

TITLE 18
UTILITIES

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Chapter 18.04

Water rates and charges

Sections:

18.04.010 Schedule of rates and charges

18.04.010 Schedule of rates and charges. There shall be and there is hereby established for the use of the service rendered by the waterworks system of the Town of Marengo the following rates and charges, based upon the use of water supplied by said waterworks system:

- (1) Each user shall be billed monthly for the amount of water actually used by applying the monthly minimum charge for up to and including the first 2,000 gallons of water usage as calculated per applicable meter size, as follows:

Minimum Charge per Month

<u>Meter Size</u>	<u>Per Month</u>
5/8 inch meter	\$ 8.85
1 inch meter	22.13
2 inch meter	66.38

Plus a charge for all metered monthly water usage in excess of the first 2,000 gallons of usage, in accordance with the following schedule:

Metered Rates

<u>Metered Monthly Usage</u>	<u>Rate per 1,000 Gallons</u>
Next 2,000 gallons	\$ 4.43
Next 3,000 gallons	3.54
Next 10,000 gallons	3.11
Next 10,000 gallons	2.43
Over 25,000 gallons	1.77

(Ord. W93-1, Sa, Dec. 1, 1993)

- (2) **FIRE PROTECTION**

<u>Type of Hydrant</u>	<u>Price Per Hydrant</u>
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Municipal \$ 100.00
School 225.00

(Ord. W93-1, Sb, Dec. 1, 1993)

(3) **CONNECTION CHARGE**

Each user at the time they are connected with the waterworks system, shall pay a tapping fee to cover the cost of tapping the main, furnishing and laying service pipe, corporate and stop cocks, service and meter box, and installing the meter, the sum of \$300.00. The charge for a connection requiring a meter larger than 3/4 inch shall be the actual cost of installation including labor, materials and equipment but not less than the charge of the connection of a 3/4 inch meter. (Ord. W93-1, Sc, Dec. 1, 1993)

(4) **COLLECTION OF DEFERRD PAYMENT CHARGE**

All bills for water service not paid within fifteen (15) days from the date thereof, as stated in such bills, shall be subject to a collection or deferred payment charge of ten percent (10%) on the first \$3.00 and three percent (3%) on the excess over \$3.00. (Ord. W93-1, Sd, Dec. 1, 1993)

(5) **TEMPORARY USERS**

Water furnished to temporary users, such as contractors, etc., shall be charged on the basis of the metered rates hereinbefore set forth as applied to the usage as determined by the Waterworks Superintendent. (Ord. W93-1, Se, Dec. 1, 1993)

Chapter 18.10

SEWER USE ORDINANCE

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18.10.100 DEFINITIONS Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

18.10.100.010 "Biochemical oxygen demand" BOD shall mean the quantity of oxygen expressed in mg/1 utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20 degrees C. (Ord. 615, S1(a), Oct. 6, 1981)

18.10.100.020 "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning three (3) feet outside the building wall.

- (1) Building drain - sanitary - A building drain which conveys sanitary or industrial sewage only

- (2) Building drain - storm - A building drain which conveys storm water or other clearwater drainage, but no wastewater. (Ord. 615, S1(b), Oct. 6, 1981)

18.10.100.030 "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal. (Also called house connection.)

- (1) Building sewer - sanitary - A building sewer which conveys sanitary or industrial sewage only.
- (2) Building sewer - storm - A building sewer which conveys stormwater or other clearwater drainage, but no sanitary or industrial sewage. (Ord. 615, S1(c), Oct. 6, 1981)

18.10.100.040 "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water. (Ord. 615, S1(d), Oct. 6, 1981)

18.10.100.050 "Compatible pollutant" shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES Permit if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of 80 percent or greater. Minor incidental removals in the order of 10 to 30 percent are not considered substantial. Examples of the additional pollutants which may be considered compatible include:

- (1) chemical oxygen demand,
- (2) total organic carbon,
- (3) phosphorus and phosphorus compounds,
- (4) nitrogen and nitrogen compounds, and
- (5) fats, oils, and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works.) (Ord. 615, S1(e), Oct. 6, 1981)

18.10.100.060 "Easement" shall mean an acquired legal right for the specific use of land owned by others. (Ord. 615, S1(f), Oct. 6, 1981)

18.10.100.070 "Fecal coliform" shall mean any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution. (Ord. 615, S1(g), Oct. 6, 1981)

18.10.100.080 "Floatable oil" shall mean oil, fat, or grease in a physical state, such that will separate by gravity from wastewater by treatment in a pretreatment facility approved by the Town. (Ord. 615, S1(h), Oct. 6, 1981)

18.10.100.090 "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce. (Ord. 615, S1(i), Oct. 6, 1981)

18.10.100.100 "Incompatible pollutant" shall mean any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids. (Ord. 615, S1(j), Oct. 6, 1981)

18.10.100.110 "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage. (Ord. 615, S1(k), Oct. 6, 1981)

18.10.100.120 "Infiltration" shall mean the water entering a sewer system, including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connection, or manhole walls. (Infiltration does not include and is distinguished from inflow). (Ord. 615, S1(l), Oct. 6, 1981)

18.10.100.130 "Infiltration/Inflow" shall mean the total quantity of water from both infiltration and inflow without distinguishing the source. (Ord. 615, S1(m), Oct. 6, 1981)

18.10.100.140 "Inflow" shall mean the water discharge into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, and combined sewers, catch basins, storm waters, surface run-off, street wash waters or drainage. (Inflow does not include, and is distinguished from, infiltration). (Ord. 615, S1(n), Oct. 6, 1981)

18.10.100.150 "Inspector" shall mean the person or persons duly authorized by the Town, through its Board of Trustees, to inspect and approve the installation of building sewers and their connection to the public sewer system. (Ord. 615, S1(o), Oct. 6, 1981)

18.10.100.160 "Major contributing industry" shall mean an industry that:

- (1) has a flow of 50,000 gallons or more per average work day;
- (2) has a flow greater than five percent of the flow carried by the municipal system receiving the waste;
- (3) has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307 (a) or PL 92-500; or
- (4) has a significant impact, either singly or in combination with other contributing industries, on a treatment works or on the quality of effluent from that treatment works. (Ord. 615, S1(p), Oct. 6, 1981)

18.10.100.170 "NPDES Permit" shall mean a permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to Section 402 of PL 92-500. (Ord. 615, S1(q), Oct. 6, 1981)

18.10.100.180 "Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch lake, or other body of surface or groundwater. (Ord. 615, S1(r), Oct. 6, 1981)

18.10.100.190 "Normal domestic sewage" shall have the same meaning as defined in the Sewage Rate Ordinance. (Ord. 615, S1(s), Oct. 6, 1981)

18.10.100.200 "pH" shall mean the reciprocal or the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. (Ord. 615, S1(t), Oct. 6, 1981)

18.10.100.210 "Person" shall mean any individual, firm, company, association, society, corporation or group discharging any wastewater to the treatment works. (Ord. 615, S1(u), Oct. 6, 1981)

18.10.100.220 "Pretreatment" shall mean the treatment of industrial sewage from privately owned industrial sources prior to introduction into a public treatment works. (Ord. 615, S1(v), Oct. 6, 1981)

18.10.100.230 "Private sewer" shall mean a sewer which is not owned by a public authority. Ord. 615, S1(w), Oct. 6, 1981)

18.10.100.240 "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension. (Ord. 615, S1(x), Oct. 6, 1981)

18.10.100.250 "Public sewer" shall mean a sewer which is owned and controlled by the public authority and will consist of the following increments:

- (1) Collector sewer shall mean a sewer whose primary purpose is to collect wastewaters from individual point source discharges.
- (2) Interceptor sewer shall mean a sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.
- (3) Force main shall mean a pipe in which wastewater is carried under pressure.
- (4) Pumping station shall mean a station positioned in the public sewer system at which wastewater is pumped to a higher level. (Ord. 615, S1(y), Oct. 6, 1981)

18.10.100.260 "Sanitary sewer" shall mean a sewer which carries sanitary and industrial wastes, and to which storm, surface, and ground water are not intentionally admitted. (Ord. 615, S1(z), Oct. 6, 1981)

18.10.100.270 "Sewage" shall mean the combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, (including polluted cooling water). The three most common types of sewage are:

- (1) Sanitary sewage shall mean the combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.
- (2) Industrial sewage shall mean a combination of liquid and water-carried wastes, discharged from any industrial establishment, and resulting from any trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).
- (3) Combined sewage shall mean wastes including sanitary sewage, industrial sewage, stormwater, infiltration and inflow carried to the wastewater treatment facilities by a combined sewer. (Ord. 615, S1(aa), Oct. 6, 1981)

18.10.100.280 "Sewage works" shall mean the structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids. (Ord. 615, S1(bb), Oct. 6, 1981)

18.10.100.290 "Sewer" shall mean a pipe or conduit for carrying sewage. (Ord. 615, S1(cc), Oct. 6, 1981)

18.10.100.300 "Shall" is mandatory; "May" is permissive. (Ord. 615, S1(dd), Oct. 6, 1981)

18.10.100.310 "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 10 minutes more than 3 times the average 24 hours concentration or flows during normal operation and shall adversely affect the collection system. (Ord. 615, S1(ee), Oct. 6, 1981)

18.10.100.320 "Standard methods" shall mean the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association The American Water Works Association and The Water Pollution Control Federation. (Ord. 615, S1(ff), Oct. 6, 1981)

18.10.100.330 "Storm sewer" shall mean a sewer for conveying water, ground water or unpolluted water from any source and to which sanitary, and/or industrial wastes are not intentionally admitted. (Ord. 615, S1(gg), Oct. 6, 1981)

18.10.100.340 "Superintendent" shall mean the Superintendent of the municipal sewage works of the Town of Marengo, Indiana, or his authorized deputy, agent or representative. (Ord. 615, S1(hh), Oct. 6, 1981)

18.10.100.350 "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and which are removable by laboratory filtering. (Ord. 615, S1(ii), Oct. 6, 1981)

