

**ORDINANCE NO. 3792**

**AN ORDINANCE TO VACATE CERTAIN PLATTED ALLEYS LOCATED IN  
NEW CASTLE, HENRY COUNTY, INDIANA**

WHEREAS, there are certain platted alleys located east and west of South 26<sup>th</sup> Street in the vicinity of the Apostolic Church which are not utilized as public right-of-ways, and have been used by adjacent property owners as their own property; and,

WHEREAS, said right-of-ways are not needed by the City of New Castle as a public right-of-ways; and,

WHEREAS, said right-of-ways are not used for the purpose of ingress and egress; and,

WHEREAS, the vacation of these right-of-ways as described will not hinder the growth or orderly development of the neighborhood in which it is located or in which it is contiguous. The vacation will not make access to the lands of any persons by means of public way difficult or inconvenient, and the vacation will not hinder the public's access to a church, school or other public building or place, and the vacation will not hinder the use of the public right-of-way by the neighborhood in which it is located or to which it is contiguous; and,

WHEREAS, the contiguous property owners have received notice pursuant to the provisions of the appropriate Indiana statutes regarding the petition and hearings thereon.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE, INDIANA that certain alleys or right-of-ways described herein below be vacated. These unimproved right-of-ways are located in the corporate limits of the City of New Castle and more particularly described as follows, to-wit:

South of Broad Street (State Road 38) east and west of South 26<sup>th</sup> Street and adjacent to the Apostolic Pentecostal Church (attached hereto and incorporated herein as Exhibit "A" is a GIS map showing the location and boundaries of the property to be vacated by this ordinance.)

**PUBLIC UTILITY EASEMENT RETAINED AND RESERVED:** The City of New Castle expressly reserves and retains an easement to maintain, install, improve and construct public utility facilities over and under the land hereby vacated. **THIS VACATION IS SUBJECT TO A PERPETUAL EASEMENT FOR PUBLIC UTILITY PURPOSES RESERVED BY THE CITY OF NEW CASTLE, INDIANA.** The City of New Castle shall have the unqualified right to construct, add-to, maintain, replace and rebuild current or future public utilities on the land described above and vacated for public ingress and egress purposes by this ordinance. The City of New Castle shall own a permanent easement for public utility purposes over and under the land described hereinabove and vacated by this ordinance. Future title holders shall not be entitled to any compensation from any public utility or the City of New Castle as a result of any use of this real estate for public utility purposes over or under the land hereby vacated and described above. Any use of the above described real estate for public utility purposes shall not be deemed a taking as that term is defined statutorily or by the common law.

**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 \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

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Greg York, Presiding  
Officer, Common Council, City  
of New Castle, Indiana

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ATTEST:

\_\_\_\_\_  
Christy York,  
Clerk-Treasurer

APPROVED BY ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

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Greg York, Mayor of the City  
Of New Castle, Indiana