

CITY OF STRUTHERS, OHIO
Ordinance

NO. 21-003

**AN ORDINANCE CREATING § 351.17 OF THE STRUTHERS
CODIFIED ORDINANCES DECLARING ANY MOTOR
VEHICLE PARKED IN VIOLATION OF CHAPTER 351 A
PUBLIC NUISANCE AND ESTABLISHING PROCUEDURES
FOR THE ABATEMENT OF THE PUBLIC NUISANCE AND
DECLARING AN EMERGENCY.**

WHEREAS, motor vehicles parked in violation of Chapter 351 of the City’s Codified Ordinances adversely affect the public peace, safety, and welfare and increase blight;

WHEREAS, this Council finds that motor vehicles parked in violation of Chapter 351 of the City’s Codified Ordinances constitute a public nuisance;

WHEREAS, this Council finds that the establishment of procedures to abate the public nuisances caused by the parking of motor vehicles in violation of Chapter 351 of the City’s Codified Ordinances is necessary to protect the public peace, safety, and welfare and to ameliorate blight; and

WHEREAS, this Council is satisfied that there is good cause to create § 351.17 of the City’s Codified Ordinances, that the creation of § 351.17 of the City’s Codified Ordinances will not be detrimental to the general interest, and that it should be made.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Struthers, Ohio, $\frac{3}{4}$ ’s of all members elected thereto concurring:

SECTION 1: § 351.17 of the City’s Codified Ordinances is hereby created to read as follows:

351.17 PUBLIC NUISANCE

(a) For purposes of this section, the following words and phrases are defined as follows:

- (1) “Chief” means the chief of the Struthers Police Department.
- (2) “Director” means the Safety Service Director or the Code Enforcement Director.
- (3) “Occupant” means a person in possession of Private Property who is not the Property Owner.
- (4) “Private Property” means any real property within the City that is privately owned or operated.
- (5) “Property” means any Private Property or Public Property.
- (6) “Property Owner” means the person who owns Private Property upon which an Unlawfully Vehicle is located according to the records of the Mahoning County Recorder’s Office.
- (7) “Public Property” means public streets, highways, alleys, sidewalks, boulevards, and right-of-ways and any property that is owned and operated by the City.

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(8) “Registered Owner” means the person who holds legal title to an Unlawfully Parked Vehicle according to the records of Bureau of Motor Vehicles of the state with which the Unlawfully Parked Vehicle is or, if the Unlawfully Parked Vehicle is not currently registered with any state, the state with which the Unlawfully Parked Vehicle was last registered.

(9) “Unlawfully Parked Vehicle” means any motor vehicle parked in violation of Chapter 351 of the City’s Codified Ordinances.

(b) Public Nuisance Defined

(1) Any Unlawfully Parked Vehicle shall constitute a public nuisance. The Property Owner and Registered Owner shall have the duty to abate the nuisance.

(c) Notice to Abate Nuisance

(1) Whenever a public nuisance exists on Private Property, the Director shall issue an order to abate the nuisance pursuant to divisions (c)(2), (3), (4), and (5) of this section.

(2) An order to abate nuisance issued by the Director shall state:

(A) The public nuisance and its location;

(B) The corrective measures required;

(C) The identification number for the Unlawfully Parked Vehicle;

(D) A description of the Unlawfully Parked Vehicle;

(E) The license plate number for the Unlawfully Parked Vehicle, if available;

(F) If the public nuisance is not abated within twenty (20) days after the notice, the Unlawfully Parked Vehicle may be removed, impounded, and subsequently disposed of;

(G) That the Property Owner and the Registered Owner will be held jointly and severally responsible for all costs incidental to the removal, storage, and disposal of the Unlawfully Parked Vehicle; and

(F) The potential penalties if convicted of the parking violation.

(3) The order to abate nuisance shall be served upon the Registered Owner, any lienholder of record for the Unlawfully Parked Vehicle, the Property Owner, and the Occupant, if applicable, by sending the order by United States certified mail, five-day return receipt requested. The address to which the order to abate nuisance shall be sent shall be as follows:

(A) As to the Registered Owner, the address for the Registered Owner according to the records of the Bureau of Motor Vehicles for the state in which the Unlawfully Parked Vehicle is currently registered or, if the Unlawfully Parked Vehicle is not currently registered with any state, the state with which the Unlawfully Parked Vehicle was last registered.

