

## NOTICE OF ADOPTION

The Town Council of the Town of Clermont, Marion County, Indiana at its regularly scheduled and noticed Town Council meeting held on January 14, 2021, did unanimously pass and adopt the following Ordinance as an amendment to its municipal code:

### **Ordinance No. 20210114-O1**

That the Clermont Municipal Code (CMC) shall be amended to repeal Ordinance 239, which had Article 4, Chapter 1. This amendment adds a new Chapter 1.5 adding a new section which shall be Article 4 of CMC Chapter 1.5 titled **PROHIBITING LITTERING AND TO REQUIRE UPKEEP OF PRIVATE PROPERTY**, as follows:

### **ORDINANCE AMENDING THE CLERMONT MUNICIPAL CODE (CMC) ARTICLE 4, CHAPTER 1, PUBLIC STREETS AND THROUGHFARES BY ADDING A NEW SECTION 3.1**

#### **NOW THEREFORE, IT IS HEREBY ORDAINED THAT:**

That the Clermont Municipal Code (CMC) shall be amended by repealing Ordinance 239 as codified in Article 4, Chapter 1, by adding a new Chapter 1.5 titled **PROHIBITING LITTERING AND TO REQUIRE UPKEEP OF PRIVATE PROPERTY**, as follows:

#### **Chapter 1.5: Litter Control and Property Maintenance.**

*“Litter”* shall mean and include any un-containerized waste which, if deposited within the town otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the people of the town. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle part, furniture, oil, carcass of a dead animal, or noxious or offensive matter of any kind, or any object likely to injure any person or create a traffic hazard.

*“Person”* shall mean and include any natural person, firm, Limited Liability Company (LLC), partnership, association, corporation, company, or not-for-profit organization.

*“Public place”* shall mean and include any and all streets, boulevards, avenues, lanes, alleys, sidewalks, easements or other rights-of-way or public ways, and parks, squares, plazas, grounds and buildings, whether publicly or privately owned.

#### **Sec. 1: Depositing Waste.**

No person shall place litter or throw any paper, organic waste, trash, or refuse of any kind on any public way, including sidewalks and streets, or other public facility, including parks.

**Sec. 1.1 - Littering on premises of another.**

(a) It shall be unlawful for any person to cast, place or deposit any litter upon real property owned by another, without the consent of the owner or lessee of such real property.

(b) Whenever any person shall be charged with a violation of this section, it shall be a sufficient allegation of an ordinance violation to state that such person deposited the litter described in subsection (a) upon property of which he was not then the owner or lessee. It shall be a matter of affirmative defense for the person to show that he had permission of the owner or lessee to so deposit such litter, if such was the case.

**Sec. 2 - Vehicles dropping contents on streets.**

(a) Any person who transports in any vehicle or in any other manner upon any public place any loose material or articles likely to sift, fall, spill or be blown upon the public way or place shall not overload the vehicle and shall cover the contents or shall convey the contents in tightly secured and covered boxes or containers. In case any of the contents thereof shall be blown, be spilled, fall or become scattered in any public way or place, such person shall cause all fallen substances to be immediately gathered up and removed. It shall be a violation of this section to cause or allow such loose material or articles to be blown, be spilled, fall or become scattered upon the public way or place.

(b) The first violation in any calendar year shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with this Code. All second and subsequent violations in the calendar year are subject to the penalties provided herein through the enforcement procedures set out in the Indiana Code.

**Sec. 3: Property Abutting Public Way.**

It shall be the duty of any person owning or controlling a house or other building or premises, including vacant lots visible from any public place or private premises, to maintain such premises in a reasonably clean and orderly manner and to a standard conforming to other orderly premises in that vicinity. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of any premises so as to permit the accumulation of litter thereon or on any adjacent public place.

No real property owner, or occupier, shall permit their real property which abuts on a public way to become unsightly, unclean, unsanitary, unsafe, or dangerous to users of the public way or other public facility. Violations of this Section include, but are not limited to, allowing accumulation of litter or waste, storage of unsightly or offensive personal property such as old, abandoned or partially dismantled automobiles and automobile parts. Allowing growth of grass, or weeds to a height greater than twelve (12) inches. Allowing the property owner's vegetation to obstruct or interfere with the use of the public roadway or sidewalks. Allowing houses, buildings or other structures to remain in a state of disrepair.

No real property owner shall allow any dead, dying and/or damaged tree located their real property which abuts on a public way and which if the tree (or any part thereof) were to fall could land on the public right of way. Any such tree (or part thereof) shall be removed by the real property owner so as to prevent damage or injury to the general public.

**Sec. 4: Permitting Property to Become Unsightly.**

It shall be the duty of any person owning or controlling a house, or other building or premises, including vacant lots, visible from any public place or private premises, to maintain such premises in a reasonably clean and orderly manner and to a standard conforming to other orderly premises in that vicinity. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of any premises so as to permit the accumulation of litter thereon or on any adjacent public place.

No real property owner shall permit their real property to become unclean, unsanitary, or dangerous to the health of inhabitants of surrounding property, or of the health of the general community. Real property shall be maintained in a reasonably clean and orderly manner and to a standard conforming to other orderly premises in that vicinity. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of any premises. Violations of this Section shall include, but are not limited to, allowing accumulation of litter or waste, allowing houses, buildings or other structures to remain in such a state of disrepair as to provide a habitat for vermin and other such dangerous bacteria, animals or insects.

**Sec. 5. Correction of Conditions.**

The Town Council may order the real property owners to correct conditions which violate Sections 1 through 4 of this chapter. If the real property owner fails to comply with such order in the time prescribed, the Council may have the conditions corrected, and place on the owner's real property a lien for the cost of correction in accordance with the statutory procedure provided for in the Indiana Code, and the owner shall also be liable for the fine prescribed in Section 6 of this Chapter.

**Sec. 6. Penalty for Violation.**

(a) Except as otherwise provided herein, a person's first and second violations of this chapter in a twelve-month period shall be subject to admission of violation and payment of the designated civil penalty of \$100.00 through the ordinance violations bureau. All second and subsequent violations in the calendar year are subject to the penalties provided herein through the enforcement procedures set out in the Indiana Code.

(b) Except as otherwise provided herein, any person found to have committed a violation of any section of this chapter shall upon such finding be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00). Each day any such violation is committed or

permitted to continue may constitute a separate offense and shall be punishable as such hereunder.

(c) In addition to the foregoing penalties, the town, by appropriate action, may seek injunctive relief, requesting the court to enjoin or order the abatement of any violation of this chapter.

**Sec. 7: Nuisance Abatement.**

Violations of Sections 1 through 4 of this chapter are declared to be nuisances and the Town Council is authorized to abate them.

(a) *Civil action to recover costs of abatement.* Upon the failure of the recipient who was sent the notice of violation and bill to pay the appropriate fees and charges within the ten-day period, the Town may bring a civil action in court against such recipient to recover the amount billed, plus reasonable attorney's fees.

This ordinance shall be in full force and effect upon adoption and compliance with IC 36-5-2-10.

Adopted this 14<sup>th</sup> Day of January, 2021.

/s/ Michael Beam  
Council President

**ATTEST:**

/s/ Mark Neal  
Clerk-Treasurer