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New Castle, IN Code of Ordinances

## **CHAPTER 95: GARBAGE, TRASH, AND REFUSE**

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### **GENERAL PROVISIONS**

#### **§ 95.01 DEFINITION.**

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

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

('80 Code, § 11-1)

### **§ 95.02 CERTAIN DEPOSITS PROHIBITED.**

For the purpose of promoting the health and comfort of the citizens and the cleanliness of the city, and preventing noxious and offensive odors, therein, or the creation of public or private nuisances, it shall be unlawful for any person to throw out, empty, or deposit or permit to remain on any lot, ground, premises, street, alley, or other public highway within the corporate limits of the city, any kitchen slops, vegetable or animal waste, parings, refuse, and offal, commonly known as garbage, or any tin cans, ashes, paper, glass, crockery or other trash, rubbish, or refuse. All garbage shall be carefully deposited in garbage vessels as hereinafter described in §§ 95.15 and 95.16, and shall be systematically collected, removed, and disposed of.

('80 Code, § 11-2) (Am. Ord. 3583, passed 11-16-09) Penalty, see § 10.99

### **§ 95.03 SCATTERING TRASH; DUTY OF OWNER TO KEEP STREET CLEAR OF TRASH.**

(A) It shall be unlawful for anyone to scatter or permit trash of any kind to be scattered on any lot, ground, premises, street, alley, or any public highway within the city limits.

(B) It shall be the responsibility of the property owner in any residential area to keep his half of the street and alley clear of all trash that is not in proper containers.

('80 Code, § 11-6) Penalty, see § 10.99

### **§ 95.04 DEPOSITS IN CHARITABLE ORGANIZATIONS' COLLECTION BOXES.**

It shall be unlawful for any person to place, abandon, deposit, or leave any article, package, bundle, or thing at or near any charitable organizations' collection box in the city without placing such article, package, bundle, or thing inside such collection box.

('80 Code, § 11-7) (Ord. 2036, passed 9-20-73) Penalty, see § 10.99

### **§ 95.05 VIOLATIONS OF CHAPTER PROHIBITED.**

No person shall violate any of the sections of this chapter in respect to garbage or fail or refuse upon three days' notice by the garbage collectors, the City Health Officer, or sanitary inspector to so remove and dispose of their garbage.

('80 Code, § 11-8(a)) Penalty, see § 10.99

## **§ 95.06 DISPOSAL OF MEDICAL WASTE AND HUMAN DISCHARGE.**

The disposal of medical waste and human discharge shall be governed as follows:

(A) Definitions.

"APPROVED MEDICAL CONTAINER." A container approved by the city, the Henry County Board of Health or other agency authorized to give approval.

"HUMAN DISCHARGE." Includes, but is not limited to, bodily waste, urine, blood, saliva, partially digested food or skin.

"MEDICAL WASTE." Any medical instrumentality or substance used in the treatment or care of human or animal illness or injury. This includes, but is not limited to, syringes and needles, gauze and bandages, fluid bags, catheters, swabs, or cotton used in the care or treatment of human injuries or illnesses.

"SEALED." Properly and securely closed so as to prevent contents from easily spilling or removal without intentional opening.

(B) General provisions.

(1) It shall be unlawful to dispose of any form of medical waste or human discharge without placing same in an approved container which prevents third party contact with said items or waste. In the case of disposable diapers, gauze, bandages, rags or towels, tubing, cotton swabs and cotton, and other similar items, an approved container would be a sealed plastic bag or other container that prevents contact by third parties with the items contained therein.

(2) Syringes, needles, glass items, razor blades, scalpels, and other similarly sharp objects must be disposed of in a sealed container that cannot be penetrated by the object contained therein.

(C) Enforcement.

(1) In the event it is determined that an individual has violated this section, the individual shall be subject to a fine not exceeding \$100 and shall further be responsible for the reimbursement to the city of any costs incurred as a result of said violation. Said costs include, but are not limited to, those associated with the treatment and testing of any employee injured as a result of said violation.

(2) In the event of a violation of this section, the city may, at its discretion, discontinue the pick up of trash and garbage from the address or location where the violation occurred. Said termination of curbside trash and garbage pick up shall continue until the city receives assurances that said violation shall not occur.

(Ord. 3379, passed 2-17-04)

## **§ 95.07 LEAVES AND YARD WASTE.**

(A) General rules. Leaves and yard waste must be bagged and placed in a "toter" consistent with the rules set out in § 95.15.

(B) Brush. Brush and limbs collected and cut by the owner of the residence and not a third-party contractor must be cut and placed at curbside. Arrangements must be made by contacting the city Street Department for the pick up of such materials on an individual basis.

(C) Autumn leaf removal. Between October 1 and December 31 each year, leaves may be raked to the curbside to be vacuumed by the city, or bagged and placed at curbside for manual pick-up by the city. The city shall coordinate the activities and responsibilities of the Water Pollution Control Department and the Street Department with regard to leaf removal.

