

**ORDINANCE NO.:** 07-O-08  
**SPONSOR:** COUNCIL AS A WHOLE  
**INTRODUCED:** JULY 18, 2007

**AN ORDINANCE TO REGULATE AND PROHIBIT LITTER AND TRASH IN PUBLIC AND PRIVATE PLACES IN NEW FRANKLIN.**

WHEREAS, there are certain public and private properties that have a litter or trash problem; and

WHEREAS, Ohio Revised Code Chapter 731 gives municipalities the authority to remove litter and trash from lands in the municipality after proper notice and due process; and

WHEREAS, litter and trash on lands within the municipality detract from the appearance of the community; and

WHEREAS, the interests of public safety and health require that this Ordinance be adopted to address the issue of litter and trash in New Franklin; and

WHEREAS, this Ordinance does provide that the owners and occupants of lands affected by this Ordinance be afforded an opportunity for a hearing and due process before final action is taken.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:**

**SECTION ONE: DEFINITIONS**

For the purpose of this Ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- a) "Aircraft" mean any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" includes helicopters and lighter-than-air dirigibles and balloons.
- b) "Authorized private receptacle" means a litter storage and collection container.

- c) "commercial handbill" means any printed or written matter, including any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or other printed or otherwise reproduced original or copies of any matter of literature:
- 1) Which advertises for sale any merchandise, product, commodity or thing;
  - 2) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
  - 3) Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit.
  - 4) Which, while containing reading matter other than the advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.
- d) "Garbage" means the matter, substance or waste resulting from the growing, handling, storage, preparation, cooking and/or consumption of food, including animals (including fat and bones), fowl, fish, fruits and vegetables, including animal and bird feeds.
- e) "Litter" means garbage, refuse and rubbish, as defined herein, and all other waste material, including appliances, roofing material, siding material, broken concrete, broken asphalt, bricks, drywall, tree and shrub stumps, limbs, clippings, branches and other waste building material, which, if thrown, stored or deposited, as herein prohibited, tends to create a danger to public health, safety and welfare.
- f) "Newspaper" means any newspaper of general circulation, as defined by general law, any newspaper duly entered with the Post Office of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law, and, in addition thereto, means and includes any periodicals or current magazines regularly published with not less than four issues per year, and sold to the public.

- g) "Noncommercial handbill" means any printed or written matter, including any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or other printed or otherwise reproduced original or copies of any matter of literature not included in the definitions of commercial handbill and newspaper.
- h) "Park" means a park, reservation, playground, beach, recreation center or other public area in the Municipality owned by any governmental agency and devoted to active or passive recreation.
- i) "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.
- j) "Private premises" or "premises" means any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, sidewalk and abutting property between the property line and the curb line, porch, steps vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.
- k) "Public place" means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.
- l) "Refuse" means all putrescible and nonputrescible solid wastes (except body wastes), including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.
- m) "Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- n) "Trash" means any broken, discarded or worthless things, rubbish, or refuse.

- o) "Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, including devices used exclusively on stationary rails or tracks.

**SECTION TWO:            THROWING OR DEPOSITING LITTER IN PUBLIC PLACES; USE OF RECEPTACLES AND DUMPS**

- a) No person shall throw or deposit litter in or on any street, sidewalk or other public place within the Municipality except in public receptacles, in authorized private receptacles for collection, or in official Municipal dumps.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION THREE: USING RECEPTACLES TO PREVENT SCATTERING; DAMAGING RECEPTACLES**

- a) Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements onto any street, sidewalk, or other public place or private property.
- b) No person shall, without authority, upset, damage, tamper with or destroy a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or on any public place or private premises.
- c) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION FOUR:            RESPONSIBILITY OF LANDOWNERS**

- a) No person shall sweep into or deposit into any ditch, gutter, street or other public place within the Municipality the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.
- b) The owner or person in control of any private property shall at all times maintain the premises free of litter. However, this section shall not

prohibit the storage of litter in authorized private receptacles for collection.

- c) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION FIVE:            RESPONSIBILITY OF MERCHANTS**

- a) No person owning or occupying a place of business shall sweep into or deposit into any ditch, gutter, street or other public place within the Municipality the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the municipality shall keep their business premises free of litter.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION SIX:    LITTER THROWN FROM VEHICLES**

- a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road, highway or other public way or other public way or place within the Municipality, or on private property, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- c) 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.

- d) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION SEVEN: LITTER IN PARKS**

- a) No person shall throw or deposit litter in any park within the Municipality, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other public way or place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION EIGHT: LITTER IN BODIES OF WATER**

- a) No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere in the Municipality.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION NINE: DROPPING LITTER FROM AIRCRAFT**

- a) No person in an aircraft shall throw out, drop or deposit within the Municipality any litter, handbill or other object.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION TEN: BILLPOSTING**

- a) No person shall place, post or affix any notice, poster or other paper or device on any lamppost, utility pole, structure or tree in the public right-of-way, except as may be authorized by law.
- b) Whoever violates this section is guilty of a minor misdemeanor.

**SECTION ELEVEN: LITTER ON OCCUPIED PRIVATE PROPERTY**

- a) No person shall throw or deposit litter on any occupied private property within the Municipality, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, ditch or other public place or upon any private property.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION TWELVE: LITTER ON VACANT PRIVATE PROPERTY**

- a) No person shall throw or deposit litter on any open or vacant private property within the Municipality, whether owned by such person or not.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION THIRTEEN: CONSTRUCTION SITES**

- a) Construction sites shall be maintained in such a manner as to prevent litter from accumulating thereon unrestrained or from being carried by the elements onto other property. A watertight, covered waste container, constructed of durable material and having a capacity of at least fifty gallons, shall be maintained on the site at all times.

