

TITLE 18
UTILITIES

TITLE 18

UTILITIES

Chapters:

- 18.05 Blue River Regional Water District
- 18.08 Guidelines on Maintenance of Water Lines under Town Streets
- 18.10 Sewer Use Ordinance
- 18.12 Sewer rates and charges
- 18.24 Natural Gas Franchise to Indiana Natural Gas Corporation
- 18.32 Street lighting agreement with Public Service Company of Indiana
- 18.46 Cable System Franchise
- 18.51 Granting Eureka Telephone Company Inc. a franchise for a telephone system

Chapter 18.05

BLUE RIVER REGIONAL WATER DISTRICT

Sections:

| | |
|-----------|--|
| 18.05.005 | Preambles |
| 18.05.010 | Sale of Waterworks |
| 18.05.020 | Manner of the Sale |
| 18.05.030 | Terms and Conditions of the Sale; Approval of Asset Purchase Agreement |
| 18.05.040 | Authority to convey Title of the Waterworks |
| 18.05.050 | Indebtedness of Waterworks |
| 18.05.060 | Incorporation of Preambles |
| 18.05.070 | Effective Date |

18.05.005 Preambles.

- (1) WHEREAS, the Town of Marengo, Indiana (the "Town") has heretofore established, constructed and financed a municipal waterworks system and now owns and operates said works pursuant to I.C. 8-1.5, as amended, and other applicable laws (together, the "Act").
- (2) WHEREAS, the Town Council of the Town (the "Council"), having the management of said waterworks, has determined that it is necessary to sell or lease the Town's waterworks to the Blue River Regional Water District (the "District") in order to maintain adequate, quality and efficient service to the customers of the waterworks.
- (3) WHEREAS, the Council, through Ordinance 2001-02, as amended, authorized the appraisal of the waterworks pursuant to I.C. 8-1.5-2.
- (4) WHEREAS, the Council received the appraisals within the time fixed by Ordinance Number: 2001-02.
- (5) WHEREAS, notice of a hearing on an ordinance providing for the sale of the waterworks and its appraised value was published within fifteen (15) days after the return of the appraisal by the appraisers to the Council, pursuant to I.C. 8-1.5-2-5.
- (6) WHEREAS, the hearing on the ordinance providing for the sale of the waterworks was held more than thirty (30) days after notice of the hearing was given, pursuant to I.C. 8-1.5-2-5.
- (7) WHEREAS, no petition has been filed opposing the sale of the waterworks, and the period within which such a petition may be filed has passed. (Ord. 2001-5, Preambles, Nov. 19, 2001)

18.05.010 Sale at Waterworks. Pursuant to I.C. 8-1.5-2-6, the Council authorizes the sale of the Town's waterworks to Blue River Regional Water District. (Ord. 2001-5, S1, Nov. 19, 2001)

18.05.020 Manner of the Sale. The assets of the waterworks will be purchased by Blue River Regional Water District in exchange for cash and other good and valuable consideration. (Ord. 2001-5, S2, Nov. 19, 2001)

18.05.030 Terms and Conditions of the Sale; Approval of Asset Purchase Agreement. The waterworks will be sold for its full appraised value, as set forth in the appraisal, less the amount of any bonds, liens, or other indebtedness due upon the property, subject to terms that are similar in all material respects to those listed in the attached Asset Purchase Agreement, which Asset Purchase Agreement is hereby approved in substantially the form attached hereto, subject to any change in the Asset Purchase Agreement approved by the Town Council President as evidenced by his signature thereon. (Ord. 2001-5, S3, Nov. 19, 2001)

18.05.040 Authority to Convey Title of the Waterworks. The Council hereby authorizes the President of the Council to execute the proper documents conveying title of the waterworks on behalf of the Town and any other document necessary to carry out the transactions contemplated by the Asset Purchase Agreement. (Ord. 2001-5, S4, Nov. 19, 2001)

18.05.050 Indebtedness of Waterworks. All debt of the waterworks shall either be paid in accordance with the terms and conditions of the instruments governing the indebtedness before the sale, or be assumed and paid by Blue River Regional Water District as part of the purchase price of the waterworks. (Ord. 2001-5, S5, Nov. 19, 2001)

