

ORDINANCE NO. 3428

**AN ORDINANCE AMENDING NEW CASTLE CITY
CODE SECTION 37.31 and 37.34 REGARDING THE EXTENSION OF
CITY WATER AND SEWER SERVICES
TO AREAS OUTSIDE THE CORPORATE LIMITS OF THE CITY**

WHEREAS, Ordinance Numbers 3277 and 3325 establish parameters for the extension of City services including water and sewer services to areas outside the corporate boundaries of the City of New Castle, and

WHEREAS, it is the desire of the City to encourage residential development within close proximity to the corporate boundaries, and

WHEREAS, the comprehensive plan of Henry County, Indiana as one of its objectives seeks "To adopt development guidelines and various development techniques that protect the rural character, open spaces and preserve farm land within the County and rural communities", and

WHEREAS, such objectives can best be met when developers utilize the services available by the City of New Castle and locate such developments in close proximity to the City, and

WHEREAS, guidelines should be established for the extension of City services to residential subdivisions, and

WHEREAS, individual "P.I.L.O.T." agreements or contracts as referred to in Ordinance 3277 are not practical when applied to single family residential developments.

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE that Ordinance 3277 and Ordinance 3325 shall be amended by adding the following provisions to the New Castle City Code regarding the extension of services to residential subdivisions:

1. Application. This ordinance shall only be applied to the extension of City services to residential development. The extension of City services to commercial, industrial and governmental development shall continue to be governed by the provisions of Ordinance 3277 and its subsequent amendments without change by this Ordinance.

2. Provision of Services. The City of New Castle may provide water and sewer utility service to residential development located outside of its corporate limits provided the following conditions and terms are met:

A. The owner or developer of the residential development complies with the provisions of Ordinance Number 3325, or

B. The owner or developer shall comply with the following:

i. Incur all costs associated with the extension of the City utility from its preexisting

termination point to the farthest edge of the developer's property from the corporate boundaries of the City of New Castle. All costs include but are not limited to the cost of the installation of forced main or gravity main, the cost of installation of all laterals, the cost of installation of any lift stations, grinder pumps, manholes, fire hydrants where applicable and connections or tap-ons, and

ii. Provide a maintenance bond or other form of security for the City of New Castle as to be approved by its Board of Public Works and Safety to insure that the public works installed by the developer are properly constructed and will be maintained at the developer's cost for a period of not less than three (3) years, and

iii. All public works referred to above and installed by the developer are approved by the City of New Castle prior to construction, during construction, and after construction. Further, the developer must conform to all provisions of New Castle City Code 37.31(B)(3), and

iv. the developer or owner must conform to the provisions of New Castle City Code Section 37.31(A) and 37.31(B)(1). The City shall also require individual homeowners who wish to utilize City water or City sewer services to individually comply with New Castle City Code Sections 37.31(A) and 37.31(B)(1).

3. Utility Connection Fees and/or Capacity Fees: Nothing herein shall prevent the City of New Castle from establishing and collecting connection fees or capacity fees. The establishment of such fees and their application shall be established by the passage of independent ordinances or resolutions of the City of New Castle.

4. Extension of Services are Discretionary. Nothing herein shall require the City to extend services beyond its corporate limits and the City's decision to do so shall be within its sole discretion without regard to cause.

5. Requirements Regarding Information to be Provided. Prior to the extension of services, the developer or owner must provide the City with the following information:

A. A copy of the deed or other document giving the owner title to the subject site.

B. A legal description of the subject site prepared by a registered land surveyor.

C. A site plan or drawing of the site in question prepared by registered land surveyor.

D. A site plan showing all proposed improvements including calculations showing building square footage in the use of the buildings.

E. A layout of the proposed utility line. This will require a drawing of all lateral lines to be installed and collector lines or mains for water and sewer utilities. It should further show all fire hydrants to be installed.

F. A copy of the last tax assessment statement for the subject site received from the Henry County Auditor.

G. Name, address and telephone number of consulting engineers employed to design the utility extension project and/or development of site.

H. Area map showing location of site and distance to corporate limits of the City of New Castle.

I. Delivery of sufficient financial data to demonstrate an ability to properly install and construct utility expansion lines and facilities as same may be requested by the City of New Castle's Board of Public Works and Safety.

J. A professional estimate of the maximum monthly usage requirement for water consumption and wastewater discharge anticipated by the proposed development.

K. A comprehensive list of any City services desired by the developer or owner which would include water utility extension, wastewater utility extension, fire protection, police protection, street maintenance, including snow removal, bus service, garbage and trash removal.

6. Extension of City Services Other than Water and Sewer Services. In the event the developer/owner identifies the need for additional City services other City utility (water and sewer) services, the City at its discretion may extend such services provided the developer or owner execute an agreement with the City pursuant to the provisions of Ordinance Number 3277 as set forth in New Castle City Code Sections 37.31(B), (2), (4), (5), (6), (7), (8), (9) and (10).

All provisions of New Castle City Code Section 37 as set forth in Ordinances Number 3277, 3325 and any amendments thereto shall remain in full force and effect and nothing herein shall be deemed to repeal those ordinances or provision but rather this Ordinance shall supplement said provisions.

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 as provided for by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS _____ DAY OF _____, 2005.

THOMAS NIPP, PRESIDING OFFICER
COMMON COUNCIL, NEW CASTLE,
INDIANA

ATTEST:

JANICE L. LAVARNWAY,
CLERK-TREASURER

AYE

NAY

APPROVED BY ME THIS _____ DAY OF _____, 2005.

Thomas Nipp, Mayor
City of New Castle, Indiana