

**ORDINANCE 3456  
AN ORDINANCE ESTABLISHING REGULATIONS  
FOR STORMWATER MANAGEMENT  
AND CREATING A STORMWATER UTILITY**

BE IT ORDAINED by the Common Council of the City of New Castle, Indiana that Sections 53.01 through 53.11 are hereby added to Title V of the Code of Ordinances of the City of New Castle, Indiana, to wit:

**STORMWATER UTILITY**

**Section 53.01. Purpose and Intent**

The purpose and intent of this article is to promote the health, safety and general welfare of the inhabitants of the City of New Castle, Indiana by establishing a stormwater utility sufficient to plan, control, operate and maintain the City's stormwater management system.

**Section 53.02. Definitions**

For the purpose of this article, the following definitions shall apply (words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meanings given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

**APPROVED PLANS:** Plans approved by the authorized official according to a permit and plan review which will govern all improvements made within the City that require a stormwater system or changes or alterations to the existing stormwater system.

**AUTHORIZED OFFICIAL:** Any employee or agent of the City authorized in writing by the Board to administer or enforce the provisions of this article.

**BOARD:** The Board of Public Works and Safety pursuant to I.C. 36-1-2-24(2).

**CLASSIFICATION PROCEDURE:** The method that the City uses to determine the classification of non-residential parcels may take the following forms or any combination thereof.

- a) Computation of the parcel size, pavement area, roof area, or other area using on-site measurements of the apparent outside boundaries of the parcel or impervious area in or on such developed parcel, respectively, made by the City or on its behalf.
- b) Computation of the parcel size, pavement area, roof area, or other area using the dimensions of the parcel or impervious area in or on the parcels which are set forth and contained in the records of the office of the County Assessor or Township Assessor.
- c) Computation of the parcel size, pavement area, roof area, or other area using aerial photography or



photogrammetry, or using the information data from on-site measurements of like or similar property or features or as contained in the records of the City or County.

- d) Computation of the parcel size, pavement area, roof area, or other area using data provided by the owner, tenant or developer. The authorized official may require additional information as necessary to make the determination.

CODE: The City of New Castle, Indiana Code of Ordinances.

COMPOSITE COVERAGE VALUE: The result of calculations as determined by the City that multiplies Pavement Areas times 0.90, Roof Areas times 1.00, and Other areas times 0.20 and then divides the sum of three by the Total Area of a particular parcel. Pavement Areas include aggregate, asphalt, brick, concrete, etc. that may be used for pedestrian or vehicular traffic. Roof Areas include any above ground structure. Other Areas include lawns, open water, woods, etc.

COVERAGE FACTOR: The part of the non-residential rate equation representing the relative amount of impervious area on a particular parcel. For purposes of this Ordinance, each non-residential parcel shall be assigned one of the following Coverage Factor Categories as determined by the City in accordance with the Classification Procedure:

- a) "LOW" shall mean that the composite coverage value is equal to or less than 0.5. LOW Coverage Factor is hereby established as 2.0.
- b) "HIGH" shall mean that the composite coverage value is more than 0.5. HIGH Coverage Factor is hereby established as 3.0.

NON-DEVELOPED PROPERTY: Non-developed property shall be a lot or parcel of land which is vacant or is used for agricultural purposes. This does not include parking lots, athletic fields, front back or side lawns, or lots which are used as accessory lots to residential property or non-residential property.

NON-RESIDENTIAL PROPERTY: All properties not encompassed within the definition of Residential Property, including but not limited to: commercial, industrial, retail, multi-family residential, governmental, institutional, schools and churches.

RESIDENTIAL PROPERTY: Any lot or parcel existing in the City on which a single building or mobile home is situated, containing up to and including four dwelling units.

SIZE FACTOR: The part of the non-residential rate equation representing the relative amount of surface area on a particular parcel. All surface area calculations shall be rounded to the nearest one-tenth ( $1/10^{\text{th}}$ ) of one (1) acre. For purposes of this Ordinance, each non-residential parcel shall be assigned one of the following Size Factor Categories as determined by the City:

- a) "SMALL" shall mean that a particular parcel is made up of equal to less than 1.0 acres. SMALL Size Factor is hereby established as 1.0.



