

ORDINANCE 3867

**AN ORDINANCE AMENDING CHAPTER 95 OF THE CITY CODE**

WHEREAS, the City has enacted Chapter 95 of the City Code governing the provision of trash collection service by the City for certain properties within the City; and

WHEREAS, Chapter 95 should be amended to clarify the current practice of the City's Street Department and to amend provisions to allow for the more efficient collection of refuse within the City.

**NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE, INDIANA:**

1. Chapter 95 of the City Code is hereby amended as set forth below with additional language appearing in red and deleted language being stricken:

**§ 95.01 DEFINITIONS.**

*For the purpose of this chapter the following definition shall apply unless the context clearly indicates or requires a different meaning.*

*"CITY HEALTH OFFICER." Absent the creation of a position titled "CITY HEALTH OFFICER" by the legislative body of the city, that job title and those responsibilities shall be performed by the Building Inspector and the Inspector's appointees.*

*"TRASH." Stones, ashes, glass, tinware, dishes, crockery ware, paper, leaves, rags, tree limbs, shrubbery, litter, grass clippings, rubbish, and refuse.*

*"HEAVY TRASH" An item of trash that cannot be placed in city supplied 96 gallon trash receptacle ("toter") due to its size.*

*"PUBLIC RIGHT OF WAY" A street, road or highway (other than an alley) that is located within the corporate limits of the city and is dedicated for use by the public for vehicular traffic, as determined by the Street Department.*

*"RESIDENTIAL USER" The occupant or occupants of a separate dwelling unit or units located on a property.*

**§ 95.08 HEAVY TRASH.**

(A) *The city shall not collect tires, batteries, toxic materials, poisonous materials, or materials that create an environmental hazard as determined by the United States Environmental Protection Agency, the Indiana Department of Environmental Management or the Three Rivers Solid Waste District. These items shall be disposed of properly at such times as designated by the Solid Waste District, such as “Tox Away Day,” or at the property owner’s expense.*

(B) *No more than one time per month, the city shall remove up to three (3) items of heavy trash from a residence. In order to arrange for the removal of heavy trash, the owner or occupant of the residence must contact the city Street Department and make arrangements for removal on a date designated by the Street Department. Items that the owner has arranged for the city to pick up shall be placed at curbside no earlier than one (1) day prior to the date designated by the city.*

(C) *An owner or occupant of a property shall not place curbside, or allow to be placed curbside, an item of heavy trash unless the owner or occupant has made arrangements with the Street Department for its removal as required under § 95.08 (B).*

**§ 95.15 TRASH CONTAINERS.**

(A) *Type and Number. The city shall determine the type, style, nature, and size of trash containers to be used for city trash collection service. The city shall provide all those authorized to utilize city trash collection services with one 96-gallon container (“toter”). Upon request by the owner or occupant, one additional toter shall be available to each residential user at no additional cost. Subject to § 95.15 (D), a residential user may obtain a third toter for an additional charge as set forth in § 95.30. No more than three toters shall be collected weekly from any single*

*residential user. Trash containers (toters) shall be the property of the city. The property owner or tenant shall not relocate or move the toter(s) from the property to which it was delivered without the city's prior approval. The container (toter) shall remain at the property to which it was delivered and may only be moved therefrom by the city.*

*(B) Container collection location. The city shall designate the day of the week (said day may be changed by the city due to holidays, emergencies, or other causes) and the placement location of trash containers on city public right-of-ways. On the day of the week designated, persons desiring to have their container emptied by the city shall locate their trash container at the designated location. Except for delays due to inclement weather or holidays, all containers shall be placed for collection not earlier than the evening prior to collection, nor later than the normal pick up time on the collection day. Except for delays due to inclement weather or holidays, all containers shall be removed from the collection site on or before the evening on the day the collection service has been performed. Containers that remain at the collection site for more than 24 hours after collection will be considered abandoned and will be retrieved by the city.*

*(C) No collection. Trash and garbage not placed in a city- approved "toter" provided by the city and positioned at the site designated by the city shall not be collected by the city and must be removed by the property owner at his or her expense. All trash must be placed inside the "toter." Cardboard boxes must be broken down and be placed inside the "toter." The "toter" lid must close and trash should not be placed on top of "toter" lids or overflow the "toter."*

**§ 95.29 COLLECTION FREQUENCY.**

(A) *The city shall collect trash and garbage on a weekly basis from single-family dwellings located on a public right-of-way. A single-family dwelling is defined as “a detached building designed for and occupied by one family exclusively.”*