18.10.100.360 "Total solids" shall mean the sum of suspended and dissolved solids. (Ord. 615, S1(jj), Oct. 6, 1981)

18.10.100.370 "Toxic amount" shall mean concentrations of any pollutant or combination of pollutants, which upon exposure to or assumption into any organism will cause adverse effects, such as cancer, genetic mutations, and physiological manifestations, as defined in standards issued pursuant to Section 307 (a) of PL 92-500. Ord. 615, S1(kk), Oct. 6, 1981)

18.10.100.380 "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided. (Ord. 615, S1(ll), Oct. 6, 1981)

18.10.100.390 "Volatile organic matter" shall mean the material in the sewage solids transformed to gases or vapors when heated at 550 degrees C for 15 to 20 minutes. (Ord. 615, S1(mm), Oct. 6, 1981)

18.10.100.400 "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently. (Ord. 615, S1(nn), Oct. 6, 1981)

18.10.200 DISCHARGE OF WATER AND WASTES

18.10.200.010 Unlawful to deposit objectionable waste on public or private property. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property with the Town or in any area under the jurisdiction of said Town any human or animal excrement, garbage, or other objectionable waste. (Ord. 615, S2(a), Oct. 6, 1981)

18.10.200.020 Stormwater, and other unpolluted waters cannot be discharged to any sanitary sewer. No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, stormwaters, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water, or unpolluted industrial process water. The Town shall require the removal of unpolluted waters from any wastewater collection or treatment facility if such removal is cost-effective and is in the best interest of all users of those facilities. (Ord. 615, S2(b), Oct. 6, 1981)

18.10.200.030 Stormwater, and other unpolluted waters may be admitted to storm sewers. Stormwater, surface water, ground water, roof run-off, sub-surface drainage, cooling water, unpolluted water or unpolluted industrial process water may be admitted to storm sewers which have adequate capacity for their accommodation. No person shall use such sewers, however, without the specific permission of the Town. No new connection shall be made to any sanitary combined or storm sewer unless there is capacity available in all downstream sewers, lift stations, force mains, and the sewage treatment plant including capacity for BOD and suspended solids. (Ord. 615, S2(c), Oct. 6, 1981)

18.10.200.040 Polluted waters to be discharged where suitable treatment has been provided. No person shall place, deposit, or permit to be deposited in any unsanitary

manner on public or private property within the jurisdiction of the Town any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this ordinance and the NPDES Permit. (Ord. 615, S2(d), Oct. 6, 1981)

18.10.200.050 Polluted waters cannot be discharged to any natural outlet. No person shall discharge or cause to be discharged to any natural outlet any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this ordinance and the NPDES Permit. (Ord. 615, S2(e), Oct. 6, 1981)

18.10.200.060 Privies, septic tanks prohibited. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. (Ord. 615, S2(f), Oct. 6, 1981)

18.10.200.070 Suitable toilet facilities and connection to sanitary sewer. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the Town and abutting on any street, alley, or right-of-way in which there is now located a public sanitary or combined sewer of the Town, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that said public sewer is within three hundred (300) feet of the property line. (Ord. 615, S2(g), Oct. 6, 1981)

18.10.250 WHERE A SANITARY SEWER IS NOT AVAILABLE

18.10.250.010 Private sewage disposal system. Where a public sanitary or combined sewer is not available under the provisions of Section 18.10.206, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. (Ord. 615, S3(a), Oct. 6, 1981)

18.10.250.020 Permit required before construction of private sewage disposal system. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. A permit and inspection fee of (\$) shall be paid to the Town at the time the application is filed. (Ord. 615, S3(b), Oct. 6, 1981)

18.10.250.030 Inspection and approval of private sewage disposal system. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Superintendent. (Ord. 615, S3(c), Oct. 6, 1981)

18.10.250.040 Compliance with State Board of Health. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the State Board of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty

thousand (20,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Ord. 615, S3(d), Oct. 6, 1981)

18.10.250.050 When a public sewer becomes available. At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Section 18.10.300.040, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material. (Ord. 615, S3(e), Oct. 6, 1981)

18.10.250.060 Maintenance of private sewage disposal facilities. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town. (Ord. 615, S3(f), Oct. 6, 1981)

18.10.250.070 Sixty days to connect to public sewer. When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt. (Ord. 615, S3(g), Oct. 6, 1981)

18.10.250.080 Non interference with requirements by Health Officer. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health officer. (Ord. 615, S3(h), Oct. 6, 1981)

18.10.280 CONNECTION TO PUBLIC SEWER SYSTEM

18.10.280.010 Written permit required prior to connection. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Clerk-Treasurer. (Ord. 615, S4(a), Oct. 6, 1981)

18.10.280.020 Building sewer permit classes. There shall be two (2) classes of building sewer permits:

- (1) for residential and commercial service, and
- (2) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the said Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Inspector. A permit and inspection fees of Dollars (\$10) for a residential or commercial building sewer permit and Dollars (\$25) for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed. (Ord. 615, S4(b), Oct. 6, 1981)

18.10.280.030 Connection costs borne by owner. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. 615, S4(c), Oct. 6, 1981)

18.10.280.040 Separate sewer for every building. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (Ord. 615, S4(d), Oct. 6, 1981)

18.10.280.050 Use of old building sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the said Inspector, to meet all requirements of this ordinance. (Ord. 615, S4(e), Oct. 6, 1981)

18.10.280.060 Construction specifications. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply. (Ord. 615, S4(f), Oct. 6, 1981)

18.10.280.070 Elevation of building sewer. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. (Ord. 615, S4(g), Oct. 6, 1981)

18.10.280.080 Downspouts, drains, or groundwater not to be connected to sanitary sewer. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Ord. 615, S4(h), Oct. 6, 1981)

18.10.280.090 Connection to conform to appropriate specifications. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation. (Ord. 615, S4(i), Oct. 6, 1981)

18.10.280.100 Inspection and connection to the public sewer. The applicant for the building sewer permit shall notify the said inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the said Inspector or his representative. (Ord. 615, S4(j), Oct. 6, 1981)

18.10.280.110 Excavations to be adequately guarded with barricades and lights. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public

property disturbed in the course of the work shall be restored in a manner satisfactory to the said Town. (Ord. 615, S4(k), Oct. 6, 1981)

18.10.300 PROHIBITED DISCHARGES TO PUBLIC SEWERS

18.10.300.010 Prohibited discharges. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
- (3) Any waters or wastes have a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works or interferes with any treatment process.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper, dishes, cups, mild containers, etc., either whole or ground by garbage grinders. (Ord. 615, S5(a), Oct. 6, 1981)

18.10.300.020 Wastes prohibited if determined harmful by Superintendent. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (65) degrees C.
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (0 and 65) degrees C.

- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0; 76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (5) Any waters or wastes containing iron; chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- (6) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction of such discharge to the receiving waters.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- (8) Any waters or wastes having a pH in excess of 9.5.
- (9) Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - C. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
10. Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant

effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters. (Ord. 615, S5(b), Oct. 6, 1981)

18.10.300.030 Pretreatment requirements. If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 18.10.500.020 of this chapter, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) Require new industries or industries with significant increase in discharges to submit information on wastewater characteristics and obtain prior approval for discharges.
- (2) Reject the wastes in whole or in part for any reason deemed appropriate by the Town.
- (3) Require pretreatment of such wastes to within the limits of normal sewage as defined.
- (4) Require control or flow equalization of such wastes so as to avoid any “slug” loads or excessive loads that may be harmful to the treatment works, or
- (5) Require payment of a surcharge on any excessive flows or loadings discharged to the treatment works to cover the additional costs of having capacity for and treating such wastes.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. (Ord. 615, S5(c), Oct. 6, 1981)

18.10.300.040 Pretreatment or flow equalizing facilities maintained by owner. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (Ord. 615, S5(d), Oct. 6, 1981)

18.10.300.050 Control manhole. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. Agents of the Town, the State Water Pollution Control Agencies, and the U.S. Environmental

Protection Agency shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing. (Ord. 615, S5(e), Oct. 6, 1981)

18.10.300.060 Examination of water and wastewater. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standards Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole, except for applications for NPDES permits and report thereof which shall be conducted in accordance with rules and regulations adopted by the USEPS published in the Federal Register October 16, 1973 (38 CFR 20758) and any subsequent revisions subject to approval by the Town. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine where a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.) (Ord. 615, S5(f), Oct. 6, 1981)

18.10.300.070 Special agreements. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore, by the industrial concern, at such rates as are compatible with the rate ordinance. (Ord. 615, S5(g), Oct. 6, 1981)

18.10.350 PRETREATMENT SUBJECT TO FEDERAL, STATE AND LOCAL RULES AND REGULATIONS

Pretreatment of industrial wastes from major contributing industries prior to discharge to the treatment works is required and is subject to the Rules and Regulations adopted by the United States Environmental Protection Agency (USEPA) and published in the Federal Register on August 25, 1978 (40 CFR Part 403), and "Federal Guidelines Establishing Test Procedures for Analysis of Pollutants" published in the Federal Register on October 16, 1973 (40 CFR Part 136), in addition to any more stringent requirements established by the Town and any subsequent State or Federal Guidelines and Rules and Regulations. (Ord. 615, S6, Oct. 6, 1981)

18.10.380 PLANS, SPECIFICATIONS AND OTHER INFORMATION RELATING TO PRETREATMENT SHALL BE SUBMITTED

Plans, specifications, and any other pertinent information relating to pretreatment or control facilities shall be submitted for approval of the Town and no construction of such facilities shall be commenced until approval in writing, is granted. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his expense and shall be subject to periodic inspection by the Town to determine that such facilities are being operating in conformance with applicable Federal, State and

local laws and permits. The owner shall maintain operating records and shall submit to the Town a monthly summary report of the character of the influent and effluent to show the performance of the treatment facilities and for comparison against Town monitoring records. (Ord. 615, S7, Oct. 6, 1981)

