

ORDINANCE NO. 3657

**AN ORDINANCE OF THE CITY OF NEW CASTLE  
THE SEWER USE ORDINANCE**

WHEREAS, the City of New Castle operates a Wastewater Treatment Plant which is governed by local ordinance and regulated by State (the Indiana Department of Environmental Management a/k/a IDEM) and the Federal Government (the United States Environmental Protective Agency a/k/a EPA); and,

WHEREAS, the City has, by the passage of Ordinance 3414 on September 6, 2004, adopted the requirements and standards of the State of Indiana and the United States Government regarding the treatment of wastewater. That ordinance is commonly referred as the Sewer Use Ordinance; and,

WHEREAS, there have been new regulations and scientific advancements that necessitate a change and re-adoption of said Sewer Use Ordinance; and,

WHEREAS, the City has conducted scientific and engineering evaluations in order to determine the extent and nature of those changes. Those evaluations can be found in a document entitled "Local Limits Evaluation, City of New Castle Industrial Pre-treatment Program of September 1012", and,

WHEREAS, it is in the best interest of the public health, safety and welfare of the citizens of the City to adopt the new Sewer Use Ordinance and amend or modify the existing Sewer Use Ordinance accordingly.

NOW THEREFORE IT IS ORDAINED BY THE COMMON COUNCIL of the City of New Castle, that the attached ordinance with sets forth uniform requirements for users of the publicly owned treatment works for the City of New Castle and enables the City of New Castle to comply with all applicable and state and federal laws, including the Clean Water Act (33 US Code Section 1251, et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations Part 403), is hereby passed and adopted as the City of New Castle Sewer Use Ordinance. That the body and contents of said ordinance is attached hereto in its entirety and incorporated herein as if set forth in full.

IT IS FURTHER ORDAINED BY THIS COUNCIL that the Board of Public Works and Safety must adopt an Industrial Pretreatment Program Enforcement Response Plan (ERP). This plan should provide a protocol for responding to industrial pretreatment violations consistently and systematically. The ERP adopted by the Board must contain a provision for the notification of industry explaining how the Publically Owned Treatment Works (POTW) responds to pretreatment violations. It should further set up a method by which instances of non-compliance will be investigated, the enforcement actions to be taken by the POTW, and identify the officials responsible for taking that action, and reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards. The ERP should provide for consistent enforcement response for similar violations 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 in accordance with state and federal laws.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2012.

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

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ATTEST:

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Clerk-Treasurer

APPROVED BY ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2012.

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



To: Dave Copenhaver

C: City Council, City of New Castle, Indiana

From: Keith Bryant, PE  
Kelly LaValley, PE

Date: September 11, 2012

Re: Summary of Changes to City Sewer Use Ordinance

## Message

As required by the City's NPDES Permit and the Agreed Order with the State of Indiana, the City's Sewer Use Ordinance (SUO) has been updated for compliance with State and local law including the pretreatment streamlining revisions of 327 IAC Article 5. A summary of the proposed changes to the City's existing 2004 SUO is below. Specific minor modifications relating to format or updates to SUO section numbers have not been included in the summary below.

1. Sections 1.3 and 1.4 - Additional abbreviations and definitions were added to comply with streamlining revisions and to define terms that are included within the Ordinance.
  - a. The definition of U.S. EPA was deleted as this definition is covered under EPA.
  - b. The existing definition for "User or Industrial User" has been changed from "A source of indirect discharge" to "A source that discharges, causes or permits the discharge of wastewater into the sewer system."
2. Section 2.1.B - Specific Prohibitions were revised as follows:
  - a. pH threshold reduced to 5.0 from 5.5 to conform with EPA recommendations.
  - b. Section 2.1.B.3 - a maximum dimension of solids to the POTW is established as recommended by EPA.
  - c. Sections 2.1.B.4, 5, 6 the term "will" has been changed to "may" to further protect the WWTP.
3. Section 2.2.B was added to allow the POTW flexibility in expression of limits in various terms.
4. Sections 2.2.E, F, G, H, I, J were added to SUO for clarity and conformance with National Categorical Pretreatment standards and relate to net/gross adjustments, expression of concentration limits as mass limits, conversion of mass limits to concentration limits, notification of production level change for production based limits. Existing SUO includes these items by reference to relevant federal regulations.
5. Section 2.3 added to ensure compliance with State pretreatment standards.
6. Section 2.4.B has been changed to reflect local limits developed in Local Limits Evaluation.
7. Section 2.4.C has been added to include Best Management Practices for compliance with streamlining requirements.

