

ORDINANCE NO. 3339

AN ORDINANCE REGULATING THE SALE OF GOODS  
IN A RESIDENTIALLY ZONED DISTRICT

WHEREAS, the City of New Castle has passed ordinances regulating property use, said ordinances commonly referred to as The New Castle Zoning Code, and

WHEREAS, said Code defines "business" as follows:

"The engaging in the purchase, sale, barter, or exchange of good, wares, merchandise or services, the maintenance or operation of offices or recreational and amusement enterprises for profit". (New Castle City Code Section 152.04)

and,

WHEREAS, the aforementioned Zoning Code establishes certain residential districts identified as R-1, R-2, R-3, RS, and MHP. That these zoning districts are limited to residential uses except in the case of certain special exceptions. That businesses are allowed in commercial zoning districts pursuant to the rules and regulations of said Zoning Code, and

WHEREAS, the City of New Castle has long recognized that temporary, short-term sale of household goods and personal property owned by the property owner at his or her residence does not violate said Zoning Code and is not considered a business, and

WHEREAS, it has now become necessary to regulate the sale of personal property in residential districts beyond those requirements set forth in said Zoning Code.

IT IS THEREFORE ORDAINED BY THE COMMON COUNCIL of the City of New Castle as follows:

I. This ordinance shall apply to all sales of personal property when sold from a private residence in a residentially zoned district. Said sales are commonly referred to as "yard sales", "garage sales", "rummage sales", "porch sales", "patio sales", or go without name but are merely advertised in the local media or by word of mouth and are open to the general public.

II. The sale of personal property in a residential district shall be permitted, without regard to local zoning restrictions, if the following conditions are met:

A. That items commonly associated with residential use and found in a household may be offered for sale at such location. Items cannot be obtained for the sole purpose of developing an inventory for sale. Such sales are intended to be for the sale of secondhand merchandise used in or around a household and no longer needed or desired by the owner for that purpose.

B. A sale may last:

(1) A single day or any part of a day.

- (2) Two consecutive days.
- (3) Three consecutive days.
- (4) Four consecutive days.

C. A sale cannot last longer than four (4) consecutive days.

D. There may not be items offered for sale from a private residence on more than four (4) calendar days in a month.

E. There may not be more than two (2) sales from a residence in a month.

F. There may not be more than six (6) sales from a residence in a calendar year.

G. All merchandise must be removed from public view at the conclusion of a sale.

H. That sales which comply with the provisions of A through G above may advertise in conformity with the City of New Castle Sign Ordinance and in the local media.

I. The owner may advertise for the sale of individual personal property items (a motor vehicle, piece of furniture, or other such item) in the local media. Except in the case of a motor vehicle, such item may not be displayed for sale except in accordance with the above restrictions. The owner may not offer for sale more than one motor vehicle at any time and the motor vehicle must be owned by the resident of the real estate where it is stored and not obtained by said resident for the sole purpose of resale.

J. Rain Delay. A sale shall not be considered as occurring for the purposes of rhetorical paragraphs D, E, and F above unless it actually occurs. A sale that is advertised but does not take place due to rain or for any other reason, shall not be considered as a sale under this ordinance.

III. Penalty. Any person who violates this ordinance shall be subject to a penalty of not less than fifty (\$50.00). That a new violation shall occur on each day that a violation of this ordinance takes place.

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

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.

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 16<sup>th</sup> DAY OF December, 2002.

Sherman Boles

Sherman Boles, Presiding  
Officer, Common Council, City  
of New Castle, Indiana

AYE

NAY

Amanda J. York

Tobin

Max L. Sutherland

Tom F. Fipp

Richard Hahn

ATTEST:

Janice Lavarney

Janice Lavarney,  
Clerk-Treasurer

APPROVED BY ME THIS 16<sup>th</sup> DAY OF December, 2002.

Sherman Boles

Sherman Boles, Mayor of the City  
Of New Castle, Indiana