18.10.400 DISCHARGE OF UNPOLLUTED WATERS FROM AIR CONDITIONERS AND SWIMMING POOLS

Unpolluted water from air conditioners, cooling, condensing systems or swimming pools, shall be discharged to a storm sewer, where it is available, or to a combined sewer approved by the Town. Where a storm sewer is not available, discharge may be to a natural outlet approved by the Town and by the State of Indiana. Where a storm sewer, combined sewer, or natural sewer is not available, such unpolluted water may be discharged to a sanitary sewer pending written approval by the Town. (Ord. 615, S8, Oct. 6, 1981)

18.10.450 DISCHARGE OF INDUSTRIAL COOLING WATER

Industrial cooling water, which may be polluted with insoluble oils or grease or suspended solids, shall be pretreated for removal of pollutants and the resultant clear water shall be discharged in accordance with the above Section. (Ord. 615, S9, Oct. 6, 1981)

18.10.500 INFORMATION ON WASTEWATER FLOW CHARACTERISTICS

The Town may require users of the treatment works, other than residential users, to supply pertinent information on wastewater flows characteristics. Such measurements, tests, and analysis shall be made at the users' expense. If made by the Town an appropriate charge may be assessed to the user at the option of the Town. (Ord. 615, S10, Oct. 6, 1981)

18.10.550 CHARGES BASED ON STRENGTH OF WASTEWATERS

The strength of wastewaters shall be determined, for periodic establishment of charges provided for in the Rate Ordinance, from samples taken at the aforementioned structure at any period of time and of such duration and in such manner as the Town may elect, or, at any place mutually agreed upon between the user and the Town. Appropriate charges for sampling and analysis may be assessed to the user at the option of the Town. The results of routine sampling and analysis by the user may also be used, for determination of charges after verification by the Town. (Ord. 615, S11, Oct. 6, 1981)

18.10.580 GREASE, OIL AND SAND INTERCEPTOR TRAPS

Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the Town they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that such interceptors or traps will not be required for private living quarters or dwelling units. All interceptors or traps shall be of a type and capacity approved by the Town and shall be located so as to be readily and easily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures and shall be of substantial construction, be gas tight, water tight, and equipped with easily removable covers. Where installed, all grease, oil and sand interceptors or traps shall be maintained by the owner, at his expense, in continuously efficient operation at all times. (Ord. 615, S12, Oct. 6, 1981)

18.10.600 ACCIDENTAL DISCHARGES

Users of the treatment works shall immediately notify the Town of any unusual flows or wastes that are discharged accidentally or otherwise to the sewer system. (Ord. 615, S13, Oct. 6, 1981)

18.10.650 COMPLIANCE WITH APPLICABLE LAWS

All provisions of this ordinance and limits set herein shall comply with any applicable State and/or Federal Requirements now, or projected to be in effect. (Ord. 615, S14, Oct. 6, 1981)

18.10.680 DAMAGE TO SEWAGE WORKS UNLAWFUL

No unauthorized person shall maliciously, willfully or negligently break, damage, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. 615, S15, Oct. 6, 1981)

18.10.700 AUTHORIZED EMPLOYEES ENTERING PROPERTY

18.10.700.010 Right to enter property for inspection, observation, measuring, sampling and testing. The Superintendent, Inspector and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing accordance with the provisions of this ordinance. The Superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. (Ord. 615, S16(a), Oct. 6, 1981)

18.10.700.020 Safety rules. While performing the necessary work on private properties referred to in Section 18.10.700.010 above, the Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the

company and the company shall be held harmless for injury or death to the Town employees and the Town shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 18.10.300.050. (Ord. 615, S16(b), Oct. 6, 1981)

18.10.700.030 Proper credentials. The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. 615, S16(c), Oct. 6, 1981)

18.10.750 PENALTY FOR VIOLATION

18.10.750.010 Written notice. Any person found to be violating any provision of this ordinance except Section 18.10.750 shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. (Ord. 615, S17(a), Oct. 6, 1981)

18.10.750.020 Failure to cease violations. Any person who shall continue any violation beyond the time limit provided for in Section 18.10.750.010 shall be guilty of a misdemeanor and on conviction thereof shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Ord. 615, S17(b), Oct. 6, 1981)

18.10.750.030 Liability for expense due to violation. Any person violating any of the provisions of this ordinance shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation. (Ord. 615, S17(c), Oct. 6, 1981)

18.10.780 SEPARABILITY OF PROVISIONS

All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts. (Ord. 615, S18, Oct. 6, 1981)

18.10.800 APPEAL PROCEDURE

That the rules and regulations promulgated by the Town after approval by the Board of Trustees shall, among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the user charge to the Board of Trustees and that any decision concerning user charges of the Board of Trustees may be

appealed to the circuit court of the county under the appeal procedures provided for in the Indiana Administrative Adjudication Act. (Ord. 615, S19, Oct. 6, 1981)

Chapter 18.12

SEWER RATES AND CHARGES

Sections:

- 18.12.100 DEFINITIONS**
 - 18.12.100.010 Board**
 - 18.12.100.020 BOD**
 - 18.12.100.030 Town**
 - 18.12.100.040 Debt Service costs**
 - 18.12.100.050 Excessive strength surcharge**
 - 18.12.100.060 Industrial wastes**
 - 18.12.100.070 NPDES**
 - 18.12.100.080 Normal domestic sewage**
 - 18.12.100.090 Operation and maintenance costs**
 - 18.12.100.100 Other service charges**
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 - 18.12.100.120 Replacement costs**
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 - 18.12.100.140 Shall**
 - 18.12.100.150 Sewage**
 - 18.12.100.160 Sewage Use Ordinance**
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- 18.12.200 USER CLASSES**
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18.12.100 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

18.12.100.010 “Board” shall mean the Board of Trustees of the Town of Marengo, Indiana, or any duly authorized officials acting in its behalf. (Ord. 616, S1(a), Oct. 6, 1981)

18.12.100.020 “BOD” (or Biochemical Oxygen Demand) shall have the same meaning as defined in the Use Ordinance. (Ord. 616, S1(b), Oct. 6, 1981)

18.12.100.030 “Town” shall mean the Town of Marengo, Indiana, acting by and through the Board of Trustees. (Ord. 616, S1(c), Oct. 6, 1981)

18.12.100.040 “Debt Service costs” shall mean the average annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt. (Ord. 616, S1(c), Oct. 6, 1981)

18.12.100.050 “Excessive Strength Surcharge” shall mean an additional charge which is billed to users for treating sewage wastes with an average strength in excess of “normal domestic sewage”. (Ord. 616, S1(d), Oct. 6, 1981)

18.12.100.060 “Industrial Wastes” shall mean the wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences. (Ord. 616, S1(e), Oct. 6, 1981)

18.12.100.070 “NPDES (National Pollutant Discharge Elimination System) Permit” shall have the same meaning as defined in the Sewer Use Ordinance. (Ord. 616, S1(f), Oct. 6, 1981)

18.12.100.080 “Normal Domestic Sewage” (for the purpose of determining surcharges) shall mean wastewater or sewage having an average daily concentration as follows:

BOD not more than 200 mg/l

S.S. not more than 240 mg/l

As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes. (Ord. 616, S1(g), Oct. 6, 1981)

18.12.100.090 “Operation and Maintenance Costs” include all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related Federal, State, and local requirements. (These costs include replacement.) (Ord. 616, S1(h), Oct. 6, 1981)

18.12.100.100 “Other Service Charges” shall mean tap charges, connection charges, area charges, and other identifiable charges other than User Charges, debt service charges and excessive strength surcharges. (Ord. 616, S1(i), Oct. 6, 1981)

18.12.100.110 “Person” shall mean any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity. (Ord. 616, S1(j), Oct. 6, 1981)

18.12.100.120 “Replacement costs” shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the sewage works equipment to maintain the capacity and performance for which such works were designed and constructed. (Ord. 616, S1(k), Oct. 6, 1981)

18.12.100.130 “S.S.” (or suspended solids) shall have the same meaning as defined in the Sewer Use Ordinance. (Ord. 616, S1(l), Oct. 6, 1981)

18.12.100.140 “Shall” is mandatory: “May” is permissive. (Ord. 616, S1(m), Oct. 6, 1981)

18.12.100.150 “Sewage” shall have the same meaning as defined in the Sewer Use Ordinance. (Ord. 616, S1(n), Oct. 6, 1981)

18.12.100.160 “Sewer Use Ordinance” shall mean a separate and companion enactment to this Ordinance, which regulates the connection to and use of public and private sewers. (Ord. 616, S1(o), Oct. 6, 1981)

18.12.100.170 “User Charge” shall mean a charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works pursuant to Section 204 (b) of Public Law 92-500. (Ord. 616, S1(p), Oct. 6, 1981)

18.12.100.180 “User Class” shall mean the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities (i.e., residential, commercial, industrial, institutional, and governmental in the User Charge System).

- (1) Residential User – shall mean a user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, etc.
- (2) Commercial User – shall mean any establishment involved in a commercial enterprise, business or service which based on a determination by the Town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
- (3) Institutional User – shall mean any establishment involved in a social, charitable, religious, and/or educational function which, based on a determination by the Town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
- (4) Governmental User – shall mean any Federal, State, or local governmental user of the wastewater treatment works.
- (5) Industrial User – shall mean any manufacturing or processing facility that discharges industrial waste to a publicly owned treatment works. (Ord. 616, S1(q), Oct. 6, 1981)

18.12.200 USER CLASSES

Every person whose premises are served by said sewage works shall be charged for the services provided. These charges are established for each user class, as defined, in order that the sewage works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works. User charges shall be uniform in magnitude within a user class.

