

ORDINANCE NO. 3391
AN ORDINANCE AMENDING CHAPTER 98 OF THE NEW CASTLE CITY CODE BY
ADOPTING LEGISLATION TO BE KNOWN AS
THE NEW CASTLE LITTER CONTROL ORDINANCE

WHEREAS, it is the duty of the Common Council of the City of New Castle to protect the public health, safety and welfare of the citizens of the City, and

WHEREAS, the accumulation of litter, junk, and trash has long been determined to be a threat to public health and safety and,

WHEREAS, a clean community is a healthy community and looked upon as a prosperous community by visitors,

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE that it hereby amends Chapter 98 of the New Castle City Code by adopting the following legislation to be known as "New Castle Litter Control Ordinance":

LITTER

1. Title and Definitions
2. Moving Violations
3. Stationery Violations
4. Litter Generated From the Improper Handling of Solid Waste
5. Government-Authorized Clean-up
6. Litter Receptacles
7. Enforcement
8. Penalties
9. Variances
10. Severability
11. Conflict with Other Ordinances or Regulations
12. Effective Date of Compliance

GENERAL PROVISIONS

1. TITLE AND DEFINITIONS

(a) Title

This ordinance shall be known and may be cited as the New Castle Litter Control Ordinance.

(b) Definitions

- (1) "LITTER" means all uncontained waste materials, including yard waste such as grass clippings, leaves, or branches but not including the properly disposed waste of industrial processing. It includes all inoperable or disposed material commonly referred to as "junk".
- (2) "PERSON" means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, or any entity recognized by law.
- (3) "PRIVATE PROPERTY" means property owned and used for private purposes.

- (4) "PUBLIC PROPERTY" means any area that is used or held out for use by the public, whether owned or operated by public or private interests.
- (5) "VEHICLE" means every device capable of being moved upon a public highway or public waterway or upon rails or tracks and aircraft.
- (6) "LITTER RECEPTACLE" means a container with a capacity of not less than ten gallons, constructed and placed for use as a depository for litter.

2. MOVING VIOLATIONS

(a) Indiscriminate litter disposal and dumping

- (1) It shall be unlawful for any person to dispose of litter upon any public or private property except in authorized receptacles or in an area designated by the State as a permitted disposal site.
- (2) When litter has been ejected from a motor vehicle in violation of this section, the owner or operator of the vehicle shall be presumed to have ejected the litter.

(b) Uncovered vehicles; Escape of load

- (1) No vehicle shall be operated on any public street or alley unless the vehicle is constructed and loaded to prevent its load from escaping from the vehicle.
- (2) Any person operating a vehicle from which any matter escaped that would obstruct or damage a vehicle or otherwise endanger travelers, shall immediately remove the matter from the public property and pay any costs incurred.

3. STATIONERY VIOLATIONS

(a) Keeping property clean

Each owner and occupant of real property shall keep the property and adjacent sidewalks, roads, parking lots and alleys free of litter. The occupant shall have primary responsibility. When a violation occurs, if a tenant-occupant cannot be located or identified, the owner-landlord may be cited. To avoid responsibility under this section, the landlord shall forward the citation to the tenant, and shall send the name and address of the tenant to the City.

(b) Sweeping litter into the street

It shall be unlawful to sweep or push litter from sidewalks into streets or alleys. Such litter shall be deposited in a proper receptacle which shall be covered to prevent scattering by wind and animals.

(c) Construction and demolition sites

- (1) It shall be unlawful for any owner, agent, or contractor to permit the accumulation of litter, before, during, or after completion of any construction or demolition project.
- (2) It shall be the duty of the owner, agent, or contractor in charge of a construction or demolition site to furnish adequate litter receptacles, to collect and contain bulk litter on a daily basis. All litter shall be removed from such site not less than once a week.
- (3) All demolition and construction materials shall be separated and disposed of by prior permit from the New Castle Building Inspector's Office.
- (d) Handbills (other than that of a religious or political nature or public interest), advertising material, and litter identification
 - (1) It shall be unlawful for any person distributing leaflets, or other information material to distribute the material so that it litters property.
 - (2) Any litter bearing a person's name or address, found on the property of another, shall be presumed to be the property of the person whose name or address appears thereon, and that such person is responsible for the placement of the litter.

4. LITTER GENERATED FROM THE IMPROPER HANDLING OF SOLID WASTE

- (a) Use of solid waste containers
 - (1) It shall be unlawful for any person to dispose of any solid waste, except into an approved solid waste container designated for that person's use, unless other means are provided by law.
 - (2) Disposable solid waste containers, such as plastic bags, may be used. Such disposable containers must be completely and securely closed or tied with twine or a fastening device in such a manner as to prevent the escape of any contents.
 - (3) It shall be unlawful to use a Solid Waste Container of any kind to dispose of any materials not accepted as Municipal Solid Waste by the New Castle Street Department.
 - (4) All households, commercial establishments and institutions must provide solid waste containers adequate for their own use, as determined by the New Castle Street Department.
- (b) Indiscriminate dumping or discarding of litter and solid waste

Any unauthorized accumulation of refuse or trash items on any lot, property, premises, public street, alley, or other public or private place is hereby declared to be a public

nuisance and is prohibited. Failure of owner and/or occupant to remove and correct any such unauthorized accumulation of refuse shall be deemed a violation of this article.