- b) Dirt, sand, gravel and similar construction materials shall be stored on construction sites in such manner as not to be deposited or tracked on public streets or rights-of-way.
- c) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION FOURTEEN:      LOADING AND UNLOADING OPERATIONS**

- a) Any owner or occupant of any establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide at such establishment or institution watertight, covered containers, constructed of durable material and having a capacity of at least fifty gallons for the disposal and storage of such litter, and shall at all times maintain the dock area free of litter in such manner that litter will be prevented from being carried or deposited by the elements on any public place or private property.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION FIFTEEN:      CLEARING OF LITTER BY MUNICIPALITY**

- a) Notice to Remove. The Zoning Department is hereby authorized to notify the owner of any open or vacant private property, or any other private property within the Municipality, or the agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. The notice shall state that a hearing appealing the notice to remove may be had, shall describe the litter and trash to be removed, and shall be served by the Police Department or by the Zoning Department in any manner provided by the Ohio Rules of Civil Procedure.
- b) Right to Appeal. Any person receiving a notice to remove pursuant to this section shall have a right to appeal the notice to remove to the Property Maintenance Enforcement Board. The appeal shall be filed in



writing within ten (10) days after the notice to remove is served. The Property Maintenance Enforcement Board shall hear any appeals within forty-five (45) days after the appeal is filed. If the property is found to be in violation of this Ordinance by the Board, the Board shall order that the property be brought into compliance.

- c) **Action Upon Noncompliance.** Upon the failure, neglect or refusal of any owner or agent served with a notice to remove, to appeal or to properly dispose of litter dangerous to the public health, safety or welfare within ten (10) days after service, as provided in this section, the Zoning Department shall cause such litter to be removed, and may employ the necessary labor to perform such work or cause it to be done by the Municipality.
- d) **Expenses as a Lien.** All expenses so incurred by New Franklin, including administrative costs, shall be reported to the Finance Director, who shall mail a statement to the owner of the land, if his or her address is known. If, after thirty days, such amount remains unpaid, the Finance Director shall certify the total amount of the expenses, the name of the owner of the land, and a sufficient description of the premises, to the Auditor of Summit County, to be entered upon the tax duplicate, to be a lien on the land from the date of entry, and to be collected as other taxes and assessments and returned to the Municipality, pursuant to Ohio R.C. 731.51. The remedy herein provided shall be in addition to the penalties provided in this chapter.

**SECTION SIXTEEN: DISTRIBUTING HANDBILLS IN OR ON PUBLIC PLACES**

- a) No person shall throw or deposit any commercial or noncommercial handbill in or on any sidewalk, street, ditch or other public place within the Municipality. No person shall hand out, distribute or sell any commercial handbill in any public place. However, it shall not be unlawful on any sidewalk, street or other public place within the Municipality for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION SEVENTEEN:     **PLACING HANDBILLS ON VEHICLES****

- a) No person shall throw or deposit any commercial or noncommercial handbill in or on any vehicle. However, it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION EIGHTEEN:     **DEPOSITING HANDBILLS ON UNINHABITED OR VACANT PREMISES****

- a) No person shall throw or deposit any commercial or noncommercial handbill in or on any private premises which are temporarily or continuously uninhabited or vacant.
- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION NINETEEN:     **DISTRIBUTING HANDBILLS PROHIBITED WHERE POSTED****

- a) No person shall throw, deposit or distribute any commercial or noncommercial handbill on any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises, in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No advertisements" or any similar notice indicating in any manner that the occupant of such premises do not desire to be molested or to have their right of privacy disturbed or to have any handbills left on the premises.

- b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

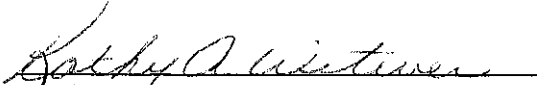
**SECTION TWENTY: DISTRIBUTING HANDBILLS AT INHABITED PRIVATE PREMISES.**

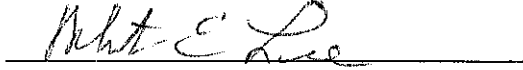
- a) No person shall throw, deposit or distribute any commercial or non-commercial handbill in or on private premises which are inhabited, except by handing or transmitting such handbill directly to the owner, occupant or other person then present in or on such private premises. However, in the case of inhabited private premises which are not posted as provided in Section Nineteen, unless requested by anyone on the premises not to do so, may place or deposit such a handbill in or on the inhabited private premises if the handbill is so placed or deposited as to secure or prevent it from being blown or drifted about the premises or sidewalks, streets or other public places, except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.
- b) The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements onto any street, sidewalk or other public place or onto private property.
- c) Whoever violates this section is guilty of a minor misdemeanor.

**SECTION TWENTY-ONE: OPEN MEETINGS**

The City of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

ADOPTED                      September 5, 2007

  
Kathy A. Witwer, Clerk

  
Robert E. Lee, President, Pro-Tem

APPROVED      September 5, 2007

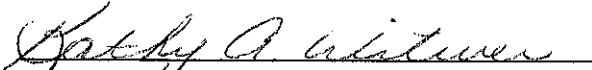
  
Al Bollas, Mayor

ENACTED EFFECTIVE:      October 5, 2007

ON ROLL CALL:

Adamson, Yes.	Hess, Yes.	Jones, Yes.
Lee, Absent.	Mobley, Yes.	Stock, Yes.

Akron Legal News Publications on September 17, & September 24, 2007

  
Kathy A. Witwer, Clerk