18.05.060 Incorporation of Preambles. The preambles to this Ordinance are hereby incorporated into the text of this Ordinance as if fully set forth herein. (Ord. 2001-5, S6, Nov. 19, 2001)

18.05.070 Effective Date. This Ordinance shall be in full force and effect from and after its passage and adoption by the Council and approval by the President of the Town Council as provided by law. (Ord. 2001-5, S7, Nov. 19, 2001)

Chapter 18.08

**GUIDELINES ON MAINTENANCE OF WATER LINES
UNDER TOWN STREETS**

Sections:

- 18.08.005 Preamble**
- 18.08.010 Approval of Guidelines on Maintenances of Water Lines under Town Streets**

18.08.005 Preamble.

- (1) The Marengo Town Council is the fiscal body for the Town of Marengo, Crawford County, Indiana;
- (2) The Marengo Town Council desires to establish Guidelines for Maintenance of water lines under all Town Streets.
- (3) Any waterline that needs to be repaired, on any of the Town Streets. Must be reinstalled in conduit. It must extend 18" on each side of the Street. All repairs must be completed within (3) months. (Ord. 07-14-08, Preamble, Aug. 11, 2008)

18.08.010 Approval of Guidelines on Maintenances of Water Lines under Town Streets. The Town Council for the Town of Marengo, Crawford County, Indiana, being the appropriate Fiscal Body for the Town of Marengo, does hereby approve the content of the Ordinance herein as the Act of the body on this 14 day of July. (Ord. 07-14-08, Aug. 11, 2008)

Chapter 18.10

SEWER USE ORDINANCE

Sections:

| | |
|------------------|-----------------------------|
| 18.10.100 | DEFINITIONS |
| 18.10.100.010 | Biochemical oxygen demand |
| 18.10.100.020 | Building drain |
| 18.10.100.030 | Building sewer |
| 18.10.100.040 | Combined sewer |
| 18.10.100.050 | Compatible pollutant |
| 18.10.100.060 | Easement |
| 18.10.100.070 | Fecal coliform |
| 18.10.100.080 | Floatable oil |
| 18.10.100.090 | Garbage |
| 18.10.100.100 | Incompatible pollutant |
| 18.10.100.110 | Industrial wastes |
| 18.10.100.120 | Infiltration |
| 18.10.100.130 | Infiltration / Inflow |
| 18.10.100.140 | Inflow |
| 18.10.100.150 | Inspector |
| 18.10.100.160 | Major contributing industry |
| 18.10.100.170 | NPDES Permit |
| 18.10.100.180 | Natural outlet |
| 18.10.100.190 | Normal domestic sewage |
| 18.10.100.200 | pH |
| 18.10.100.210 | Person |
| 18.10.100.220 | Pretreatment |
| 18.10.100.230 | Private sewer |
| 18.10.100.240 | Properly shredded garbage |
| 18.10.100.250 | Public sewer |
| 18.10.100.260 | Sanitary sewer |
| 18.10.100.270 | Sewage |
| 18.10.100.280 | Sewage works |
| 18.10.100.290 | Sewer |
| 18.10.100.300 | Shall |
| 18.10.100.310 | Slug |
| 18.10.100.320 | Standard methods |
| 18.10.100.330 | Storm sewer |
| 18.10.100.340 | Superintendent |
| 18.10.100.350 | Suspended solids |
| 18.10.100.360 | Total solids |
| 18.10.100.370 | Toxic amount |
| 18.10.100.380 | Unpolluted water |
| 18.10.100.400 | Volatile organic matter |

