

ORDINANCE NO. 3881

**AN ORDINANCE AMENDING SECTION 95.16
OF THE NEW CASTLE CITY CODE**

WHEREAS, the City of New Castle has previously adopted Chapter 95 of the New Castle City Code, which regulates the disposal of trash and garbage within the City; and,

WHEREAS, the City provides trash pickup and disposal service to single family dwellings, and certain multi-family dwellings; and,

WHEREAS, the City supplies customers receiving trash pickup with one or more containers ("toter") for disposal of trash; and,

WHEREAS, the City Code should be amended to provide that person who willfully or negligently damages a toter supplied by the City should be responsible for its costs of replacement or repair and that fine should be imposed for any person who willfully damages any toter supplied by the City.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of New Castle, Indiana, as follows:

Section 95.16 of the City Code shall be amended to read as follows:

Section 95.16 *REMOVAL OR DESTRUCTION OF CONTAINERS RESTRICTED*

(A) Any person who negligently, recklessly or intentionally damages, removes or destroys any toter supplied by the City for the purpose of collection of trash shall be liable to the City for the cost of the repair or replacement of the toter that is damaged, removed or destroyed.

(B) If the person who damages, removes or destroys a toter, as described in paragraph (A) above, is a user of the City's Utility Service, is the occupant of a property under a lease with a user of the City's Utility Service, or is an occupant of a property with permission of a user of the City's Utility Service, the cost of the repair or replacement shall be assessed as a charge on the user's Utility bill, subject to the following procedure:

(i) the Street Commissioner shall provide written notice to the user, at the user's billing address, that the Street Commissioner intends to assess a charge for the repair or replacement of a toter. The written notice shall set forth the reasons the Street Commissioner believes the user is responsible for the cost of repair or replacement of the toter and the amount of the repair cost or replacement cost that will be assessed as a charge on the user's utility bill;

(ii) the user shall have a period of ten (10) days to request, in writing, a meeting with the City's Utility Impact Review Board to review the Street Commissioners' assessment of charges imposed for the damage or destruction of a toter. The review shall occur at the next regular meeting of the Utility Impact Review Board. If the user does not request a meeting with the Utility Review Board, the assessment of charges shall be final.

(iii) If a user requests a meeting with the Utility Impact Review Board, the Street Commissioner shall provide the Utility Impact Review Board with the reasons why the Street Commissioner believes the user should be assessed charges for the damages or destruction of a toter. During the meeting, the user will have the opportunity to present evidence and information to the Utility Impact Review Board as to why the user believes the user should not be assessed charges for the damage or destruction of a toter or why the amount of the proposed charges should not be assessed.

After hearing from the Street Commissioner and the user, the Utility Impact Review Board shall render a decision, during the meeting, as to whether charges will be assessed

against the user and the amount of the charges assessed against the user. The decision of the Utility Impact Review Board shall be final.

(iv) Charges assessed against the user for the damage, removal or destruction of a toter shall be assessed on the user's next monthly utility bill following the assessment of charges becoming final as described above.

(C) Any person who recklessly or intentionally removes, injures or destroys any toter supplied by the City for the collection of trash, in addition for being responsible for the cost of repair or replacement of the toter, shall be fined in an amount of no less than two hundred dollars (\$200.00).

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 upon passage and publication as required by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS ____ DAY OF _____, 2022.

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

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NAY

ATTEST:

Brenda Grider, Clerk-Treasurer

APPROVED BY ME THIS ____ DAY OF _____, 2022.

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