5. GOVERNMENT-AUTHORIZED CLEAN-UP

Clean-up of premises by government authorization

- (a) Ten (10) days after due notice is given to any owner, agent, occupant, or lessee of any private property to remove litter from the premises, the City is authorized to clean up the private property and bill the owner, or his agent, for the costs thereof including administrative costs and legal fees. If the bill has not been paid within thirty days, execution may be issued by the City against the person for the amount expended in the cleaning work, and such execution shall constitute a lien on the property until the claim has been satisfied.
- (b) Execution of the notice to remove litter shall be in writing and shall be in the form of a Registered Letter.

6. LITTER RECEPTACLES

- (a) Use of litter receptacles

It shall be unlawful to deposit any item or items in any receptacle placed for public use as a depository for litter, which is not accepted as solid waste by the New Castle Street Department.

- (b) Litter receptacles are required at or on

- (1) Parks
- (2) Quick service or fast-food restaurants
- (3) Self-service refreshment areas
- (4) Construction sites
- (5) Gasoline service stations
- (6) Shopping centers
- (7) Parking lots operated for public use
- (8) Sidewalks in business districts
- (9) Public buildings, including schools
- (10) Sporting events, fair grounds, carnivals, circuses, festivals, and other similar events to which the public is invited.

It shall be the duty of any person owning or operating any public place to provide receptacles adequate to contain the litter generated at the establishment in places that are easily accessible. The presence of litter in a public place shall create a rebuttable presumption of inadequate placement of receptacles.

- (c) Litter receptacles purchased and placed in compliance with these regulations shall meet the following minimum standards
 - (1) A reusable litter receptacle shall have a capacity of ten gallons or more.

- (2) The receptacle shall be constructed of such quality as to maintain the original shape when placed at an outdoor location, and be reasonably resistant to rust and corrosion. Construction and configuration of all receptacles shall be in conformance with all pertinent laws, ordinances, resolutions, or regulations pertaining to fire, safety, public health, and welfare.
- (3) The receptacle shall be reasonably stationery and secure from movement and destruction by vandals.
- (4) The receptacle shall be constructed and designed or covered in such a manner as to prevent, or preclude, the blowing of litter from the receptacle.
- (5) The receptacle shall be serviced with a frequency sufficient to prevent overflow or spoilage and to prevent the accumulation of offensive odors.
- (6) The receptacle shall be aesthetically pleasing in appearance.
- (7) Recycling containers are not interchangeable with litter receptacles.

7. ENFORCEMENT

- (a) The enforcement of moving violations as set out in Section 2 above, shall be limited to law enforcement officers.
- (b) The enforcement of the remaining articles may be by law enforcement officials, authorized department officials of Public Works, Building and Zoning, Fire, Parks and Cemetery.

8. PENALTIES

Violations of this ordinance shall be punishable by a fine of not less than \$100.00 per violation nor greater than \$250.00 per violation. At the discretion of the court, or city officials charged with the enforcement of this ordinance, community service may be substituted in lieu of payment of the fine. Said community service must be for a duration of not less than 4 hours nor greater than 16 hours and must be performed within the corporate limits of the City.

9. VARIANCES

The Board of Public Works and Safety shall have the authority to grant special variances or relief to any provisions or requirements of this chapter, and may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community.

10. STATE LEGISLATION

Nothing herein shall prevent an enforcing officer from issuing citations pursuant to I.C. 35-45-3-2 or siting individuals from violating said statute in addition to enforcing this ordinance.

11. REPEALER: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

12. SEVERABILITY: Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operation shall be inapplicable, shall be deemed omitted but the rest and remainder of this ordinance, to the extent feasible, shall remain in full force and effect.

13. EFFECTIVE DATE: This Ordinance shall become effective immediately upon passage and publication as provided for by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS 15th DAY OF November, 2004.

Tom Nipp

TOM NIPP, PRESIDING OFFICER
COMMON COUNCIL, NEW CASTLE,
INDIANA

ATTEST:

Janice L. Lavarney
JANICE L. LAVARNWAY,
CLERK-TREASURER

AYE

NAY

<u>Simona K. Lee</u>	_____
<u>James P. Kidd</u>	_____
<u>Donald E. Harris</u>	_____
<u>Todd S. Hickey</u>	_____
<u>Louise Price</u>	_____
<u>Jeff Hummel</u>	_____
<u>Richard Hahn</u>	_____

APPROVED BY ME THIS 15th DAY OF November, 2004.

Tom Nipp

Tom Nipp, Mayor
City of New Castle, Indiana