- 18.10.200 DISCHARGE OF WATER AND WASTES**
 - 18.10.200.010 Unlawful to deposit objectionable waste on public or private property
 - 18.10.200.020 Stormwater and other unpolluted waters cannot be discharged to any sanitary sewer
 - 18.10.200.030 Stormwater and other unpolluted waters may be admitted to storm sewers
 - 18.10.200.040 Polluted waters to be discharged where suitable treatment has been provided
 - 18.10.200.050 Polluted waters cannot be discharged to any natural outlet
 - 18.10.200.060 Privies, septic tanks prohibited
 - 18.10.200.070 Suitable toilet facilities and connection to sanitary sewer
- 18.10.250 WHERE A SANITARY SEWER IS NOT AVAILABLE**
 - 18.10.250.010 Private sewage disposal system
 - 18.10.250.020 Permit required before construction of private sewage disposal system
 - 18.10.250.030 Inspection and approval of private sewage disposal system
 - 18.10.250.040 Compliance with State Board of Health
 - 18.10.250.050 When a public sewer becomes available
 - 18.10.250.060 Maintenance of private sewage disposal facilities
 - 18.10.250.070 Sixty days to connect to public sewer
 - 18.10.250.080 Non interference with requirements by Health Officer
- 18.10.280 CONNECTION TO PUBLIC SEWER SYSTEM**
 - 18.10.280.010 Written permit required prior to connection
 - 18.10.280.020 Building sewer permit classes
 - 18.10.280.030 Connection costs borne by owner
 - 18.10.280.040 Separate sewer for every building
 - 18.10.280.050 Use of old building sewers
 - 18.10.280.060 Construction specifications
 - 18.10.280.070 Elevation of building sewer
 - 18.10.280.080 Downspouts, drains, or groundwater not to be connected to sanitary sewer
 - 18.10.280.090 Connection to conform to appropriate specifications
 - 18.10.280.100 Inspection and connection to the public sewer
 - 18.10.280.110 Excavations to be adequately guarded with barricades and lights
- 18.10.300 PROHIBITED DISCHARGES TO PUBLIC SEWERS**
 - 18.10.300.010 Prohibited discharges
 - 18.10.300.020 Wastes prohibited if determined harmful by Superintendent
 - 18.10.300.030 Pretreatment requirements

- 18.10.300.040 Pretreatment or flow-equalizing facilities maintained by owner
- 18.10.300.050 Control manhole
- 18.10.300.060 Examination of water and wastewater
- 18.10.300.070 Special agreements
- 18.10.350 **PRETREATMENT SUBJECT TO FEDERAL, STATE AND LOCAL RULES AND REGULATIONS**
- 18.10.380 **PLANS SPECIFICATIONS AND OTHER INFORMATION RELATING TO PRETREATMENT SHALL BE SUBMITTED**
- 18.10.400 **DISCHARGE OF UNPOLLUTED WATERS FROM AIR CONDITIONERS AND SWIMMING POOLS**
- 18.10.450 **DISCHARGE OF INDUSTRIAL COOLING WATER**
- 18.10.500 **INFORMATION ON WASTEWATER FLOW CHARACTERISTICS**
- 18.10.550 **CHARGES BASED ON STRENGTH OF WASTEWATERS**
- 18.10.580 **GREASE, OIL AND SAND INTERCEPTOR TRAPS**
- 18.10.600 **ACCIDENTAL DISCHARGES**
- 18.10.650 **COMPLIANCE WITH APPLICABLE LAWS**
- 18.10.680 **DAMAGE TO SEWAGE WORKS UNLAWFUL**
- 18.10.700 **AUTHORIZED EMPLOYEES ENTERING PROPERTY**
 - 18.10.700.010 Right to enter property for inspection, observation, measuring, sampling and testing
 - 18.10.700.020 Safety rules
 - 18.10.700.030 Proper credentials
- 18.10.750 **PENALTY FOR VIOLATION**
 - 18.10.750.010 Written notice
 - 18.10.750.020 Failure to cease violations
 - 18.10.750.030 Liability for expense due to violation
- 18.10.780 **SEPARABILITY OF PROVISIONS**
- 18.10.800 **APPEAL PROCEDURE**