(Ord. 3583, passed 11-16-09) Penalty, see § 10.99

### **§ 95.08 HEAVY TRASH.**

(A) The city shall not collect tires, batteries, toxic materials, poisonous materials, materials that create an environmental hazard as determined by the Environmental Protection Agency and 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) Other heavy trash items will be removed on specific dates announced by the Street Department not more often than monthly, on an individual basis from owner-occupied residential property at no additional cost. The owner must contact the city Street Department and make arrangements for the removal of such items. Heavy trash placed at curbside in opposition to this section will be considered litter and may be cited by the city.

(Ord. 3583, passed 11-16-09) Penalty, see § 10.99

## **GARBAGE AND TRASH CONTAINERS**

### **§ 95.15 TRASH CONTAINERS.**

(A) Type. The city shall determine the type, style, nature, and size of trash container to be used by those wishing to utilize weekly city trash collection services. The city shall on or before December 31, 2009, provide all those authorized to utilize the city trash collection services with one 96-gallon container (hereinafter “toter”). Upon request an additional 48-gallon container shall be available to residents at no additional cost. Those containers shall be the property of the city. Any additional trash containers or subsequent trash containers acquired by those utilizing city services shall be rented for a fee to be determined by the Board of Public Works and Safety. Only those containers approved and provided by the city will be emptied under the provisions of this chapter.

(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 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.”

(D) Additional toters. The city shall not collect more than four toters from any single residential user without assessing an additional charge to be determined contractually between the city and the user. That additional charge shall be determined based upon the cost incurred by the city.

(Ord. 3583, passed 11-16-09) Penalty, see § 10.99

***Cross-reference:***

*Location restriction for containers, see § 95.27*

## **§ 95.16 REMOVAL OR DESTRUCTION OF CONTAINERS RESTRICTED.**

It shall be unlawful for any person to remove, injure, or destroy any garbage or trash container prepared and located as provided in this chapter, belonging to any other person.

(’80 Code, § 11-5) Penalty, see § 10.99

## **COLLECTION; DISPOSAL**

### **§ 95.25 COLLECTION BY CITY; EXCEPTIONS.**

(A) The city shall systematically collect, remove, and dispose of the garbage of all citizens who shall faithfully comply with provisions of this chapter, at least once each week, but all persons who shall fail or refuse to comply with the provisions of this chapter, shall promptly remove and dispose of their own garbage at their own expense, and in a sanitary manner.

(B) The city shall systematically collect, remove, and dispose of all trash of all citizens of the city, except as otherwise provided in this chapter.

(C) 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.

(D) All containers shall be removed from the collection site within 12 hours after the collection service has been performed.

(E) Subsections (C) and (D) above shall not apply or be enforceable when collection is delayed by the city due to holidays or inclement weather.

('80 Code, § 11-20) (Am. Ord. 3194, passed 7-6-99)

#### **§ 95.26 SUPERVISION OF COLLECTION.**

(A) For the purpose of properly collecting and disposing of all garbage and trash referred to in this chapter, the authority for collecting the same is placed in the Street Department of the city, and the Street Commissioner is to direct and supervise the collection of such garbage and trash. The Street Commissioner, as far as the collection of garbage is concerned, is to work with and under direction of the City Health Officer.

(B) The Street Commissioner shall report all violations of this chapter in regard to garbage to the City Attorney.

(C) It shall be the responsibility of the Street Commissioner and the City Health Officer to report all violations of this chapter in regard to trash to the Board of Public Works and Safety. It shall be the responsibility of the Board of Public Works and Safety to prosecute such violators in the courts by affidavit.

(D) The fine to be imposed for violation of § 95.25 (C) and (D) shall be \$25 for each occurrence.

('80 Code, § 11-21) (Am. Ord. 3194, passed 7-6-99)

#### **§ 95.27 LOCATION RESTRICTION FOR CONTAINERS.**

It shall be unlawful for any person to sink or lower any garbage container into or beneath the surface of any alley, street, or other public highway.

('80 Code, § 11-22) (Am. Ord. 3583, passed 11-16-09) Penalty, see § 10.99

#### **§ 95.28 REMOVAL OF GARBAGE BY UNAUTHORIZED PERSONS.**

It shall be unlawful for any person except legally appointed and selected employees of the city to gather within or take from any alley or any public thoroughfare or to take from, or enter upon the premises of any person within the city for the purpose of gathering therein or taking therefrom any garbage, unless such person shall first obtain the consent and permission of the occupant of any such premises to remove the garbage therefrom.

('80 Code, § 11-23) Penalty, see § 10.99

#### **§ 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 four or fewer families and are located on a public right-of-way. 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) The term “public right-of-way” referred to hereinabove and throughout this section shall mean any street, road, highway or alley which has been dedicated and improved and is currently used by the public as a right-of-way. As stated herein this would include highways, roads, streets, and alleys.

(G) 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.

(H) 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.

(I) 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 natural or man made emergencies or disasters.

