

ORDINANCE NO. 2016-52 (AMENDED)
INTRODUCED BY: ADMINISTRATION

**AN ORDINANCE AMENDING SECTION 660.03 OF
THE CODIFIED ORDINANCES OF THE CITY
WITH REGARD TO LITTERING AND DECLARING
AN EMERGENCY**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
CITY OF LYNDHURST, CUYAHOGA COUNTY, STATE OF OHIO, THAT:**

SECTION 1. Section 660.03 of the Codified Ordinances regarding Littering is hereby amended to read as follows: (new material appears like THIS: deleted material appears like this):

660.03 LITTERING.

(a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by him or her, or in or on waters of the State, unless one of the following applies:

(1) The person is directed to do so by a public official as part of a litter collection drive.

(2) Except as provided in division (b) of this section, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements.

(3) The person is issued a permit or license covering the litter pursuant to Ohio R.C. Chapter 3734 or 6111.

(b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by him or her, unless one of the following applies:

(1) The litter was generated or located on the property on which the litter receptacle is located.

(2) The person is directed to do so by a public official as part of a litter collection drive.

(3) The person is directed to do so by a person whom he or she reasonably believes to have the privilege to use the litter receptacle.

(4) The litter consists of any of the following:

A. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle.

B. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle.

C. Beverage containers and food sacks, wrappings, and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle.

D. Beverage containers, food sacks, wrappings, containers, and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(c) (1) As used in division (A) AND (b)(1) of this section, "public property" includes any REAL PROPERTY OWNED BY ANY PUBLIC AGENCY, INCLUDING BUT NOT LIMITED TO THE STATE, THE COUNTY OR THE CITY; ANY PUBLIC RIGHT-OF-WAY OWNED OR MAINTAINED BY THE STATE, THE COUNTY, OR THE CITY; AND private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in division (b)(4) of this section, "casual passerby" means a person who does not have depositing litter in a litter receptacle as his or her primary reason for traveling to or by the property on which the litter receptacle is located.

(d) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "Deposit" means to throw, drop, discard, or place.

(2) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, TEMPORARY SIGNS, furniture, glass, or anything else of an unsightly or unsanitary nature.

(3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can, or similar container in which litter is deposited for removal.

(E) NO PERSON SHALL PLACE ANY TEMPORARY SIGN ON ANY PUBLIC PROPERTY OR PUBLIC RIGHT-OF-WAY WITHOUT A PERMIT. IN ADDITION, NO BUSINESS ASSOCIATION OR INDIVIDUAL SHALL PERMIT ANY TEMPORARY SIGN TO BE PLACED ON, OR TO REMAIN ON, ANY PUBLIC PROPERTY OR PUBLIC RIGHT-OF-WAY.

(e)(F) This section may be enforced by any sheriff, deputy sheriff, police officer of the Municipality, police constable or officer of a township or township police district, wildlife officer, park officer, forest officer, preserve officer, conservancy district police officer, inspector of nuisances of a county, or any other law enforcement officer within his or her jurisdiction.

(ORC 3767.32)

(£)(G) Whoever violates any provision of this section shall be guilty of a misdemeanor of the third degree. IN ADDITION, ANY BUSINESS ASSOCIATION OR INDIVIDUAL VIOLATING SECTION (E), ABOVE, SHALL PAY A FINE OF \$100.00 PER SIGN PER DAY. The sentencing court may, in addition to or in lieu of the penalty AND FINE provided in this division, require a person who violates this section to remove litter from any public or private property or in or on waters of the State.

(ORC 3767.99(C))

SECTION 2. Any and all provisions of Section 660.03 of the Codified Ordinances of the City inconsistent herewith are hereby repealed and all other provisions of Section 660.03 of the Codified Ordinances shall remain in full force and effect.

SECTION 3. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 4. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of the City of Lyndhurst for the reason that it is necessary to institute the aforesaid changes to the Codified Ordinances immediately and without delay to protect the safety, sanitation and health of the residents of the City. Therefore this Ordinance shall take effect immediately upon the affirmative vote of not less than five members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: September 6, 2016

MAYOR

VICE MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on September 15, 2016 and September 22, 2016.

Clerk of Council

First Reading: July 5, 2016

Second Reading: August 1, 2016

Third Reading: September 6, 2016

Passed 9-6-2016