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/l 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 assimilation 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/l 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
 - 18.12.100.110 Person
 - 18.12.100.120 Replacement costs
 - 18.12.100.130 SS
 - 18.12.100.140 Shall
 - 18.12.100.150 Sewage
 - 18.12.100.160 Sewage Use Ordinance
 - 18.12.100.170 User charge
 - 18.12.100.180 User class
- 18.12.200 **USER CLASSES**
 - 18.12.200.010 User charges include replacement costs and are subject to EPA rules and regulations
 - 18.12.200.020 Various user classes
- 18.12.300 **RATES AND CHARGES**
 - 18.12.300.010 Rates and charges
 - 18.12.300.020 Unmetered Users
 - 18.12.300.030 Town subject to rates and charges
 - 18.12.300.040 Sample charges
- 18.12.400 **RATES BASED ON WATER USAGE**
 - 18.12.400.010 Customer not using water supplied by Town Water Utility
 - 18.12.400.020 Customer using water from multiple sources
 - 18.12.400.030 Two or more residential lots on one meter
 - 18.12.400.040 Two or more dwelling units on one meter
 - 18.12.400.050 Water not entering sanitary sewer system
- 18.12.500 **RATES BASED ON STRENGTH AND CHARACTER OF SEWAGE**
 - 18.12.500.010 Stronger than normal domestic waste
 - 18.12.500.020 Determination of strength and character of sewage

| | |
|---------------|---|
| 18.12.600 | BILLING AND COLLECTION |
| 18.12.600.010 | Monthly billing |
| 18.12.600.020 | Billed to tenant unless otherwise requested in writing by owner |
| 18.12.600.030 | Penalty for Late Payment |
| 18.12.620 | RATE STUDY |
| 18.12.650 | ENFORCEMENT OF BY-LAWS AND REGULATIONS |
| 18.12.680 | CONNECTION FEE |
| 18.12.700 | DEBT SERVICE COSTS |
| 18.12.710 | SEPARABILITY OF PROVISIONS |
| 18.12.720 | SPECIAL RATE CONTRACTS |

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 schedule of rates and charges shall be as follows:

| | | |
|-----|------------------|-------------------|
| (1) | Meter Users: | Per Month Rate: |
| | A. Base rate | |
| | Meter Size: | |
| | 5/8 inch meter | \$ 20.05 |
| | 3/4 inch meter | 26.00 |
| | 1 inch meter | 35.93 |
| | 1 1/4 inch meter | 65.37 |
| | 1 1/2 inch meter | 92.25 |
| | 2 inch meter | 156.34 |
| | 3 inch meter | 349.84 |
| | 4 inch meter | 622.23 |
| | 6 inch meter | 1,390.29 |
| | Plus | Per 1,000 Gallons |
| | B. Flow Rate | \$ 7.25 |

(Ord. 11-12-12A, S1, Nov. 12, 2012) (Ord. 01112010-1, Jan. 11, 2010) (Ord. 616, S3(a), Oct. 6, 1981)

18.12.300.020 Unmetered Users. 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:

| | |
|--|------------------|
| Unmetered Users | Per Month |
| 1. Residential Flat Rate | \$ 41.68 |
| 2. Non-Residential unmetered users shall be charged a rate based upon estimated monthly usage to be determined by town officials on an individual basis. | |

(Ord. 11-12-12A, S1B, Nov. 12, 2012) (Ord. 01112010-1, Jan. 11, 2010) (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 Penalty for Late Payment.

- (1) The bill for sewer services shall be paid within Seventeen (17) days after the bill is mailed by the Blue River Regional Water District (hereinafter “Blue River”), typically being the 18th of the month. If the net bill is not paid within the due date on the bill, it shall become delinquent and a late payment charge will be added.
- (2) The late payment charge will be Ten Percent (10%) of the total outstanding fee on the bill. A new late payment charge shall accrue each month that the balance remains outstanding. If the balance remains outstanding for Three (3) months or greater the Town may file a small claims action against the property owner and/or occupant and shall be entitled to recover the billed amount, the late payment charge, and a reasonable attorney fee in pursuing this collection.

- (3) It is the responsibility of the property owner to make sure their property's account is paid in full each month, regardless of whether the property owner resides on the property or not. (Ord. 11-12-12A, S2, Nov. 12, 2012) (Ord. 080910-B, Aug. 09, 2010) (Ord. 01112010-1, Jan. 11, 2010) (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> |
| <p>Incandescent</p> <p>_____ 1,000</p> <p><u>94</u> 2,500</p> <p>_____ 4,000</p> <p>_____ 6,000</p> <p>_____ 10,000</p> <p>_____ 15,000</p> <p>Mercury Vapor</p> <p>_____ 7,000</p> <p>_____ 20,000</p> <p>_____ 40,000</p> | <p>Incandescent</p> <p><u>6</u>_____ 2,500</p> <p>_____ 4,000</p> <p>_____ 6,000</p> <p>_____ 10,000</p> <p>_____ 15,000</p> <p>Mercury Vapor</p> <p><u>6</u>_____ 8,000</p> <p>_____ 11,000</p> <p>_____ 22,000</p> <p>_____ 40,000</p> |