18.12.200.010 User charges include replacement costs and are subject to EPA rules and regulations. User charges are subject to the rules and regulations adopted by the United States Environmental Protection Agency, published in the Federal Register September 27, 1978 (43 CFR 44022). Replacement costs, which are recovered through the system of user charges, shall be based upon the expected useful life of the sewage works equipment. (Ord. 616, S2(a), Oct. 6, 1981)

18.12.200.020 Various user classes. The various classes of users of the treatment works for the purposes of this Ordinance, shall be as follows:

- | | | |
|---------|---|---------------|
| Class I | - | Residential |
| | | Commercial |
| | | Governmental |
| | | Institutional |

Industrial

(Ord. 616, S2(b), Oct. 6, 1981)

18.12.300 RATES AND CHARGES

For the use of and the services rendered by sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the Town sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewage system of the Town of Marengo. Such rates and charges include User Charges, debt service costs, excessive strength surcharges and other service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

18.12.300.010 Metered rates and charges. The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges, as the same is measured by the water meter there in use, plus a base charge based on the size of the water meter installed, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed each month (or period equaling a month). The water usage schedule on which the amount of said rates and charges shall be determined as follows:

All Class I Users

- 1. Treatment Rate per 1,000 gallons of usage per month

<u>User Charge</u>	<u>Debt Service</u>	<u>Total</u>
\$ 2.10	\$.57	\$ 2.67

plus

2. Base rate – as follows:

Monthly Base Rate

<u>Base Rate</u>	<u>User Charge</u>	<u>Debt Service</u>	<u>Total</u>
5/8" water meter	\$ 1.37	\$ 4.13	\$ 5.50
3/4" water meter	1.56	5.79	7.35
1" water meter	2.06	8.29	10.35
1 1/4" water meter	2.75	15.55	19.30
1 1/2" water meter	3.58	23.92	27.50
2" water meter	5.51	41.49	47.00
3" water meter	11.49	94.51	106.00
4" water meter	19.77	169.23	189.00
6" water meter	43.23	379.77	423.00

(Ord. 616, S3(a), Oct. 6, 1981)

18.12.300.020 Unmetered customers. For users of the sewage works that are unmetered water users or accurate meter readings are not available, the monthly charge shall be determined by equivalent single family dwelling units, except as herein provided. Sewage service bills shall be rendered once each month (or period equaling a month). The schedule on which said rates and charges shall be determined is as follows:

	<u>User Charge</u>	<u>Debt Service</u>	<u>Total</u>
Residential: Single family residence/unit	\$ 9.77	\$ 6.43	\$ 16.20

(Ord. 616, S3(b), Oct. 6, 1981)

18.12.300.030 Town subject to rates and charges. For the service rendered to the Town of Marengo, said Town shall be subject to the same rates and charges hereinabove provided, or to charges and rates established in harmony therewith. (Ord. 616, S3(c), Oct. 6, 1981)

18.12.300.040 Sample charges. In order to recover the cost of monitoring industrial wastes the Town shall charge the user not less than \$25.00 per sample or cost thereof. This charge will be reviewed on the same basis as all other rates and charges in this ordinance. (Ord. 616, S3(d), Oct. 6, 1981)

18.12.400 RATES BASED ON WATER USAGE

The quantity of water discharged into the sanitary sewerage system and obtained from sources other than the utility that serves the Town shall be determined by the Town in such manner as the Town shall reasonably elect, and the sewage service shall be billed at the above appropriate rates; except, as is hereinafter provided in this section, the Town may

make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the Town that such quantities do not enter the sanitary sewerage system.

18.12.400.010 Customer not using water supplied by Town Water Utility. In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the Town's sanitary sewerage system, either directly or indirectly, is not a user of water supplied by the water utility serving the Town, and the water used thereon or therein is not measured by a water meter, or is measured by a water meter not acceptable to the Town, then the amount of water used shall be otherwise measured or determined by the Town. In order to ascertain the rate or charge provided in this ordinance, the owner or other interested party shall at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge. (Ord. 616, S4(a), Oct. 6, 1981)

18.12.400.020 Customer using water from multiple sources. In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the Town's sanitary sewerage system, either directly or indirectly, is a user of water supplied by the water utility serving the Town, and in addition, is a user of water from another source which is not measured by a water meter or is measured by a meter not acceptable to the Town, then the amount of water used shall be otherwise measured or determined by the Town. In order to ascertain the rates or charges, the owner or other interested parties shall, at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge. (Ord. 616, S4(b), Oct. 6, 1981)

18.12.400.030 Two of more residential lots on one meter. In the event two or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water or other liquids into the Town's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels or real estate or buildings served through the single water meter. (Ord. 616, S4(c), Oct. 6, 1981)

18.12.400.040 Two or more dwelling units on one meter. In the event two (2) or more dwelling units such as mobile homes, apartments or housekeeping rooms discharging sanitary sewage, water or other liquids into the Town's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, billing shall be for a single service in the manner set out elsewhere herein, except that the minimum bill shall not be less than the number of such dwelling units times base rate per month of \$5.50. In the case of mobile home courts, the number of dwelling units shall be computed and interpreted as the total number of mobile home spaces available for rent plus any other dwelling units served through the meter. A dwelling unit shall be interpreted as a room or rooms or any other space or spaces in which cooking facilities are provided. (Ord. 616, S4(d), Oct. 6, 1981)

18.12.400.050 Water not entering sanitary sewer system. In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the Town's sanitary sewerage system, either directly or indirectly, and uses water in excess of 25,000 gallons per month, and it can be shown to the satisfaction of the Town that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge. (Ord. 616, S4(e), Oct. 6, 1981)

18.12.500 RATES BASED ON STRENGTH AND CHARACTER OF SEWAGE

In order that the rates and charges may be justly and equitable adjusted to the service rendered to users, the Town shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sanitary sewage system, in such manner and by such method as the Town may deem practicable in the light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the Town at all times.

18.12.500.010 Stronger than normal domestic waste. Normal sewage domestic waste strength should not exceed a biochemical oxygen demand of 200 milligrams per liter of fluid or suspended solids in excess of 240 milligrams per liter of fluid. Additional charges for treating stronger-than-normal domestic waste shall be made on the following basis:

(1) Rate Surcharge Based Upon Suspended Solids

There shall be an additional charge of 13 cents per pound of suspended solids for suspended solids received in excess of 240 milligrams per liter of fluid.

(2) Rate Surcharge Based Upon BOD

There shall be an additional charge of 15 cents per pound of biochemical oxygen demand for BOD received in excess of 200 milligrams per liter of fluid. (Ord. 616, S5(a), Oct. 6, 1981)

18.12.500.020 Determination of strength and character of sewage. The determination of Suspended Solids and five-day Biochemical Oxygen Demand contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes, as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, and in conformance with "Guidelines Establishing Test Procedures for Analysis of Pollutants", Regulation CFR part 136, published in the Federal Register on October 16, 1973. (Ord. 616, S5(b), Oct. 6, 1981)

18.12.600 BILLING AND COLLECTION

Such rates and charges shall be prepared, billed and collected by the Town in the manner provided by law and ordinance.

18.12.600.010 Monthly billing. The rates and charges for all users shall be prepared and billed monthly. (Ord. 616, S6(a), Oct. 6, 1981)

18.12.600.020 Billed to tenant unless otherwise requested in writing by owner. The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the Town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business. (Ord. 616, S6(b), Oct. 6, 1981)

18.12.600.030 Delinquent bills / Penalty. As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates or charges shall thereupon attach thereto. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill. (Ord. 616, S6(c), Oct. 6, 1981)

18.12.620 RATE STUDY

In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various uses or user classes, the Town shall cause a study to be made within a reasonable period of time following the first 2 years of operation, following the date on which this ordinance goes into effect. Such study shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the waste treatment systems.

Thereafter, on a biennial basis, within a reasonable period of time following the normal accounting period, this Town shall cause a similar study to be made for the purpose of reviewing the fairness and equity of the rates and charges for sewage services on a continuing basis. Said studies shall be conducted by officers or employees of the Town, or by a firm of certified public accountants, or a firm of consulting engineers which firm shall have experience in such studies, or by such combination of officers, employees, certified public accountants or engineers as the Town shall determine to be best under the circumstances. (Ord. 616, S7, Oct. 6, 1981)

18.12.650 ENFORCEMENT OF BY-LAWS AND REGULATIONS

The City shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the Town's sewerage system, pumping stations and sewage treatment works, for the construction and use of house sewers and connections to the sewerage treatment works, for the construction and use of house sewers and connection to the sewerage system, and for the regulation, collection, rebating and refunding of such rates and charges.

The Town is hereby authorized to prohibit dumping of wastes into the Town's sewerage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the Town, or to require methods affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollution Discharge Elimination System (NPDES) permit issued to the sewage works. (Ord. 616, S8, Oct. 6, 1981)

18.12.680 CONNECTION FEE

The owner of any lot, parcel of real estate or building connecting to the sewage works shall, prior to being permitted to make a connection, pay a connection charge in the amount of \$300 or the actual cost of construction, whichever is larger, for each connection. The Board of Trustees now finds such a connection charge to be a reasonable and equitable pro rate cost of construction of a local or lateral sewer adequate to serve the property so connecting, and the cost of providing a connection to the sewer, excavation, backfilling, pavement replacement and installation of a sewer line from the sewer to the property line.

