days within which to pay the costs of the removal. The notice shall be accompanied by a statement of the amount of the costs incurred by the City for the removal of such material and in the event the same is not paid within thirty days after mailing of such notice, then such amount shall be certified to the County Auditor and collected in the same manner as other taxes and assessments are collected.

(h) All parking lots and premises with a parking capacity in excess of twenty five spaces shall be provided with solid waste receptacles distributed within the parking area at the rate of at least one receptacle

for every twenty five parking spaces. Such receptacles shall have tight fitting lids or tops and shall be weighted or secured to the ground to prevent spillage. It shall be the responsibility of the owner or manager of the parking lot to properly dispose of refuse and trash deposited in such containers at least one time per week.

(i) No person shall, regardless of intent, throw, drop, discard, place or deposit litter or solid waste or cause litter or solid waste to be thrown, dropped, discarded, placed or deposited on any public property, on private property not owned by him/her, or in or on waters of the State, unless the person has:

- (1) Been directed to do so by a public official as part of a litter collection drive;
- (2) Thrown, dropped, discarded, placed or deposited the litter in a litter receptacle in a manner that prevents its being carried away by the elements; or
- (3) Been issued a permit or license covering the litter pursuant to Ohio R.C. Chapters 3734 or 6111.

(j) If a violation of Section 521.08 exists on the premises of a condominium complex and the responsible owner can not be determined, the designated condo-owners association or home-owners association shall be responsible for penalties and abatement costs associated with the violation.

(k) Whoever violates any provision of this section is guilty of a misdemeanor of the third degree. (Ord. 1991-10. Passed 3-6-91.)

(l) Citations A citation may be issued to any property that is in violation of Section 521.08 (c), (d), (e), and/or (f). The citation may be given by affixing it to the dwelling, given to the owner/operator, or given to the tenant of the property in violation. The citation will serve as the notice of violation to the real property owner. Citations may only be issued by an agent of the Health Department and will include the property address, date, time, details about the violations, cost of the citation, instructions to abate the nuisance, and payment details. The cost of each citation will be determined by the number of violations at the property at the time of inspection.

Number of Violations	Cost of the citation
1	\$10
2	\$20
3	\$30
4	\$40

(m) Abatement Costs

(1) In addition to any other penalties or fines imposed for violations of Section 521.08 of the Codified Ordinances of the City of Kent, Ohio, a secondary fine and abatement costs may be imposed upon real property owners who have failed to clean up their properties within 24 hours after having been notified to do so. The abatement costs will help cover the costs incurred by the City staff in getting solid waste cleaned up in a timely manner by real property owners, thereby creating a nuisance. When a citation is issued, a property in violation will have 24 hours to come into compliance or risk additional abatement costs:

(A) First Offense: For the first time in any twelve (12) month period that a real property owner does not comply with Section 521.08 within 24 hours after notice, a fine of \$50.00 will be imposed upon the real property owner. The property owner shall be sent a notice by the City of Kent Health Department Commissioner which explains the amount of the fine, why the fine is being imposed, and that the fine needs to be paid within thirty (30) days of the date of the notice. In addition, any monies paid by the City to have the solid waste removed will be included in the abatement costs.

(B) Second Offense: For a second violation of Section 521.08 of the Kent Codified Ordinances within any twelve (12) month period, which is not cleaned up within 24 hours after notice, the real

property owners will be fined \$150.00 plus any additional abatement costs paid by the City. A letter will be sent to said property owner containing the same information as is required in Section 521.08(1)(1).

(C) Third or Additional Offense: For a third or additional violation of Section 521.08 of the Kent Codified Ordinances within a twelve (12) month period, which is not cleaned up within 24 hours after notice, the real property owner will be fined \$250.00 plus any additional abatement costs paid by the City. A letter will be sent to said property owner containing the information as is required in Section 521.08(1)(1).

(n) City's Rights or Authority for Criminal Prosecution. The assessment of any fine and any abatement costs by the City on a property does not affect or limit the City's right or authority to bring criminal prosecution or other legal action against any person for violation of the City's ordinances.

(o) Late Payment Fees All citations, fines, and abatement costs are required to be paid by the real property owners within 30 days of the notice of violation. Failure to pay the costs associated with the citations, fines, and abatement costs will result in a late payment fee of 100% of the total cost.

(p) Certification of Unpaid Abatement Costs. Citations, fines, late fees, and abatement costs for violations of Section 521.08 of the Kent Codified Ordinances that are not paid within thirty (30) days of the notice of violation may be certified by the Kent City Council to the Portage County Auditor, to be placed as a tax lien upon the real property where the violation occurred for collection.

(q) Appeal Process: The owner of a property who receives a notice of violation from the City of Kent Health Commissioner or his designee pursuant to this Chapter may appeal such notice by submitting a written request for reconsideration to the City of Kent Health Commissioner within 7 days of the date of the notice of violation. If the Health Commissioner finds that the facts presented do not support the declaration of a nuisance, or support the allegations that a solid waste violation existed, the City of Kent Health Commissioner shall rescind the notice of violation. Otherwise, the Health Commissioner shall deny the request. The property owner may appeal the decision to the Board of Health at the next regularly scheduled Board of Health meeting for a final determination after a three minute presentation. In any such appeal, the City must show by a preponderance of the evidence that each violation stated in the notice being appealed has occurred, and that the declaration of the violation of Section 521.08 or of the intent of the City to assess the property for abatement costs, whichever is applicable, is justified.