

ORDINANCE NO. 3319
AN ORDINANCE MANDATING SEPARATION
OF UNDERGROUND UTILITY LINES

WHEREAS, the City of New Castle, Indiana maintains and operates a Water Utility and Sewer Utility, and

WHEREAS, said utilities have collection and distribution systems which necessitate underground water and sewer lines, and

WHEREAS, public right-of-ways and easements are utilized for the placement of such underground lines, and

WHEREAS, other utilities from time to time utilize such public right-of-ways and easements,

NOW THEREFORE be it ordained by the Common Council of the City of New Castle that, absent a showing and finding of necessity, third party underground utility lines must maintain a distance from City water and sewer utility lines as follows:

1. A vertical distance of eighteen (18) inches from City water and sewer lines.
2. A horizontal distance of twenty-four (24) inches from City water and sewer lines.

This distance is necessary in order to properly operate and maintain City underground water and sewer lines.

IT IS FURTHER ORDAINED by the Common Council of the City of New Castle that a third party utility may seek a "finding of necessity" from the New Castle Utility Impact Board. The procedure for seeking a "finding of necessity" shall be as follows:

1. The third party utility shall submit to the New Castle Office of Building Inspection a written request setting forth the need for a finding of necessity which varies from the above distance requirements. A set of detailed drawings and site plans must accompany that written request.
2. That the New Castle Utility Impact Board will review the request at its next regular meeting and make a finding thereon. If it determines that (a) a necessity exists for varying the distance requirements set forth herein and (b) the variance will not have an adverse impact on the ability of the City to provide potable drinking water to its citizens, and (c) the variance will not adversely impact the ability of the City to treat waste water or the waste water piping system, and (d) will not have an adverse impact on the health or safety of the citizens of the City of New Castle, the variance shall be granted. Further, the Board is given the authority to expedite this procedure and waive any of the above procedural requirements, in the event an emergency exists which requires immediate attention.

IT IS FURTHER ORDAINED by the Common Council of the City of New Castle that should a third party utility violate this ordinance, the offending party shall immediately cease and desist from such conduct and bring the project into compliance with the specifications set out above or obtain a "finding of

necessity" and further the violating utility shall be subject to fine of twenty-five dollars (\$25.00) for such violation. A new violation shall be considered to occur every twenty-four (24) hour period that the aforementioned separation is not maintained. Further, the violating third party utility shall be responsible for reimbursement to the City of New Castle for any costs incurred by it that would not otherwise occur as a result of the violation of said spacing requirement.

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 immediately upon passage and publication.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS 15th DAY OF July, 2002.

Sherman Boles
Sherman Boles, Presiding
Officer, Common Council, City
of New Castle, Indiana

AYE

NAY

<i>Donna K. York</i>	_____
<i>Bobby Goodrum</i>	_____
<i>Ray Plunk</i>	_____
_____	_____
<i>Louise Brice</i>	_____
_____	_____
<i>Tom D. Fipp</i>	_____
<i>Richard Hahn</i>	_____

ATTEST:

Janice Lavarney
Janice Lavarney,
Clerk-Treasurer

APPROVED BY ME THIS 15th DAY OF July, 2002.

Sherman Boles
Sherman Boles, Mayor of the City
Of New Castle, Indiana