

AN ORDINANCE OF THE COUNCIL OF THE CITY OF WHEELING
AMENDING AND REENACTING ARTICLE 1103 OF THE OF THE
CITY OF WHEELING HEALTH AND SANITATION CODE ENTITLED
LITTERING TO AMEND §1103.18, §1103.99 AND ADDING §1103.19

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHEELING:

Section 1. The Council of the City of Wheeling does hereby amend and readopt Article 1103, of the City of Wheeling Health and Sanitation Code, entitled Littering to amend §1103.18 and to add § 1103.19 be amended as follows:

ARTICLE 1103
Littering

- 1103.01 Definitions.**
- 1103.02 Litter in public places.**
- 1103.03 Placing litter in receptacles.**
- 1103.04 Sweeping litter into gutters prohibited.**
- 1103.05 Merchant's duty to keep sidewalks clear.**
- 1103.06 Litter thrown by persons in vehicles.**
- 1103.07 Truck loads causing litter.**
- 1103.08 Litter in parks.**
- 1103.09 Litter into, along streams, etc.**
- 1103.10 Distributing handbills in public places.**
- 1103.11 Placing handbills on vehicles.**
- 1103.12 Depositing handbills on vacant premises.**
- 1103.13 Distributing handbills at inhabited private premises; exemptions.**
- 1103.14 Posting notices prohibited.**
- 1103.15 Litter on occupied private property.**
- 1103.16 Owner, tenant, and occupant to maintain premises free of litter.**
- 1103.17 Litter on vacant lots.**
- 1103.18 Order to remove litter.**

1103.19 Scavenging, Scattering or Dispersing of Trash.

1103.99 Penalty.

CROSS REFERENCES

Placing injurious matter in streets - see TRAF. 311.01

Loads dropping or leaking - see TRAF. 347.04

Advertising - see GEN. OFF. Art. 503

Garbage and rubbish collection - see S.U.&P.S. Art. 925

1103.01 DEFINITIONS.

For the purposes of this article the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Authorized private receptacle" means a litter storage and collection receptacle as required by Section 925.15 of the Streets, Utilities and Public Services Code, and referred to therein as a standard container.

(b) "City" means the City of Wheeling.

(c) "Commercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(1) Which advertises for sale any merchandise, product, commodity, or thing; or

(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; or

(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; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required, by any law of this State, or under any ordinance of this City;
or

(4) Which, while containing reading matter other than advertising matter, is predominantly 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 animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(e) "Litter" means all waste material including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal, or any part thereof, or any other offensive or unsightly matter.

(f) "Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department 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, includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

(g) "Noncommercial handbill" means any printed or written matter, sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

(h) "Park" means a park, reservation, playground, beach, recreation center or any other public area in the City owned or used by the City and devoted to active or passive recreation.

(i) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

(j) "Private 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, 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 solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

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

(Ord. 2814. Passed 4-4-61.)

1103.02 LITTER IN PUBLIC PLACES.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

(Ord. 2814. Passed 4-4-61.)

1103.03 PLACING LITTER IN RECEPTACLES.

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 upon any street, sidewalk or other public place or upon private property.

(Ord. 2814. Passed 4-4-61.)

1103.04 SWEEPING LITTER INTO GUTTERS PROHIBITED.

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(Ord. 2814. Passed 4-4-61.)

1103.05 MERCHANT'S DUTY TO KEEP SIDEWALKS CLEAR.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City 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 City shall keep the sidewalk in front of their business premises free of litter.

(Ord. 2814. Passed 4-4-61.)

1103.06 LITTER THROWN BY PERSONS IN VEHICLES.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon private property.

(Ord. 2814. Passed 4-4-61.)

1103.07 TRUCK LOADS CAUSING LITTER.

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

(Ord. 2814. Passed 4-4-61.)

1103.08 LITTER IN PARKS.

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public 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.
(Ord. 2814. Passed 4-4-61.)