8. Section 2.8 was added to SUO to protect the POTW against TTOs without establishing specific local limits. The specific numeric limit for TTOs for users not regulated by a specific categorical pretreatment standard is based on City's 2002 SUO.
9. Section 3.3 –language added to control Slug Discharges as recommended by EPA.
10. Section 4 – “Individual” added to the term “Wastewater Discharge Permit” in multiple locations of this section for clarity.
11. Section 4.5.A.1 has been revised to expand on requirements for individual wastewater discharge permit applications based on permit application contents as recommended by EPA.
12. Section 4.6 has been revised in that the location of the certification statement has been relocated in the SUO and reference to this section is used in lieu of the statement itself. Additional language is added to provide for changes in industrial facility position of responsibility and the certification statement.
13. Section 5.2.A is modified to include permit requirements for issuance, expiration and effective dates; best management practices, and slug discharge control.
14. Section 5.3.A was added for conformance to EPA requirements for public notification of issuance of pretreatment permit prior to issuance.
15. Section 6.1.B has been revised to expand upon the measurement of pollutants required in baseline monitoring reports as recommended by EPA.
16. Section 6.4.A – dates for SIUs to submit periodic compliance reports have been changed to coincide with NPDES permit quarterly noncompliance report. BMP compliance requirements were added in accordance with streamlining revisions.
17. Section 6.5 – the notification time period for IU notification to POTW of changed conditions was changed from 3 days to 30 days.
18. Section 6.5.A – a statement was added allowing the POTW additional time to review if an IU is required to submit items included in a discharge permit application for changed conditions as described in 6.5.
19. Section 6.6 has been modified to include reports of potential problems from slug discharges.
20. Sections 6.10 and 6.11 have been modified to include additional sampling and analytical techniques for reporting requirements as recommended by EPA.
21. Section 7.1 has been revised to include authority to have the POTW document inspection activities; require certified calibration of devices to measure wastewater flow and quality; establishes requirements for the location of IU monitoring facilities; and provides the POTW authority to conduct inspection activities without interference and without signing any access agreement or similar to enter IU grounds.
22. Section 9 – Additional requirements were added to the requirements of publication of users in significant noncompliance.
23. Section 10.1 was added to allow for informal notice to IU of noncompliance as an administrative enforcement remedy to agree with remedies contained in the ERP.



24. Section 10.5 was modified to include compliance schedules and added other requirements that may be contained in compliance orders for consistency with noncompliance remedies contained in the ERP.
25. Section 10.7 was modified to ensure that administrative fines contained in the SUO conform to those specified in IC 36-1-3-8. It also provides that the User is responsible for various costs incurred by the City due to IUs noncompliance.
26. Section 11.2 was revised to ensure that civil penalties are in an amount that complies with IC 36-1-3-8. A statement was also added that the POTW may recover fees from the IU from fines and fees levied by the State and/or federal authorities.
27. Section 11.3 – Paragraphs were added to provide the authority to the City to refer to the State or EPA for criminal prosecution for noncompliance as State law does not allow for criminal sanctions for violations of local ordinances. Paragraphs detailing specific criminal prosecutions contained in the existing SUO have been deleted as these paragraphs are not enforceable by the City.
28. Section 12.2 – added an exclusion for section 2.1(B)(8) (specific provisions) as federal regulations do not allow affirmative defenses to be applied to trucked or hauled pollutants.
29. Section 13.1.E was added to allow the POTW to recover administrative and legal costs associated with enforcement activities taken by POTW.