

ORDINANCE NO. 3785

AMENDMENTS TO CHAPTER 95 OF THE NEW CASTLE CITY CODE

WHEREAS, the City of New Castle has by the adoption of Chapter 95 (Ordinance No. 3583 passed November 16, 2009) adopted provisions regarding the collection of garbage, trash and refuse; and,

WHEREAS, it has been determined that certain changes in this chapter should be amended in order to protect the public health, safety and welfare.

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL of the City of New Castle that the following provisions of the New Castle City Code, Chapter 95, Sections 95.01 through 95.31 are hereby amended or added:

1. Section 95.01, Definitions, shall be amended to include the following provisions:

"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 City Building Inspector and the Inspector's appointees.

2. Section 95.08, Heavy Trash (B), shall be amended as follows:

Other heavy trash items will be removed on specific dates announced by the Street Department not more often than twice annually. Such City-wide heavy trash pickups will be scheduled and announced at least 7 days prior to the pick up. No more than 4 items may be placed at curbside for heavy trash pick up on those scheduled occasions. Only heavy trash items generated at the residence shall be placed at curbside. Heavy trash items placed at curbside by individuals not residents of the City of New Castle shall not be picked by the City and shall be considered in violation of this chapter and subject to fine and penalty as set forth in Section 95.32. Heavy trash placed at curbside in opposition to this Section will be considered litter and shall be cited by the City as set forth in Section 95.31.

3. Section 95.15 Trash Containers, shall be amended as follows:

(A) Type. The City shall determine the type, style, nature, and size of trash containers to be used by those wishing to utilize weekly City trash collection service. The City shall, on or before December 31, 2009, provide all those authorized to utilize City trash collection services with one 96-gallon container (hereinafter "toter"). Upon request an additional toter shall be available to residents at no additional cost. Those containers (toters) shall be the property of the City of New Castle. 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.

4. Section 95.26 Supervision of Collection (B) shall be amended as follows:

(a) The Street Commissioner shall report all violations in regard to garbage, trash or litter to the City Health Officer, who shall be responsible for the prosecution of any such violations in accordance with Section 95.31 hereof.

(b) Paragraph (C) and paragraph (D) of Section 95.26 are hereby repealed and shall be deleted from said chapter.

5. Section 95.31 shall be amended as follows:

The title to said Section shall be changed to "Transporting Trash to be Covered" (omission of the word "Trucks" therefrom). Said provision shall be amended and read as follows:

It shall be unlawful for any and all persons who collect trash or garbage and transport the same over the streets of the City to do so without a tarpaulin or cover sufficient to prevent same from blowing or falling upon public or private property or from becoming a traffic hazard.

6. Section 95.32, Penalties and Enforcement Provisions.

(A) Anyone who violates any provision of this chapter shall be subject to the penalty set forth in Section 10.99 of the New Castle City Code.

(B) In addition to the penalties set forth in Section 10.99, a person who violates this chapter shall be subject to immediate citation by the City Health Officer. There shall be a fine of not less than \$100.00 for said violation. Further, the citation shall provide that the offending garbage, trash or litter shall be removed within 24 hours of the violation. In the event it is not removed, the City may do so and the violator will be charged an additional fee of not less than \$100.00 which shall reimburse the City for the costs of removal of such garbage, trash or litter.

(C) It shall be the responsibility of the property owner and resident or occupier of the property to comply with the terms of this ordinance. 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 ordinance 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 Henry County Auditor for tax purposes.

7. Any provision of Chapter 95 of the New Castle City Code not amended or changed by this ordinance shall remain in full force and affect.

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 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 upon passage and publication as provided for by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS ____ DAY OF _____, 2018.

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

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NAY

ATTEST:

Clerk-Treasurer

APPROVED BY ME THIS ____ DAY OF _____, 2018.

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