(Ord. 3583, passed 11-16-09) Penalty, see § 10.99

**§ 95.30 SEWAGE WORKS RESPONSIBLE FOR SOLID WASTE COLLECTION; FEES.**

(A) All responsibilities for the collection and disposal of solid waste of the city shall be carried out by the city Sewage Works Department, commonly referred to as the Water Pollution Control Department of the city.

(B) The term customer or user in this section shall be defined as the property owner of real estate that is entitled to receive solid waste collection by the utility pursuant to § 95.29.

(C) A solid waste collection and disposal user fee is hereby established for all property owners who have the services set forth in § 95.29 available to them. Said user fee shall be considered an amendment to the schedule of rates and charges to be collected by the city from owners of property served by the Sewage Works of the city who have available to them the service of solid waste collection. Said rates and charges collected shall be from the owners of each and every lot, parcel of real estate, or building that is entitled to receive solid waste disposal services pursuant to § 95.29. Such rates and charges shall be as follows:

(1) Charge for all property owners who reside within the city limits and are entitled to receive solid waste collection services pursuant to § 95.29: \$12.00 per month.

(2) Charge for all recipients of the city solid waste disposal service possessing a two cubic yard dumpster: \$40.00 per month.

(D) If a toter or dumpster has been delivered to a property owner by the city, that property owner shall be deemed to be in possession of that toter or dumpster and charged accordingly.

(E) In the event the City has developed contracts with third parties pursuant to § 95.29, the city must assess those third parties a user fee equivalent to those fees set out hereinabove.

(F) The user fee and rate schedule hereby established shall be added as an additional billing line to the monthly utility statement prepared by the city and mailed to its utility customers.

(G) In the event a property owner defaults and fails to pay the user fee set forth hereinabove, the city may collect such fees and recover all costs of collection, including reasonable attorney fees, and may further seek to have a lien placed upon the real estate which has benefitted by the city's solid waste disposal service in the same manner as other sewage works liens are statutorily imposed upon real property.

(H) (1) All money collected pursuant to this section shall be deposited in a cumulative non-reverting sanitation fund, which is hereby created. The proceeds of said fund shall be used for the following purposes only:

(a) The operation of the solid waste collection service provided by the Sewage Works Department. This includes but is not limited to the payment of salaries, payment of insurance, payment of other benefits, purchase of fuel, purchase of supplies, payment of dumping fees, maintenance of vehicles, utilities, and other customary and normal costs incurred in operating a curbside solid waste collection system as established by this chapter and § 95.29.

(b) The purchase or lease purchase of capital equipment items including but not limited to trucks utilized for the collection of solid waste, trucks and equipment utilized for the collection of leaves, and trucks and equipment utilized for the collection of heavy trash, brush, and similar items.

(c) Costs incurred in administration of the solid waste collection system, costs incurred in collection of fees, billing costs, and clerical costs all associated with the solid waste collection program.

(d) Costs associated with curbside recycling programs and public education regarding recycling and solid waste reduction.

(2) It is the intent of the City Council that this fund be used solely for the operation of solid waste collection and solid waste recycling. These funds shall not be used for other utility purposes unless specifically approved by ordinance of this Council.

(I) The fees established by subdivision (C)(1) of this section shall be reviewed annually by this Council, and the first such review shall take place during the first quarter of calendar year 2011, and a like review shall occur in the first quarter of every year thereafter.

(J) The Board of Public Works and Safety is hereby granted authority to request proposals from third-party contractors for the provisions of services to be rendered pursuant to § 95.29.

(K) In no event shall a contract be entered into between the city and a third-party provider for the services outlined in § 95.29 absent prior approval by resolution of this Council.

(L) (1) Payments for utility services shall be applied in the following manner:

(a) First, to any delinquency owed on prior month's bills.

(b) Second, to the current water billing.

(c) Third, to the current sewer billing.

(d) Fourth, to the current storm water billing.

(e) Fifth, to the current solid waste collection fee.

(2) Water and sewer services shall not be terminated by the city provided payment of fees and charges for those services are kept current. This does not limit the ability of the city to seek collection and payment for utility services including solid waste collection services with the remedies provided it by this section, law, and in equity.

(M) Upon written request by a customer to discontinue trash service, the city shall suspend billing for that service to the customer, provided that the customer also must discontinue or terminate water service to the property for the same length of time. The property owner shall not resume water service without also resuming trash service. The written notice referred to herein must be provided to the city utility billing office not less than 14 days prior to the commencement of the billing suspension. In order to suspend billing and trash collection, the city must receive at least 14 days notice of the customer's intention in this regard.

(Ord. 3598, passed 6-7-10)

**§ 95.31 TRUCKS TRANSPORTING TRASH TO BE COVERED.**

It shall be unlawful for any and all persons who collect trash and transport the same over the streets of the city to do so without a tarpaulin or cover sufficient to cover the entire truck bed as to prevent the blowing or falling of trash therefrom.

('80 Code, § 11-27) Penalty, see § 10.99