**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

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

Wattage Rated Incandescent Lamps

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

Mercury Vapor Lamps

| <u>Size of Lamp (lumens)</u> | <u>Size of Lamp (watts)</u> | <u>Rate per Lamp per Annum</u> | <u>Outage Credit per Lamp per Night</u> |
|----------------------------------|---------------------------------|--|---|
| 7,000 | 175 | \$48.00 | 13¢ |
| 20,000 | 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.

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

| Size of Lamp (lumens) | Rate per Lamp per Annum | Outage Credit per Lamp per Night |
|--------------------------|-------------------------------|--|
| 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

| Size of Lamp (lumens) (watts) | Rate per Lamp per Annum | Outage Credit per Lamp per Night |
|----------------------------------|-------------------------------|--|
| 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 SYSTEM FRANCHISE

Sections:

| | |
|-----------|--|
| 18.46.005 | Preamble |
| 18.46.010 | Definitions |
| 18.46.020 | Granting of Franchise |
| 18.46.030 | Term |
| 18.46.040 | Use of the Streets and Dedicated Easements |
| 18.46.050 | Maintenance of the Cable System |
| 18.46.060 | Service |
| 18.46.070 | Insurance/Indemnity |
| 18.46.080 | Pledge, Assignment of Assets |
| 18.46.090 | Cancellation and Expiration |
| 18.46.100 | Enforcement of Terms and Conditions |
| 18.46.110 | Equal Protection |
| 18.46.120 | Notices, Miscellaneous |
| 18.46.130 | Franchise Fee |
| 18.46.140 | Severability |
| 18.46.150 | Effective Date |

18.46.005 Preamble.

- (1) The Marengo, Indiana ("Grantor") desires to make available to its residents a cable system subject to certain terms and conditions the Grantor believes to be necessary and appropriate; and
- (2) Charter Communications Entertainment I, LLC, d/b/a Charter Communications ("Grantee") desires to continue to construct, install and maintain a cable system within the jurisdictional limits of the Grantor. (Ord. 041204, Preamble, Apr. 12, 2004)

18.46.010 Definitions:

- (1) "Basic Service" means those audio and visual signals carried on the service tier of the Cable System, which includes local off-air television signals. Basic Service shall not include any other tier of service or any premium or pay-per-view channels or services.
- (2) "Cable Act" means the Cable Communications Policy Act of 1984, P.L. 98-549, 47 U.S.C. §521 Supp., as it may be amended or superseded.
- (3) "Cable Service" shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

- (4) "Cable System" or "System" means a system of antennas, cables, wires, lines, towers or any other conductors, converters, equipment or facilities designed, constructed, or operated for the purpose of producing, receiving, amplifying, modifying and distributing audio, video, and other forms of communication or electronic signals for the purpose of providing Cable Services to and from Subscribers within the jurisdictional limits of the Grantor.
- (5) "Board" means the governing body of the Grantor, Marengo, Indiana by the Town Board Members.
- (6) "Franchise" means the authorization granted hereunder of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a Cable System within the jurisdictional limits of the Grantor.
- (7) "Grantee" means Charter Communications Entertainment I, LLC d/b/a Charter Communications ("Charter"), and its permitted successors and assigns.
- (8) "Grantor" means Marengo, Indiana.
- (9) "Gross Revenues" means any revenue received by the Grantee from the operation of the Cable System to provide Cable Services within the jurisdictional boundaries of the Grantor, provided, however, that such phrase shall not include any taxes, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency, including the FCC User Fee, or unrecovered bad debt.
- (10) "School" means all public and parochial primary and secondary (K-12) schools.
- (11) "Streets" means the public streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, alleys, all other rights-of-way and easements, and the public grounds, places or water within the jurisdictional boundaries of Grantor.
- (12) "Subscriber" means a lawful purchaser of any Cable Service delivered over the Cable System. (Ord. 041204, S1, Apr. 12, 2004)