- b) "MEDIUM" shall mean that a particular parcel is made up of more than 1.0 acres but less than 5.0 acres. MEDIUM Size Factor is hereby established as 3.0.
- c) "LARGE" shall mean that a particular parcel is made of more than 5.0 acres. LARGE Size Factor is hereby established as 5.5.

**STORMWATER:** The chemical compound of hydrogen and oxygen which is produced from atmospheric clouds as rain, snow, sleet, and hail.

**STORMWATER SYSTEM:** All constructed facilities, including structures and natural watercourses under the ownership, and/or control of the City, used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, streets, culverts, retention or detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Henry County Drainage Board or waters of the State of Indiana.

**STORMWATER UTILITY:** A division of the Sewage Works as defined in I.C. 36-9-1-8.

**STORMWATER UTILITY USER:** The owner of a lot or parcel within the City.

**SURFACE WATER:** Water occurring on the surface of the land, from natural causes such as rainfall, whether falling on the land in question or flowing onto the land in question.

**CITY:** The incorporated City of New Castle, Henry County, Indiana.

#### **Section 53.03. Creation of Stormwater Utility**

A stormwater utility is hereby created as part of the City Sewage Works. Said utility shall be responsible for all storm sewers and the collection and disposal of storm drainage. Said utility shall also be responsible for the implementation of all federal and state mandates regarding stormwater drainage and erosion control.

#### **Section 53.04. Governing Board**

The utility shall be governed by the Board of Public Works and Safety. This utility shall have the same governing board as that which governs the Sewage Works.

#### **Section 53.05. Area Served By Stormwater Utility:**

The corporate limits of the City of New Castle, Indiana, and all others who are served by the Sewage Works of the City of New Castle, Indiana.

#### **Section 53.06. Powers and Duties of Utility:**

The Board of Public Works and Safety shall have all those powers and duties provided by such boards by Titles 8 and 36 of



the Indiana Code and more specifically but not limited to the following:

- A. The power to enter into contracts.
- B. The power to employ professionals.
- C. The power to construct, maintain, and improve the stormwater utility structures.
- D. The power to make plans and recommend ordinances to the Legislative Body (Common Council) regarding the collection and disposal of stormwater within the City.

The Legislative Body of the City (the Common Council) should have all those powers and duties provided the Municipal Legislative Body by Title 36 of the Indiana Code and more specifically but not limited to the following:

- A. The power to pass ordinances as provided for by Title 36 which impose just, reasonable and equitable fees or service charges for those who utilize the stormwater system and penalties to those who violate provisions of ordinances established for stormwater control and drainage, as provided for in I.C. 36-9-23-25.
- B. The power to issue Bonds and borrow money to acquire real estate, design, plan, construct, maintain and improve stormwater utility structures.

**Section 53.07. Creation of Non-reverting Stormwater Utility Cumulative Fund:**

A non-reverting stormwater utility cumulative fund is hereby created. All proceeds received as a result of user fees and charges or penalties assessed by this Ordinance or subsequent amendments hereto shall be deposited in a non-reverting cumulative stormwater utility fund. Proceeds from this non-reverting fund, shall be for the exclusive use of the City's stormwater utility which includes, but is not limited to, the following:

- a) Stormwater management services, such as studies, design, permit review, plan preparation and development review.
- b) Operation, maintenance, repair and replacement of the stormwater collection, storage, conveyance, and/or treatment infrastructure.
- c) Project costs related to constructing major or minor structural improvements to the City's stormwater-related infrastructure.
- d) Administrative costs associated with the management of the stormwater utility user fee.
- e) Debt service financing of the City's stormwater-related capital improvements.
- f) Funding of studies such as water quantity and quality monitoring, aerial photography, and geotechnical work



associated with the planning of the stormwater-related infrastructure.

This would include but be not limited to the implementation of long range stormwater plans developed and approved by the Indiana Department of Environmental Management for elimination of combined sewer overflows and the construction of stormwater drains and sewers and maintain same within the City limits and the area served by the sewage works. All such expenditures for both capital and operating expenses must be first approved by the Board of Public Works and Safety.