Provided, however, no connection charge will be required of any customer connecting to a local or lateral sewer within 90 days of the date on which said sewer was available for connection. (Ord. 616, S9, Oct. 6, 1981)

18.12.700 DEBT SERVICE COSTS

In order to produce an amount sufficient to meet the interest on the revenue bonds, and other expenses, payable prior to the completion of the works, after the contract for construction of sewer system has been let and actual work commenced thereunder, the owners of each and every lot, parcel of real estate or building to be connected with the Town's sanitary sewage system, as a result of construction of said works, shall pay, each month, \$8.00 for each such building to be connected. Beginning with the first month after the sanitary sewers are available for connection and use to any lot, parcel of real estate or building, the full rates and charges shall become effective for such lot, parcel of real estate or building; but in any event, said full rates and charges shall become effective no later than August 1, 1983 so that billings for full rates and charges shall be rendered no later than September 1, 1983. (Ord. 616, S10, Oct. 6, 1981)

18.12.710 SEPARABILITY OF PROVISIONS

The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part of parts. (Ord. 616, S11, Oct. 6, 1981)

18.12.720 SPECIAL RATE CONTRACTS.

The Board is hereby further authorized to enter into special rate contracts with customers of the sewage works where clearly definable reduction in cost to the sewage works can be determined, and such reduction shall be limited to such reduced costs. (Ord. 616, S12, Oct. 6, 1981)

Chapter 18.24

NATURAL GAS FRANCHISE TO INDIANA NATURAL GAS CORPORATION

Sections:

18.24.005	Preamble
18.24.010	Granting Indiana Natural Gas Corporation the right to distribute and sale natural gas
18.24.020	Interference with existing utilities
18.24.030	Reporting location of proposed natural gas pipes, prior to construction
18.24.040	Temporary shut off of gas for repairs
18.24.050	Hold harmless clause
18.24.060	Extension of lines
18.24.070	Adequate supply of gas
18.24.080	Rules and regulations
18.24.090	Separability of provisions
18.24.100	Term
18.24.110	Publication of Ordinance
18.24.120	Effective when

18.24.005 Preamble. Indiana Natural Gas Corporation has petitioned the Board of Trustees of the Town of Marengo, (hereinafter also designated as "Town"), asking that the franchise, right, privilege and authority be granted to it, its successors and assigns, by ordinance, to construct, extend, maintain, repair, replace, operate and remove a system for the manufacture, transmission, distribution and sale of natural or artificial gas or a mixture thereof, for lighting, heating, power and any other purposes for which gas may be used in said Town; and

It is in the best interests of the Town and the inhabitants thereof that gas be distributed to customers in the Town; and

Indiana Natural Gas Corporation has duly complied with all provisions of the laws of the State of Indiana, and with all ordinance of said Town with reference to the obtaining of such franchise, right, privilege and authority. (Ord. Unnumbered, Preamble, Jan. 18, 1965)

18.24.010 Granting Indiana Natural Gas Corporation the right to distribute and sale natural gas. That subject to the terms, conditions and provisions hereinafter stated and set forth, there is hereby granted to Indiana Natural Gas Corporation, its successors and assigns, the right to construct, erect, maintain and operate a gas works and storage facilities within the corporate limits of the Town of Marengo, Indiana, for the purpose of supplying gas to the said Town and the inhabitants thereof, and territory in the vicinity of said Town and is hereby granted the right-of-way along, through and under the streets, avenues, alleys, lanes, sidewalks, public squares and public places in said incorporated Town of Marengo, Indiana, for the purpose of laying, constructing, maintaining, removing, using and operating one or

more lines of gas main and branch pipe with the necessary feeders, service pipes, valves, regulators and other devices necessary or convenient to the successful operation of such lines and pipes in the supplying, storing, conducting and delivering of gas to the Town of Marengo, Indiana, and inhabitants thereof and territory in the vicinity of said Town. (Ord. Unnumbered, S1, Jan. 18, 1965)

18.24.020 Interference with existing utilities. In the work of laying, removing, changing, repairing, or replacing its pipes, mains, feeders, equipment, or appurtenances, the said Indiana Natural Gas Corporation shall not unnecessarily obstruct or interfere with nor change any existing arrangements such as sewers, water mains, or other public or private works in said incorporated Town. (Ord. Unnumbered, S2, Jan. 18, 1965)

18.24.030 Reporting location of proposed natural gas pipes, prior to construction. That the said Indiana Natural Gas Corporation, its successors and assigns, shall before beginning the laying of any pipes, mains or conduits, make a report to the Town Clerk or the Superintendent of Streets for the Town of Marengo, Indiana stating the locations within the Town limits where such pipes, mains and conduits are proposed to be laid. Said Indiana Natural Gas Corporation after doing any excavating shall replace all materials, excepting surfacing materials or pavement which have been removed and shall leave the fill in a neatly graded condition. After said excavations have been sufficiently settled, filled and are ready for repaving and resurfacing, said Indiana Natural Gas Corporation will so notify the Town authorities. Upon receipt of notice as aforesaid that excavations made hereunder have been refilled and are ready for resurfacing, or repaving, the Town shall thereupon undertake such resurfacing or repaving and shall do the same in a proper manner. All expenses properly incident to the cost of repaving or resurfacing shall be borne by said Indiana Natural Gas Corporation and the amount thereof shall be paid promptly to the said Town within a reasonable time after receipt by the said Indiana Natural Gas Corporation of invoices covering same. (Ord. Unnumbered, S3, Jan. 18, 1965)

18.24.040 Temporary shut off of gas for repairs. Said Indiana Natural Gas Corporation shall have the right to temporarily shut off gas, to be supplied hereunder for any of the purposes by this ordinance permitted, from its main and service pipes, or any part thereof, provided, however, that such action shall in each case be taken for the sole and express purpose of making repairs or extensions to works or mains or service pipes or for safety reasons and said Indiana Natural Gas Corporation shall not be liable to the said Town or to any customer or consumer of gas for any damage caused by each temporary suspension of the supply of gas; provided, however, that said repairs and extensions are made with due diligence by the said Indiana Natural Gas Corporation. (Ord. Unnumbered, S4, Jan. 18, 1965)

18.24.050 Hold harmless clause. That the said Indiana Natural Gas Corporation, its successors and assigns, shall at all time hold and save the incorporated Town of Marengo, Indiana, harmless from any and all liability, loss, cost, damage, or expense which may accrue to said incorporated Town of Marengo, by reason of the neglect, default or misconduct of the Indiana Natural Gas Corporation, in the construction, operation, or maintenance of its facilities hereunder. (Ord. Unnumbered, S5, Jan. 18, 1965)

18.24.060 Extension of lines. Indiana Natural Gas Corporation, successors and assigns, shall be required to extend its lines to take care of any consumer in the incorporated Town of Marengo, who desires to use gas at any time, provided, however, that said Indiana Natural Gas Corporation shall not be required to extend its lines beyond the curb immediately adjacent to the abutting properties or the property line of customers, nor more than one hundred (100) feet of main for each customer to be served. (Ord. Unnumbered, S6, Jan. 18, 1965)

18.24.070 Adequate supply of gas. That Indiana Natural Gas Corporation, its successors and assigns, hereby agree to make available to the Town of Marengo, Indiana, and its inhabitants an adequate supply of gas for normal purposes, except that the Indiana Natural Gas Corporation shall not be responsible or liable for delay of failure in the performance of the premises and agreement on its part to be performed hereunder, if such delay or failure be due to any cause beyond their control such as but not limited to strikes, fires, floods, storms, accidents, acts of public enemies, mobs or rioters, and acts of God, or inability of Indiana Natural Gas Corporation to obtain adequate gas from its pipe line suppliers. (Ord. Unnumbered, S7, Jan. 18, 1965)

18.24.080 Rules and regulations. Said Indiana Natural Gas Corporation shall have the power to make all needful rules and regulations for the collection of its revenues the prevention of waste of its property and gas supply, and the conduct and management of business as it may, from time to time, deem necessary. (Ord. Unnumbered, S8, Jan. 18, 1965)

18.24.090 Separability of provisions. In the event that the Public Service Commission of Indiana or any other body, board, commission or court of competent jurisdiction shall adjudge any provision or provisions of this ordinance invalid or illegal, or direct a change by Indiana Natural Gas Corporation in any matter or thing therein contained, such invalidity or illegality or change shall in no way affect the remaining provisions of this ordinance, or their validity or legality, and this ordinance, in all other respects shall continue in full force and effect, as if said provision or provisions had not been so adjudged invalid or illegal or such change directed. (Ord. Unnumbered, S9, Jan. 18, 1965)

18.24.100 Term. This ordinance shall take effect and be in force from and after its passage and publication in accordance with law and shall thereafter continue in effect as an indeterminate permit pursuant to statute and under and upon such terms and conditions as prescribed by the Public Service Commission of the State of Indiana. Said Indiana Natural Gas Corporation agrees that within six (6) months from the date of this franchise that it will furnish to the Town of Marengo a report showing whether it is or is not feasible to furnish natural gas service as provided herein. If in the opinion of said Indiana Natural Gas Corporation it is not feasible to furnish Natural gas service as provided herein it will forthwith surrender this franchise. If in its opinion it is feasible to furnish Natural gas service as provided herein it shall proceed with due diligence to that end. If, however, Natural gas service is not available as herein provided at the end of two (2) years from the date of acceptance of this franchise, the Town of Marengo may terminate said franchise

provided such failure is not due to the unavailability of Natural Gas. (Ord. Unnumbered, S10, Jan. 18, 1965)

18.24.110 Publication of Ordinance. Indiana Natural Gas Corporation shall pay for the publication of this ordinance. (Ord. Unnumbered, S11, Jan. 18, 1965)

18.24.120 Effective when. This ordinance and all of its terms and provisions shall inure to the benefits of and be obligatory upon the parties hereto and the successors and assigns of the parties, and shall be in full force and effect from and after the date of its being approved and adopted by the Town of Marengo.