(B) As to the lienholder of record,

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(C) As to the Property Owner, the address for the Private Property, the current tax billing address for the Private Property that is used by the Mahoning County Treasurer to send real estate tax bills and, the address shown on the City's current tax rolls for the Property Owner.

(D) As to the Occupant, the address for the Private Property.

(4) If the United States certified mail envelope attempting service of the order to abate nuisance is returned with an endorsement stating that the envelope was unclaimed or refused, the Director shall send the order to abate nuisance by United States ordinary mail evidenced by a certificate of mailing. The order to abate nuisance shall be deemed completed on the day on which the order was mailed, provided that the ordinary mail envelope is not returned by the post office with an endorsement showing failure of delivery.

(5) If the Director is unable to serve the order to abate nuisance on the Registered Owner, any lienholder of record of the Unlawfully Parked Vehicle, the Property Owner, or the Occupant, if applicable, pursuant to divisions (b)(3) or (4) of this section, the Director shall cause the order to abate nuisance to be published once a week for two successive weeks in a newspaper of general circulation within the City. Service of the order to abate the nuisance shall be deemed completed on the date of the last publication.

(d) Failure to Abate Nuisance

(1) If the nuisance is not abated within the twenty (20) days after service of the order to abate nuisance, the Law Director shall cause to be filed and served on the Registered Owner and/or the Property Owner a complaint(s) charging the Registered Owner and/or the Property Owner with a violation of the appropriate section of this chapter.

(e) Removal and Disposal of Unlawfully Parked Vehicle

(1) If the Registered Owner is found guilty of a violation of this chapter, the court shall order the Registered Owner to abate the nuisance within ten (10) days, if the public nuisance has not already been abated, in addition to any other penalties imposed against the Registered Owner. If the Registered Owner fails to abate the nuisance within ten (10) days, the court shall order the Chief to take possession of the Unlawfully Parked Vehicle and remove it from the Private Property to a place of safekeeping designated by the Chief. The order requiring the removal of the Unlawfully Parked Vehicle must include a description of the Unlawfully Parked Vehicle and the correct identification number and license number plate, if available. The Unlawfully Parked Vehicle shall be sold by the Chief or a licensed auctioneer, at public auction, after giving notice thereof by advertisement, published once a week for two successive weeks in a newspaper of general circulation in the City. In addition to any other penalties imposed against the Registered Owner, the court shall assess any costs incurred in the removal, impoundment, and disposal of the Unlawfully Parked Vehicle less any money accruing to the City from such disposal, if any. Any moneys accruing from the disposition of the Unlawfully Parked Vehicle that are in excess of the expenses resulting from the removal and storage of the Unlawfully Parked Vehicle shall be credited to the general fund of the City.

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SECTION 2: The provisions of this ordinance are severable. If any section, paragraph, sentence, or clause hereof shall be declared illegal, unconstitutional or invalid by any court of competent jurisdiction, such illegality, unconstitutionality or invalidity shall not affect the remaining portions of this ordinance and it hereby is declared the intention and purpose of this Council that this ordinance would have been enacted without such illegal, unconstitutional or invalid provision.

SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were passed in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including § 121.22 of the Ohio Revised Code.

SECTION 4: This ordinance is hereby declared to be an emergency measure necessary for the preservation of public peace, health and safety of the inhabitants of the City of Struthers, Ohio. Said emergency exists, and, as such, this ordinance shall take effect upon its passage and approval by the Mayor.

PASSED IN COUNCIL THIS 13th DAY OF January, 2021

Megan R. Shorthouse
CLERK OF COUNCIL

Michael S. Patrick
PRESIDENT OF COUNCIL

FILED WITH THE MAYOR THIS 13th DAY OF January, 2021.

Megan R. Shorthouse
CLERK OF COUNCIL

APPROVED BY THE MAYOR THIS 13th DAY OF January, 2021.

Catherine Cercone Miller
MAYOR

PUBLISHED IN THE HOMETOWN JOURNAL

DATE: 1/21/2021-01/28/2021

Megan R. Shorthouse
CLERK OF COUNCIL