18.46.020 Granting of Franchise. The Grantor hereby grants to Grantee a non-exclusive Franchise for the use of the Streets and dedicated easements within the Grantor for the construction, operation and maintenance of the Cable System, upon the terms and conditions set forth herein. (Ord. 041204, S2, Apr. 12, 2004)

18.46.030 Term. The Franchise shall be for a term of Twenty (20) years, commencing on the effective date of this Ordinance. Subsequent renewals shall be pursuant to the renewal provisions of the Cable Act, as it shall provide. (Ord. 041204, S3, Apr. 12, 2004)

18.46.040 Use of the Streets and Dedicated Easements.

- (1) Grantee shall have the right to use the Streets of the Grantor for the construction, operations and maintenance of the Cable System.
- (2) Grantee, at its own cost, shall have the right pursuant to the provisions of this Ordinance to construct, erect, suspend, install, renew, maintain and otherwise own and operate throughout the Streets of the Grantor, as now laid out or dedicated and all extensions thereof and additions thereto in the Grantor, the Cable System, either separately or in conjunction with any public utility operating within the Grantor. The Franchise shall further include the right, privilege, easement and authority to construct, erect, suspend, install, lay, renew, repair, maintain and operate such poles, wires, cable, underground conduits, manholes, ducts, trenches, fixtures, appliances and appurtenances for the purpose of distribution to inhabitants within the jurisdictional limits of the Grantor. Without limiting the generality of the foregoing, the Franchise shall and does hereby include the right to repair, replace and enlarge and extend the Cable System, provided that Grantee shall utilize the facilities of utilities whenever practicable.
- (3) Grantee shall have the right to remove, trim, cut and keep clear of the Cable System, the trees in and along the Streets of the Grantor.
- (4) Grantee in the exercise of any right granted to it by the Franchise shall, at no cost to the Grantor, promptly repair or replace any facility or service of the Grantor which Grantee damages, including but not limited to any Street or sewer, electric facility, water main, fire alarm, police communication or traffic control. (Ord. 041204, S4, Apr. 12, 2004)

18.46.050 Maintenance of the Cable System.

- (1) Grantee shall at all times employ ordinary care in the maintenance and operation of the Cable System so as not to endanger the life, health or property of any citizen of the Grantor or the property of the Grantor. The Cable System shall at all times be kept in good repair and in a safe and acceptable condition.
- (2) Grantee shall install and maintain the Cable System so as not to interfere with the equipment of any utility of the Grantor or any other entity lawfully and rightfully using the Streets of the Grantor.
- (3) All conductors, cables, towers, poles and other components of the Cable System shall be located and constructed by Grantee so as to reasonably minimize interference with access by adjoining property owners to the Streets. (Ord. 041204, S5, Apr. 12, 2004)

18.46.060 Service.

- (1) Grantee shall provide to its Subscribers broad categories of video programming services.

- (2) Grantee shall provide one free outlet of Basic Service to the following public facilities located within two hundred (200) feet of existing service lines of the Grantee and within the jurisdictional limits of the Grantor: Town Hall, Fire and Police station, public libraries and Schools. No monthly service fee shall be charged for such outlet. Grantee shall provide Basic Service to new construction hereafter for similar public facilities; provided they are within two hundred (200) feet of the existing service lines of Grantee. (Ord. 041204, S6, Apr. 12, 2004)

18.46.070 Insurance/Indemnity.

- (1) From and after the effective date of this Ordinance, Grantee shall maintain in full force and effect at all times for the full term of the Franchise, at the expense of the Grantee, a comprehensive general liability insurance policy, written by a company authorized to do business in the state, protecting against liability for loss or bodily injury and property damage occasioned by the installation, removal, maintenance or operation of the Cable System by Grantee in the following minimum amounts:

One Million Dollars (\$1,000,000) for property damage in any one occurrence

One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for general liability insurance