(B) *The city shall collect trash and garbage on a weekly basis from two-family dwellings located on a public right-of-way. A two-family dwelling is defined as “a detached building designated or occupied by two families.” This would include a duplex dwelling, a dwelling which has one family unit above another, and a double dwelling unit which has one family unit beside the other.*

(C) *The city shall collect trash and garbage on a weekly basis from multi-family dwellings where such dwellings consist of three or fewer families and are located on a public right-of-way, provided however, that the city shall continue to collect trash and garbage from any multifamily dwelling consisting of four families, which received trash collection service on October 4, 2021. A multi-family dwelling is a building designed for or occupied by more than two families, exclusively for dwelling purposes. This definition includes condominiums and cooperatives.*

(D) *The city shall collect trash and garbage on a weekly basis from not-for-profit organizations provided said organizations utilize city-approved trash and garbage collection containers at their cost and are able to locate those containers pursuant to city instruction. A not-for-profit organization is an organization which has been organized and operates as a not-for-profit organization under the laws of the state and/or under the laws of the United States government or Internal Revenue Service. This would include but not be limited to churches, charitable organizations, and civic organizations. It does not include governmental buildings, schools, fraternal organizations, social clubs, or professional or trade organizations. Nothing herein shall*

*prohibit the city from collecting trash and debris at buildings, locations, parks and offices which it owns or operates.*

*(E) Absent a contractual arrangement to the contrary, the city shall not collect trash or garbage from any entity not referred to in divisions (A), (B), (C), and (D) above. This would include but not be limited to the following: business or commercial activities commonly located in a C-1 or C-2 zoning district as those districts are defined by the city code; industrial facilities and manufacturing facilities or any other use which must be located in an industrial zoning district as those districts and uses are defined in the city code; multi-family dwellings containing more than four units for rental purposes; governmental concerns; schools; physicians' offices; dental offices; hospitals; boarding houses; and structures not located on a public right-of-way.*

*(F) Mobile homes which are used as single-family residences and are lawfully located on real estate adjacent to a public right-of-way meet the definition of single-family dwelling referred to in division(A) above. Such residences shall be entitled to weekly trash pick up in the same manner as all other single-family residences.*

*(G) Nothing herein shall prevent the city from entering into contractual relationships with third parties, one purpose of which is to provide trash collection services to those third parties for proper consideration by the third parties to the city for such service. However, the City has no obligation to enter into any such contract with any third party and the city shall only do so if it determines that it is its best interest to engage in such an arrangement.*

*(H) All scheduled and timing of trash collection referred hereinabove by the city shall be subject to delay or change due to weather, holidays, equipment availability or failure, and manpower. Further, such collection may be suspended due to inclement weather, emergency or disaster.*

*A new Section 95.30 (c) (3) shall be added to the City Code and shall read as follows:*

*“(3) For each additional toter supplied to a property (in excess of two (2) provided without additional charge pursuant to Section 95.15): \$6.00 per toter per month.”*

**§ 95.99 PENALTIES AND ENFORCEMENT PROVISIONS.**

*(A) In addition to the penalties set forth in § 10.99, a person who violates any provision of this Chapter 95 shall be subject to immediate citation by the city Health Officer and shall be assessed a fine of no less than One Hundred Dollars (\$100.00) for each violation of this Chapter. The citation shall provide that the offending garbage, trash or litter shall be removed within 24 hours after the violation is observed. In the event it is not removed, the city may do so and the violator(s) shall be fined in an additional amount of One Hundred Dollars (\$100.00) or in the sum of expenses incurred by the City in removing the garbage, trash or litter, including the amounts paid or incurred for labor and equipment required to remove and properly dispose of the garbage, trash or litter. The Health Officer may issue no more than one warning ticket to any single offender, if he or she, in his or her discretion, deems same to be warranted.*

*(B) It shall be the responsibility of the property owner and resident or occupier of the property to comply with the terms of this chapter. Any violation shall be assessed against both the property owner, and occupant or resident and both shall be considered jointly and severally liable for any fine, penalty, or costs imposed by this action. Any citation for any violation of this chapter may be served upon the property owner and/or the property resident or occupant. Service of the citation may be made by posting a copy of the citation in a conspicuous manner at the residence and*

*mailing a copy to the owner at the address appearing for the owner in the records of the County Auditor for tax purposes.*

2. Any provision of the City Code, which is not specifically amended by this Ordinance, shall continue in effect.

**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 of law 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 required by law and shall be enforced upon the posting of appropriate signage.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2021.

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

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ATTEST:

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Brenda Grider, Clerk-Treasurer

APPROVED BY ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

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