1103.09 LITTER INTO, ALONG STREAMS, ETC.

No person shall place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, cans, bottles, papers, ashes, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter, dirt, gravel, minerals or other material into any river, stream, creek, branch, brook, lake or pond, or upon the surface of any land within 100 yards thereof, or in such location that high water or normal drainage conditions will cause any such materials or substances to be washed into any river, stream, creek, branch, brook, lake or pond within the City.
(Ord. 5341. Passed 5-22-73.)

1103.10 DISTRIBUTING HANDBILLS IN PUBLIC PLACES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City. It shall not be unlawful on any sidewalk, street or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any commercial or noncommercial handbill to any person willing to accept it.
(Ord. 7256. Passed 5-19-81.)

1103.11 PLACING HANDBILLS ON VEHICLES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, that 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.
(Ord. 2814. Passed 4-4-61.)

1103.12 DEPOSITING HANDBILLS ON VACANT PREMISES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.
(Ord. 2814. Passed 4-4-61.)

1103.13 DISTRIBUTING HANDBILLS AT INHABITED PRIVATE PREMISES; EXEMPTIONS.

No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises. Provided, however, unless requested by anyone upon such premises not to do so, such person may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers, as defined herein, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Ord. 2814. Passed 4-4-61.)

1103.14 POSTING NOTICES PROHIBITED.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

(Ord. 2814. Passed 4-4-61.)

1103.15 LITTER ON OCCUPIED PRIVATE PROPERTY.

No person shall throw or deposit litter on any occupied private property within the City, 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 a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(Ord. 2814. Passed 4-4-61.)

1103.16 OWNER, TENANT AND OCCUPANT TO MAINTAIN PREMISES FREE OF LITTER.

The owner, tenant, occupant or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection, as provided in Section 925.15 (trash cans made of metal or plastic, with covers).

(Ord. 10410. Passed 10-19-93.)

1103.17 LITTER ON VACANT LOTS.

No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not.

(Ord. 2814. Passed 4-4-61.)

1103.18 ORDER TO REMOVE LITTER.

The City Manager and/or the City-County Health Officer is authorized and empowered to order the owner, tenant, occupant or person in control of any private property within the City or the agent of such owner or other person to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such order shall be sent by registered or certified mail, addressed to the owner, tenant, occupant or person in control at his last known address.

(Ord. 10410. Passed 10-19-93.)

1103.19 SCAVENGING, SCATTERING OR DISPERSING OF TRASH

Scavenging is the act of unauthorized persons going through recycling or refuse containers and / or trash bags whether such containers or bags are on City or private property.

(a) Offense defined- A person is guilty of an offense is such person:

- (1) causes any waste paper, sweepings, ashes, household waste, glass, metal, refuse or rubbish, or any dangerous or detrimental substance to be deposited into or upon any road, street, highway, alley or railroad right-of-way, or upon the land of another or into the waters of this municipality;**
- (2) interferes with, scatters, or disturbs the contents of any receptacle containing ashes, garbage, household material, waste, or rubbish.**

(b) Penalty-

- (1) A person who violates subsection (a) (1) or (2), above, and is guilty for the first offense and upon confession or conviction thereof shall be sentenced to pay a fine of not less than \$300 and may be required to pick up litter or illegally dumped trash for not less than five nor more than 30 hours to be completed within six months.**
- (2) A person who violates subsection (a) (1) or (2), above, and is guilty for a subsequent offense and upon confession or conviction thereof shall be sentenced to pay a fine of not less than \$500. The person also may be required to pick up litter or illegally dumped trash for not less than 30 nor more than 100 hours to be completed within on year.**

1103.99 PENALTY.

Except where otherwise provided, Whoever violates any provision of this article shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, and may be required, in the discretion of the court, to pick up and remove from any public highway, road, street, alley or any other public park or public property in the City as designated by the court any and all litter for a total of not less than thirty hours under the supervision of the Director of Public Works or his designated agent.

(Ord. 10410. Passed 10-19-93.)