Passed and adopted by the Board of Trustees of Marengo this 18th day of January 1965. (Ord. Unnumbered, S12, Jan. 18, 1965)

Chapter 18.32

STREET LIGHTING AGREEMENT WITH PUBLIC SERVICE COMPANY OF INDIANA

Sections:

18.32.001	Preamble
18.32.002	Execution of Agreement
18.32.004	Date of contract
18.32.006	Effective when
18.32.008	Parties of agreement
18.32.010	Company will furnish
18.32.020	Location of lamps
18.32.030	Municipality to pay company per annum set forth in the rate schedule
18.32.040	Operation of overhead street lighting system
18.32.050	Term of service
18.32.060	Repealing existing agreements
18.32.070	Previous agreements non binding
18.32.080	Municipality represents that notices, etc., required by law were performed prior to agreement
18.32.090	Binding agreement
18.32.100	Schedule of rates

18.32.001 Preamble. Whereas the Town of Marengo in Crawford County, Indiana, acting by and through the Board of Trustees of said Town, desires to enter into a contract with Public Service Company of Indiana, Inc., for overhead street lighting service, which said contract has been executed by said Public Service Company of Indiana, Inc. and as so executed is in words and figures as follows, to-wit:

Whereas, all acts, conditions and things precedent to the execution by the Town of Marengo of the said contract hereinbefore set forth have happened and been properly done in regular and due form as required by law. (Ord. 482, Preamble, May 1, 1972)

18.32.002 Execution of Agreement. That the Town of Marengo do make and enter into the following contract with Public Service Company of Indiana, Inc. for the installation, operation and maintenance of the overhead street lighting system more particularly described in said contract, and for the street lighting service to be rendered in accordance with the terms and conditions of the said contract; and that said contract, in the form set forth, be, and the same is hereby approved; that the President or Board of Trustees of said Town are authorized to execute the same in the name of, and for, and in behalf of said Town, and the Clerk-Treasurer is authorized to attest the same with his signature and affix thereto the corporate seal of said Town; and that when said contract is executed either by the President or a majority of the Board of Trustees and attested by the Clerk-Treasurer, it shall be in full force and effect. (Ord. 482, S1, May 1, 1972)

18.32.004 Date of contract. This ordinance is passed on May 1, 1972 and at the same meeting at which it is introduced and it is passed by the unanimous consent of all members of the Board of Trustees present, and there are present and voting at least two-thirds of the members elect of said Board of Trustees. (Ord. 482, S2, May 1, 1972)

18.32.006 Effective when. This ordinance shall be in full force and effect from and after its passage on May 1, 1972. (Ord. 482, S3, May 1, 1972)

18.32.008 Parties of Agreement. This Agreement made and entered into this 1st day of May, 1972 by and between the Town of Marengo, a municipal corporation in Crawford County and organized under the laws of the State of Indiana, acting by and through its Board of Trustees (hereinafter called "Municipality"), party of the first part, and Public Service Company of Indiana, Inc., a corporation organized under the laws of the State of Indiana (hereinafter called "Company"), party of the second part. (Ord. 482, Agreement, May 1, 1972)

18.32.010 Company will furnish. Company will furnish, in accordance with conditions hereinafter set out, all necessary equipment to provide, operate and maintain an overhead street lighting system in conjunction with and as a part of its general overhead electric distribution system, and Company will furnish electric energy, all for the purpose of furnishing overhead street lighting service to Municipality. (Ord. 482, Agreement S1, May 1, 1972)

18.32.020 Location of lamps. With respect to lamps installed prior to June 1, 1966, details of the locations of such lamps supplied for said overhead street lighting system, the respective sizes and types of such lamps, are set forth on the schedule of lamps and print hereto attached (bearing print No. B-5989), marked Exhibit "A" and made a part hereof the same as if incorporated herein. With respect to lamps installed on or after June 1, 1966, details of the locations of such lamps supplied or to be supplied for said overhead street lighting system, the respective sizes and types of such lamps, are set forth on the schedule of lamps and print hereto attached (bearing print No. B-5989-1), marked Exhibit "B" and made a part hereof the same as if incorporated herein. (Ord. 482, Agreement, SII, May 1, 1972)

18.32.030 Municipality to pay company per annum set forth in the rate schedule. Except as otherwise provided in this agreement, Municipality shall pay Company for the operation of said overhead street lighting system, and for the electric energy supplied therefor, an amount determined on the basis of the rates per lamp per annum set forth in Rate SL-Schedule For Public Street Lighting Service or Rate PSL-Schedule For Public Street Lighting Service, marked Exhibit "C" and Exhibit "D" respectively, and made a part hereof the same as if incorporated herein. (Ord. 482, Agreement, SIII, May 1, 1972)

18.32.040 Operation of overhead street lighting system. The operation of the said overhead street lighting system, and the supplying of electric energy therefor, shall be in accordance with the following provisions:

- (1) Ownership of System-Service Lines. The ownership of the property comprising said overhead street lighting system is and shall remain in

Company, and the termination of this agreement for any reason whatsoever shall not in any way affect such ownership by Company, nor deprive Company of the right either to remove any or all property comprising such system or any part thereof or to use the same in, or in connection with, the rendering of other public utility service by Company. (Ord. 482, Agreement, SIV(1), May 1, 1972)

- (2) Continuity of Service. Company does not guarantee uninterrupted service from the overhead street lighting system to be operated in accordance with this agreement, and shall not be liable for any interruption of service when such interruption is without willful default or neglect on the part of Company, or is due to any cause beyond the control of Company including, but not limited to, strikes, lockouts, riots, insurrection, war, acts of the public enemy, fire from any cause, explosions, accidents, restraint of government, state or municipal interference, breakdowns, injuries to machinery, transmission or distribution systems, necessary repairs and renewals, or acts of God, but Company shall make all reasonable efforts to renew promptly the operation of the overhead street lighting system in the event of any interruption to the service. (Ord. 482, Agreement, SIV(2), May 1, 1972)
- (3) Liability. Company shall protect and save Municipality harmless from any and all loss, damage or liability proximately caused by the negligence of Company in the installation and/or maintenance of the overhead lighting system, but this shall not be construed as any assumption of any liability for injury to or death of any person or for damage to any property caused by the failure of any lamp or lamps to operate. (Ord. 482, Agreement, SIV(3), May 1, 1972)
- (4) Changes in Lamp Location. Company will change the location of any lamp or lamps constituting a part of the overhead street lighting system, which will, or may be, installed and/or operated under the terms of the agreement. "Change In Lamp Location" shall mean the relocation of a lamp in such a manner that the area illuminated by the lamp will not be substantially changed from what it was before such relocation. Any such change in lamp location will be made only upon written orders from Customer. The actual cost and expense of making each such change in lamp location shall be borne by Customer. Customer shall pay Company for the operation of such changed lamp or lamps, and for the electric energy supplied therefor, in accordance with the applicable rates set forth in Exhibit "C" or in Exhibit "D". (Ord. 482, SIV(4), May 1, 1972)
- (5) Additional Lamps. Company shall install additional overhead lamps in accordance with the provisions contained in Exhibit "D". Municipality shall accept service from and pay for any such additional lamp or lamps so long as this agreement remains effective in accordance with the rates set forth in Exhibit "D". (Ord. 482, SIV(5), May 1, 1972)

- (6) Payments for Service. Municipality shall accept service hereunder and pay for the same on the basis of each and every lamp installed and operated in accordance with the original number of lamps as set out in the "Schedule of Lamps" of this agreement, and such additional lamps as may be installed in accordance with paragraph (5) above; provided, however, that, whenever Municipality shall order Company to increase the size of any lamp supplied hereunder, payments thereafter shall, because of such change, be made in accordance with the rates set forth in Exhibit "D". Bills for overhead street lighting service hereunder shall be presented monthly by Company. (Ord. 482, SIV(6), May 1, 1972)
- (7) Delinquency. If Municipality shall fail to pay any sum or sums of money as the same become due and payable for overhead street lighting service rendered under the terms of this agreement and such delinquency continues for a period of thirty (30) days or longer, Company shall have the right to discontinue service to the overhead street lighting system until such sum or sums of money shall have been fully paid, or Company shall have the right to cancel this agreement in its entirety and may, at its option, remove any parts or all of the overhead street lighting equipment and system. Such discontinuance, cancellation or removal shall not release Municipality from liability for the payment of any sum or sums of money owing to Company for overhead street lighting service theretofore furnished to Municipality nor relieve Municipality of liability to respond in damages for such violation of the terms of this agreement. (Ord. 482, SIV(7), May 1, 1972)
- (8) Rate Changes. Should any change in the rates provided herein be lawfully ordered by the Public Service Commission of Indiana, payments for service by Municipality to Company as provided for herein shall thereafter be made upon the basis of such new rates as changed and approved by the Public Service Commission of Indiana. (Ord. 482, SIV(8), May 1, 1972)

18.32.050 Term of service. Service under this agreement shall commence as soon as practicable, but in no event later than thirty (30) days after the date of this agreement, and Company shall notify Municipality in writing as to the date on which service hereunder will be commenced. The initial fixed term of this agreement during which Municipality shall take and Company shall render service hereunder shall be five (5) years from the said date when service commences hereunder, and after the said initial fixed term of five (5) years this agreement shall continue in force and effect for successive terms of five years. Either one of the parties hereto upon at least sixty (60) days prior written notice to the other may terminate this agreement at the expiration of said initial fixed term of five (5) years or at the expiration of any successive five-year term. (Ord. 482, SV, May 1, 1972)

18.32.060 Repealing existing agreements. From and after the date when service is commenced under this agreement, this agreement shall supersede any and all existing agreements between the parties hereto under the terms of which overhead street lighting service is supplied by Company to Municipality, and all such other agreements as to overhead street lighting service, or insofar as they cover overhead street lighting service, shall be deemed terminated and cancelled as of such date provided, however, that such

termination or cancellation shall not preclude or destroy the right of either party hereto thereafter to commence an action, and recover, for any unpaid bills or other damages resulting from any breach of such other agreement during the time the same was in force and effect. (Ord. 482, SVI, May 1, 1972)

18.32.070 Previous agreements non binding. All terms and stipulations heretofore made or agreed to in respect to overhead street lighting service by Company to Municipality subsequent to the commencement of service hereunder are merged into this written agreement, and no previous or contemporaneous representations or agreements made by any officer, agent or employee of Company or Municipality shall be binding upon either party in connection with the rendering or receiving of overhead street lighting service hereunder unless contained herein. (Ord. 482, SVII, May 1, 1972)

18.32.080 Municipality represents that notices, etc. required by law were performed prior to agreement. Municipality represents and covenants that all things required by law precedent to the lawful execution by Municipality of this agreement have been prepared, given, held, submitted, furnished and properly done and performed. (Ord. 482, SVIII, May 1, 1972)

18.32.090 Binding agreement. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns. (Ord. 482, SIX, May 1, 1972)

18.32.100 Schedule of rates.

SCHEDULE OF OVERHEAD STREET LIGHTING LAMPS

<u>Exhibit "A"</u>	<u>Exhibit "B"</u>
Rate SL	Rate PSL
Size of Lamp <u>(Lumens)</u>	Size of Lamp <u>(Lumens)</u>
Incandescent	Incandescent
_____ 1,000	<u>6</u> _____ 2,500
<u>94</u> _____ 2,500	_____ 4,000
_____ 4,000	_____ 6,000
_____ 6,000	_____ 10,000
_____ 10,000	_____ 15,000
_____ 15,000	
Mercury Vapor	Mercury Vapor
_____ 7,000	<u>6</u> _____ 8,000
_____ 20,000	_____ 11,000
_____ 40,000	_____ 22,000
	_____ 40,000

**RATE SL-SCHEDULE FOR PUBLIC STREET LIGHTING SERVICE
(OTHER THAN STATE HIGHWAY SAFETY STREET LIGHTING SERVICE)**

Lighting Hours

The lighting hours for the public street lighting system shall be on an "all-night" schedule which provides that lamps are to be lighted from approximately one-half (1/2) hour after sunset until approximately one-half (1/2) hour before sunrise each day in the year, approximately 4,000 hours per annum.