Worker's compensation coverage in accordance with state law

- (2) The Grantor and its officials and employees shall be named as additional insureds on such policy. The Grantor shall be notified by the insurance company at least thirty (30) days prior to the expiration or cancellation of such insurance policy.
- (3) Grantee hereby agrees to indemnify and hold the Grantor, including its agents and employees, harmless from any claims or damages resulting from the actions of Grantee in constructing, operating or maintaining the Cable System. Grantor agrees to give the Grantee written notice of its obligation to indemnify Grantor within ten (10) days of receipt of a claim or action pursuant to this section. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of Grantor or for the Grantor's use of the Cable System. (Ord. 041204, S7, Apr. 12, 2004)

18.46.080 Pledge, Assignment of Assets. Grantee may not assign the Franchise without first obtaining the written consent of the Town Board, which consent shall not be unreasonably withheld, provided, however, that Grantee may mortgage or pledge the Franchise for financing purposes or may transfer the Franchise to an affiliated entity upon 30 days' written notice to the Grantor. (Ord. 041204, S8, Apr. 12, 2004)

18.46.090 Cancellation and Expiration.

- (1) Unless earlier terminated in accordance with this Ordinance, the Franchise shall expire Twenty (20) years after the effective date of this Ordinance.
- (2) Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If Grantee has not cured the breach within such sixty (60) day time period or if the Grantor has not otherwise received a satisfactory response from Grantee, the Grantor may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.
- (3) At the hearing, the Grantor shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Grantor *de novo*.
- (4) Prevention or delay of any performance under the Franchise due to circumstances beyond the control of Grantee including, but not limited to, natural disasters, employee strikes, war or delays caused by utility companies that affect the Grantees ability to operate shall not be deemed noncompliance with or a violation of this Franchise.
- (5) Upon termination of the Franchise, Grantee agrees to remove the Cable System from the Streets of the Grantor, unless Grantor and Grantee agree that the Cable System can be abandoned in place. (Ord. 041204, S9, Apr. 12, 2004)

18.46.100 Enforcement of Terms and Conditions. Either the Grantor or Grantee may institute proceedings in a court of competent jurisdiction to enforce the terms and conditions of this Ordinance. (Ord. 041204, S10, Apr. 12, 2004)

18.46.110 Equal Protection. The Grantor shall not authorize or permit any person providing video programming services and/or Cable Services to enter into any part of the Grantor's Streets on terms or conditions more favorable or less burdensome to such person than those applied to the Grantee pursuant to this Franchise, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal

protection under the law. (Ord. 041204, S11, Apr. 12, 2004)

18.46.120 Notices, Miscellaneous.

- (1) Every notice served upon the Grantor shall be delivered or sent by certified mail, return receipt requested, to:

Town Of Marengo
P.O. Box 206
117 East Water Street
Marengo, IN 47140

and every notice served upon Grantee shall be delivered or sent by certified mail, return receipt requested, to:

Charter Communications
Attention: Vice President of Operations
12405 Powerscourt Drive, 4th Floor — Outer MO
St. Louis, Missouri 63131

With a copy to:

Charter Communications
Attention: Corporate Government Affairs
12405 Powerscourt Drive, 4th Floor
St. Louis. MO 63131

- (2) All provisions of this Ordinance shall apply to the respective parties, their successors and assigns.
- (3) If any particular section of this Ordinance shall be held invalid, the remaining provisions and their applications shall not be affected thereby. (Ord. 041204, S12, Apr. 12, 2004)

18.46.130 Franchise Fee.

- (1) Grantee shall pay to the Grantor annually an amount equal to three percent (3%) of its Gross Revenues for such calendar year.
- (2) Each year during which the Franchise is in force, Grantee shall pay Grantor no later than ninety (90) days after the end of each calendar year the franchise fees required by this Section, together with a financial statement showing total Gross Revenues derived from the Cable System during such year. The Grantor shall have the right to review the previous year's books of the Grantee to ensure proper payment of the fees payable hereunder. (Ord. 041204, S13, Apr. 12, 2004)

18.46.140 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held invalid, unconstitutional or unenforceable, such portion shall be deemed a

separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions thereof. (Ord. 041204, S14, Apr. 12, 2004)

18.46.150 Effective Date. This Ordinance shall take effect forty-five (45) days from and after on the date adopted by the Board and upon the Grantee's filing of acceptance. (Ord. 041204, S15, Apr. 12, 2004)

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)