#### **Section 53.08. Stormwater Utility User Fee**

A stormwater utility user fee shall be imposed on each and every lot or parcel of the of real property within the City of New Castle, Indiana including those classified as non-profit or tax exempt, for services and facilities provided by the Stormwater Utility. This user fee is deemed reasonable and necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system of the City of New Castle, Indiana.

#### **Section 53.09. Stormwater Utility User Fee Structure**

For the purposes stated herein, there is hereby assessed a stormwater utility user fee to each stormwater utility user within the corporate limits of the City of New Castle, Henry County, Indiana, in an amount as determined below. For purposes of imposing the stormwater utility user fee, all lots and parcels within the City are classified as either:

- i. Residential, or
- ii. Non-residential
- iii. Non-developed property

#### **Section 53.10. Schedule of Rates**

- 1) The monthly stormwater utility user fee for all developed residential properties within the City shall be \$6.00. The Common Council, from time to time, by ordinance may amend the monthly charge established in this section.
- 2) Until such time that the City completes the classification procedure, the monthly stormwater utility user fee imposed for non-residential properties as defined herein shall be \$12.00. Upon the City's completion of the classification procedure, the monthly stormwater utility user fee imposed for non-residential properties as defined herein shall be Coverage Factor X Size Factor X \$6.00.
- 3) Until such time that the City completes the classification procedure, the monthly stormwater utility user fee imposed for non-developed properties as defined herein shall be \$3.00. Upon the City's completion of the classification procedure, the monthly stormwater utility user fee imposed for non-developed properties as defined herein shall be 0.25 X Low Coverage Factor X Size Factor X \$6.00, that is



being equal to 25% of the low coverage non-residential size classification.

**Section 53.11. Billing and Payment; Penalties.**

- 1) Bills or statements for the stormwater utility user fee shall be rendered monthly, in accordance with the regular sewage utility billing cycle, by the utility billing division of the City for all properties subject to the fee. Bills shall be payable at the same time and in the same manner and subject to the same penalties as set forth for the sewer utility. Any partial payment of a combined utility bill shall be applied first to the stormwater utility user fee. Any unpaid stormwater utility user fees shall constitute a lien on such property except the liens of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such lien, when delinquent for more than thirty (30) days, may be foreclosed by the City in the manner provided by the laws of Indiana for the foreclosure of mortgages on real property.
- 2) For properties normally receiving monthly utility bills for other City services, the stormwater utility user fee shall be included in the monthly sewage utility bill rendered to the established customer.
- 3) For properties not receiving monthly utility bills for other City services, the bill or statement for the stormwater utility user fee shall be sent to the Stormwater Utility User as determined from the tax rolls. The authorized official may render annual, semiannual, or monthly billings, to be billed in arrears, to coincide with the property tax schedule, on such properties if determined to be the best interest of the City.
- 4) The owner of a property is ultimately responsible for all fees imposed under this chapter.

**Section 53.12. Periodic Legislative Rate Review.**

In hopes of minimizing the possibility of infrequent but higher rate increases and the resulting "rate shock" to the ratepayer, the Board (Board of Public Works) shall provide the Legislative Branch (the City Council) with a rate study showing the financial condition of the utility and a recommendation regarding the rates charged no less than every four years. The next such study shall be provided on or before January 30, 2009. Thereafter, reports shall be reviewed by Council on the 30<sup>th</sup> day of January, every four years.

Next report due	1-30-2009
Report due	1-30-2013
Report due	1-30-2017
Report due	1-30-2021

(Report due every four years thereafter)

**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 19th DAY OF December, 2005.

Thomas Nipp  
Thomas Nipp, Presiding  
Officer, Common Council, City  
of New Castle, Indiana

AYE

NAY

Donald E. Hunter  
James B. Kedd  
Todd S. Hickey  
Lorise Picone  
Richard Hahn

Sandra York  
Jeff Hancock

ATTEST:

Janice Lavarney  
Janice Lavarney,  
Clerk-Treasurer

APPROVED BY ME THIS 19th DAY OF December, 2005.

Thomas Nipp  
Thomas Nipp, Mayor of the City  
Of New Castle, Indiana