Maintenance of Lighting System

Company will repair and/or replace and maintain all equipment owned by Company, including lamps and glassware, which may be necessary to provide continuous operation of the public street lighting system.

Changes In Lamp Location

Company will change the location of any lamp or lamps constituting a part of the public street lighting system which are, or may be, installed and/or operated under this schedule.

Any such change in lamp location will be made only upon written order from Customer. The actual cost and expense of making each such change in lamp location shall be borne by Customer.

Additional Lamps

Company shall install, at its own expense, any additional lamp or lamps ordered by Customer, provided, however, that the cost of installing any such additional lamp or lamps does not exceed five times the annual amount to be paid by Customer (at the rates provided herein) for public street lighting service from the additional lamp or lamps ordered. If the cost of installing any such additional lamp or lamps shall exceed five times the annual amount to be paid by Customer for public street lighting service from such additional lamp or lamps ordered, then such excess cost of installing such lamp or lamps shall be paid for by Customer.

Company shall install any additional lamp or lamps as soon as practicable after the receipt by Company of the written order from Customer. Such order shall not require Company to install additional lamps at any time prior to thirty (30) days nor later than ninety (90) days after receipt by Company of such order.

Payments for Service

Public Authorities

Bills for public street lighting service as supplied under this schedule to be submitted by Company to Customer for any month shall be in an amount equal to one-twelfth (1/12) of the annual charges herein provided. After such bills have been presented for public street lighting service rendered during the preceding month, Customer shall make full payment within ten (10) days immediately following the date for the next regular meeting of the proper authorities having authority to approve such bills.

Other than Public Authorities

Company may require from applicants for public street lighting service a deposit equal to five years estimated charges before the public street lighting system is constructed. Such deposit can be made with Company or under terms of an escrow agreement with a bank subject to an agreement permitting Company to draw against such funds, annually and in advance, the estimated charges for electric service to be rendered to Customer hereunder during the one-year period following the date of such draft. Deposits made with Company will draw interest at the rate of three percent (3%) annually. Such interest will be credited to Customer's account at the termination of each contract year. No further deposit shall be required to secure payment of bills for such service to be rendered hereunder for any year after the fifth year after the commencement of service hereunder except that all bills for service hereunder shall thereafter be paid annually and in advance.

Deduction for Outage Credit

Customer or other authorized agent shall make a report of any lamp or lamps which are out of service during proper lighting hours. A copy of such report shall be delivered to Company's local or district office, or to such representative as Company may designate to receive such reports.

Company shall restore any lamp or lamps to service before the proper hour for lighting on the same day as reported if the report of lamp outage is received before the hour of 12 o'clock noon, or Company shall restore any lamp or lamps to service before the proper hour for lighting on the next succeeding day if the report of lamp outage is received after the hour of 12 o'clock noon. In the event of the failure to restore any lamp or lamps to service as hereinbefore provided, after receipt of the report hereinbefore provided for, Customer shall, for each such lamp outage, receive a deduction for outage credit from the payment for street lighting service for the current month in accordance with the "Outage Credits" provided in this schedule.

Such deductions for outage credit shall constitute the only liability that Company assumes or shall have because of the failure of any lamp or lamps to operate during lighting hours, and Company shall not be liable either to Customer or to any third party or parties for any claims for damages directly or indirectly attributable to such lamp outage.

Contract for Service

A Customer seeking service under this schedule shall make and enter into a contract with Company for a term of not less than ten years in the case of a new ornamental public street lighting system or in the case of contracts for new systems with persons other than public authorities, and not less than five years in the case of any other public street lighting system, containing other appropriate terms and conditions not inconsistent herewith.

EXHIBIT C

RATE SL – SCHEDULE FOR PUBLIC STREET LIGHTING SERVICE (OTHER THAN STATE HIGHWAY SAFETY STREET LIGHTING SERVICE)

This Schedule, Rate SL, is in the process of elimination and is withdrawn except for the present installations of lamps served hereunder prior to June 1, 1966, and will not be applicable to additional or converted lamp units. If service hereunder to an existing size or type of lamp is at any time discontinued at the customer's option, this schedule shall not again be available.

Availability

Available for public street lighting service at such locations as are within the Company's service area and are adjacent to an electric power line of Company that is adequate and suitable for supplying the service requested.

Rate

For Standard Overhead Public Street Lighting Service

Lumen Rated Incandescent Lamps

Size of Lamp (lumens)	Rate per Lamp per Annum	Outage Credit per Lamp per Night
1,000	\$14.52	4c
2,500	20.52	6c
4,000	27.48	8c
6,000	34.56	9c
10,000	46.56	13c
15,000	62.16	17c

Wattage Rated Incandescent Lamps

Size of Lamp (watts)	Rate per Lamp per Annum	Outage Credit per Lamp per Night
100	\$16.92	5c
150	20.40	6c
200	26.52	7c
300	33.96	9c
500	47.88	13c
750	73.20	20c
1,000	90.00	25c

Mercury Vapor Lamps

Size of Lamp (lumens)	(watts)	Rate per Lamp per Annum	Outage Credit per Lamp per Night
7,000	175	\$48.00	13c
20,000	400	75.00	21c
40,000	700	105.00	29c

For Other Public Street Lighting Service

When a Customer hereunder requests public street lighting service for an overhead ornamental public street lighting system or for any other overhead public street lighting system requiring special poles, fixtures or lamps, or for an underground public street lighting system instead of an overhead public street lighting system, the foregoing schedule of rates shall be increased and the terms and conditions of the contract with the Customer shall be varied to cover Company's additional cost to install, own, operate and maintain such special facilities.

Ownership of System – Service Lines

Company will furnish, provide, install, own, operate and maintain the necessary transmission and distribution line, wires, conduits, conductors, cables, masts, towers, poles, posts, transformers, lamps, fixtures and other appliances and structures for furnishing public street lighting service to Customer.

Company shall erect the service lines necessary to supply electric energy to the said public street lighting system within the limits of the public streets and highways or on private property as mutually agreed upon by Company and Customer. Customer shall assist Company, if necessary, in obtaining adequate written easements covering permission to install and maintain any service lines which it may be desirable to install upon private property.

Company shall not be required to pay for obtaining permission to trim or re-trim trees where such trees interfere with any service lines or wires of Company used for supplying electric energy to the public street lighting system. Customer shall assist Company, if necessary, in obtaining permission to trim trees when Company is unable to obtain such permission through its own best efforts.

Changes in Lamp Location

Company will change the location of any lamp or lamps constituting a part of the public street lighting system which are, or may be, installed and/or operated under this schedule. Any such change in lamp location will be made only upon written order from Customer. The actual cost and expense of making each such change in lamp location shall be borne by Customer.

Additional Lamps

Standard Overhead Public Street Lighting Service

Company shall install, at its own expense, any additional lamp or lamps included in the rates for standard overhead public street lighting service when ordered by Customer. Company shall install any additional lamp or lamps as soon as practicable after receipt by Company of the written order from Customer. Such order shall not require Company to install additional lamps at any time prior to thirty (30) days nor later than ninety (90) days after receipt by Company of such order.

Other Public Street Lighting Service

The installation of an additional street lighting system other than a standard overhead street lighting system or the installation of an additional lamp or lamps to such other street lighting system, and the connecting to and/or furnishing of electric energy to such additional street lighting system, lamp or lamps, shall be subject to a separate or supplemental agreement for any such additional street lighting system, lamp or lamps.

Payments for Service

Public Authorities

Bills for public street lighting service as supplied under this schedule to be submitted by Company to Customer for any month shall be in an amount equal to one-twelfth (1/12) of the annual charges herein provided. After such bills have been presented for public street lighting service rendered during the preceding month, Customer shall make full payment within ten (10) days immediately following the date for the next regular meeting of the proper authorities having authority to approve such bills.

Other than Public Authorities

Company may require from applicants for public street lighting service a deposit equal to five years estimated charges before the public street lighting system is constructed. Such deposit can be made with Company or under terms of an escrow agreement with a bank subject to an agreement permitting Company to draw against such funds, annually and in advance, the estimated charges for electric service to be rendered to Customer hereunder during the one-year period following the date of such draft. Deposits made with Company will draw interest at the rate of three percent (3%) annually. Such interest will be credited to Customer's account at the termination of each contract year. No further deposit shall be required to secure payment of bills for such service to be rendered hereunder for any year after the fifth year after the commencement of service hereunder except that all bills for service hereunder shall thereafter be paid annually and in advance.

Deduction for Outage Credit

Customer or other authorized agent shall make a report of any lamp or lamps which are out of service during proper lighting hours. A copy of such report shall be delivered to Company's local or district office, or to such representative as Company may designate to receive such reports.

Company shall restore any lamp or lamps to service before the proper hour for lighting on the same day as reported if the report of lamp outage is received before the hour of 12 o'clock noon, or Company shall restore any lamp or lamps to service before the proper hour for lighting on the next succeeding day if the report of lamp outage is received after the hour of 12 o'clock noon. In the event of the failure to restore any lamp or lamps to service as hereinbefore provided, after receipt of the report hereinbefore provided for, Customer shall, for each such lamp outage, receive a deduction for outage credit from the payment for street lighting service for the current month in accordance with the "Outage Credits" provided in this schedule.

Such deductions for outage credit shall constitute the only liability that Company assumes or shall have because of the failure of any lamp or lamps to operate during lighting hours, and Company shall not be liable either to Customer or to any third party or parties for any claims for damages directly or indirectly attributable to such lamp outage.

Contract for Service

A Customer seeking service under this schedule shall make and enter into a contract with Company for a term of not less than ten years in the case of a new ornamental public street lighting system or in the case of contracts for new systems with persons other than public

authorities, and not less than five years in the case of any other public street lighting system, containing other appropriate terms and conditions not inconsistent herewith.

EXHIBIT D

RATE PSL – SCHEDULE FOR PUBLIC STREET LIGHTING SERVICE (OTHER THAN STATE HIGHWAY LIGHTING SERVICE)

Availability

Available for public street lighting service at such locations as are within the Company's service area and are adjacent to an electric power line of Company that is adequate and suitable for supplying the service requested.

Rate

For Standard Overhead Public Street Lighting Service

Lumen Rated Incandescent Lamps

<u>Size of Lamp (lumens)</u>	<u>Rate per Lamp per Annum</u>	<u>Outage Credit per Lamp per Night</u>
2,500	\$42.00	12¢
4,000	48.00	13¢
6,000	57.00	16¢
10,000	75.00	21¢
15,000	93.00	25¢

Mercury Vapor Lamps

<u>Size of Lamp (lumens)</u>	<u>(watts)</u>	<u>Rate per Lamp per Annum</u>	<u>Outage Credit per Lamp per Night</u>
8,000	175	\$48.00	13¢
11,000	250	57.00	16¢
22,000	400	75.00	21¢
40,000	700	105.00	29¢

For Other Public Street Lighting Service

When a Customer hereunder requests public street lighting service for an overhead ornamental public street lighting system or for any other overhead public street lighting system requiring special poles, fixtures or lamps, or for an underground public street lighting system instead of an overhead public street lighting system, the foregoing schedule of rates shall be increased and the terms and conditions of the contract with the Customer shall be varied to cover Company's additional cost to install, own, operate and maintain such special facilities.

Ownership of System – Service Lines

Company will furnish, provide, install, own, operate and maintain the necessary transmission and distribution line, wires, conduits, conductors, cables, masts, towers, poles, posts, transformers, lamps, fixtures and other appliances and structures for furnishing public street lighting service to Customer.

Company shall erect the service lines necessary to supply electric energy to the said public street lighting system within the limits of the public streets and highways or on private property as mutually agreed upon by Company and Customer. Customer shall assist Company, if necessary, in obtaining adequate written easements covering permission to install and maintain any service lines which it may be desirable to install upon private property.

Company shall not be required to pay for obtaining permission to trim or re-trim trees where such trees interfere with any service lines or wires of Company used for supplying electric energy to the public street lighting system. Customer shall assist Company, if necessary, in obtaining permission to trim trees when Company is unable to obtain such permission through its own best efforts.

Lighting Hours

The lighting hours for the public street lighting system shall be on an "all-night" schedule which provides that lamps are to be lighted from approximately one-half (1/2) hour after sunset until approximately one-half (1/2) hour before sunrise each day in the year, approximately 4,000 hours per annum.

Maintenance of Lighting System

Company will repair and/or replace and maintain all equipment owned by Company, including lamps and glassware, which may be necessary to provide continuous operation of the public street lighting system. (Ord. 482, Schedule of rates, May 1, 1972)

Chapter 18.46

CABLE TELEVISION FRANCHISE

Sections:

18.46.005	Preamble
18.46.010	Assignment of Franchise
18.46.020	Collateral security
18.46.030	Written acceptance by assignee
18.46.040	Existing franchise shall remain.

18.46.005 Preamble. On February 15, 1982 the Town Board of Marengo, Indiana (the "Town Board") passed an Ordinance providing for the granting of a non-exclusive franchise to operate and maintain a community antenna television ("CATV") system and to engage in the business of providing CATV service within the Town of Marengo, Indiana to Whitney and Company, Inc. (the "Franchise").

As the result of prior transfers and/or assignments, Welbac Cable TV Corporation ("Welbac") is now the successor in interest to Whitney and Company, Inc. under the Franchise and lawfully operates and maintains a CATV system and provides CATV service pursuant to it.

On September 8, 1988, Tele-Media Company of the Mid-South, an Indiana limited partnership ("TMC-MS"), was formed for the purpose of constructing, owning and operating CATV systems located in various communities within the State of Indiana and the Commonwealth of Virginia.

On or before October 31, 1988, TMC-MS shall acquire substantially all the assets, tangible and intangible, of Welbac.

Pursuant to Section XI of the Franchise, the consent or approval of the Town Board is required to transfer or assign the cable system from Welbac to TMC-MS.

The Town Board now desires to consent to the transfer and assignment of the Franchise from Welbac to TMC-MS and to confirm that TMC-MS will become the lawful holder of the Franchise upon consummation of its acquisition of the assets of Welbac.

TMC-MS desires to assume, perform and be bound by all the obligations, liabilities, covenants, conditions and restrictions to be done, kept or performed by, or imposed upon Welbac under the Franchise that arise from and after the date of the assignment of the Franchise from Welbac to TMC-MS. (Res. unnumbered, Preamble, Oct. 3, 1988)

18.46.010 Assignment of franchise. Consent is hereby given by the Town Board to the assignment by Welbac to TMC-MS of all Welbac's right, title and interest in, and duties and

obligations under, the Franchise and upon consummation of its acquisition of the assets of Welbac, and the filing of the acceptance by TMC-MS provided for in Section 18.46.030 hereof, the Town Board will recognize TMC-MS as the sole holder of all rights under the Franchise. (Res. unnumbered, S1, Oct. 3, 1988)

18.46.020 Collateral security. Consent is also hereby given by the Town Board to the assignment, for collateral security purposes, of the right to conduct the business of a CATV system under the Franchise by the holder thereof to a financial lending institution as collateral security for the repayment of indebtedness incurred in connection with the acquisition and/or operation of CATV systems. (Res. unnumbered, S2, Oct. 3, 1988)

18.46.030 Written acceptance by assignee. The consents granted by this Resolution shall be null and void unless the assignee of the Franchise, TMC-MS, files a written acceptance of the Franchise, acknowledged before a Notary Public, with the Town Board within sixty (60) days after assignment of the Franchise from Welbac to TMC-MS. Such acceptance shall acknowledge that TMC-MS agrees to be bound by and to comply with the provisions of the Franchise Resolution, and shall be in such form and have such content as to be satisfactory to and approved by the Town Board. (Res. unnumbered, S3, Oct. 3, 1988)

18.46.040 Existing franchise shall remain. Except as hereby modified by this Res. unnumbered, Oct. 4, 1988, the existing Franchise is in all other respects ratified and confirmed, and all of the terms and conditions thereof shall remain in full force and effect. The Town Board hereby confirms that the Franchise is validly existing, not in default, in full force and effect, and Welbac is the holder of the rights under the Franchise. (Res. unnumbered, S4, Oct. 3, 1988)

Chapter 18.51

GRANTING EUREKA TELEPHONE CO., INC. A FRANCHISE FOR A TELEPHONE SYSTEM

Sections:

18.51.005	Preamble
18.51.010	Granting of franchise
18.51.020	Terms of franchise

18.51.005 Preamble. The Eureka Telephone Company, Inc., a telephone company organized and existing under the laws of the State of Indiana, hereinafter termed the "company" desires to construct, operate, and maintain a telephone system in and through the Town of Marengo, hereinafter termed the "town", and from time to time make additions alterations and improvements therein; and

It would be to the mutual benefit of the town and the company for the town board to grant a franchise to the company to erect, construct, operate and maintain a telephone system on terms that will assure the full control and use of the streets or alleys to the public, the safety of the persons and property of the public so far as the maintenance of the system is concerned. (Ord. unnumbered, Apr. 4, 1966)

18.51.010 Granting of franchise. That the Eureka Telephone Company, Inc. a corporation organized and existing under the laws of the State of Indiana, its successors and assigns, is hereby granted a franchise to:

- (1) Erect, construct, operate and maintain a telephone system consisting of, without limitation, exchange, toll and trunk lines, conduits, cables, poles, and exchanges, with all fixtures and appurtenances necessary or advisable for the proper operation and maintenance of said system within the limits of the town for the purpose of supplying telephone service for public and private use therein and for the transmission of telephone service through and beyond the town;
- (2) To use the streets, alleys and other public places of the town or the space below such streets, alleys or public places, for such purposes;
- (3) To make all necessary excavations in the public streets, alleys or other public places and thoroughfares and to cut and trim all trees and shrubbery insofar as may be necessary to keep them clear of the poles and wires of the telephone system.

18.51.020 Terms of franchise. This franchise is granted on the following terms:

- (1) The telephone system shall be constructed, operated and maintained in a proper workmanlike manner so as to afford all reasonable safeguards to the public.
- (2) All poles and wires, forming part of said telephone system, shall be so erected, operated and maintained so as to not interfere with traffic on the traveled portions of the streets or alleys; and the company, after the construction or reconstruction of said telephone system or any part thereof; shall restore to their original condition the streets or alleys on which said poles or wires have been erected, constructed, operated or maintained insofar as this is practicable.
- (3) The Company will comply with all reasonable rules and regulations of the town and with all ordinances now in effect or which may hereafter be passed insofar as they do not conflict with the terms or purposes of the franchise herein granted.
- (4) This franchise shall take effect from and after the time of passage and publication, as provided by law. (Ord. unnumbered, Apr. 4, 1966)