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CHAPTER 50: UTILITIES IN GENERAL

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Cross-reference:*Attachments to utility poles prohibited, 130.15***GENERAL****§ 50.001 RATES AND CHARGES FOR WATER AND SEWER TAP FEES AND INSUFFICIENT CHECK CHARGE.**

(A) The following rate charges are hereby established:

<i>Water Tap Connection and Fee</i>	
Residential water tap fee	\$500
Non-residential water tap fee:	
1 inch and less pipe	\$1,000
<i>Water Tap Fee</i>	
Greater than 1 inch pipe	\$1,000
<i>Sewer Tap Fee</i>	
Residential sewer tap fee	\$500
Non-residential sewer tap fee	\$1,500

(Ord. 93-3-1, passed 5-11-1993; Am. Ord. 93-3-1, passed 1-10-1995; Am. Ord. 93-3-1, passed 2-12-2001; Am. Ord. 15-8-1, passed 8-24-2015)

§ 50.002 BEGINNING NEW SERVICE ON NEW CONSTRUCTION.

(A) Beginning December 1, 1998, there will be a new policy for beginning new utility service on new construction.

(B) The procedure will be as follows:

- (1) A request for water service is made at the utility office: 622-4251;
- (2) A meter will be delivered to the site to be installed by the plumbing contractor;
- (3) After the meter is set, the town will make the copper connection to the curb stop;
- (4) Billing will begin the day the copper connection is made and service is made; and
- (5) It is recommended that a turnoff valve is used on both sides of the water meter.

(C) If there are any questions concerning this policy or procedure, please contact the Clerk-Treasurer's office.

(Ord. passed 11-30-1998; Am. Ord. 15-8-1, passed 8-24-2015)

§ 50.003 BEGINNING NEW SERVICE AT ESTABLISHED LOCATION.

Application for turn on of water utility services shall be made at the Clerk-Treasurer's business office.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.004 INSTALLATION AND MAINTENANCE.

All service pipes shall be installed and maintained at the expense of the municipality from the main to the curb stop or from the main to the meter pit. All service pipes from the main to the meter shall be inspected by the Town Manager or his or her authorized employee before same have been covered over. The town will provide the curb box at its own expense, but it is expressly understood that the customer shall, at his or her own expense, extend the service line from the curb stop or from the meter pit, make all connections necessary for the installation of the meter and set the meter for new construction.

(Ord. 15-8-1, passed 8-24-2015)

*UTILITY CONSTRUCTION STANDARDS***§ 50.015 CONSTRUCTION AND OPERATIONAL STANDARDS, SPECIFICATIONS AND PROCEDURES.**

(A) All entities providing any facility or improvement to the town shall only do so in accordance with the construction and operational standards, specifications and procedures as contained in Appendix A as attached to Ord. 16-6-1 and kept on file in the Office of the Clerk-Treasurer.

(B) Any deviation requested from the construction and operational standards, specifications and procedures contained in Appendix A must be submitted in writing to the Town Manager. Any approval of a requested deviation shall only be granted in writing by the Town Manager after consultation with the Council President, or Town Council, as the Council President shall direct.
(Ord. 16-6-1, passed 6-13-2016)

*UTILITY OPERATION REGULATIONS***§ 50.050 DAY TO DAY OPERATION.**

(A) Customer is required to keep the surroundings around the meter clean, dry, and easily accessible to employees of the Ossian Utilities and to protect the same from freezing.

(B) No connection or alteration whatsoever shall be made ahead of the water meter whereby water may be released without passing through the meter. Should it become necessary, through the process of making repairs or alterations in the pipeline to which the meter is attached, to remove the meter a request shall be made to ossian utilities for the removal. Water utility service shall not be turned on again until after proper inspection is made by ossian utilities and the work is approved.

(C) It is expressly understood and agreed that the ossian utilities personnel shall have reasonable access to any meter.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.051 BILLING PROCEDURES.

(A) Bills for water utility services, storm water, waste water, and the collection of domestic solid waste, shall be sent to each owner or occupant of a dwelling unit monthly by the Office of the Clerk-Treasurer on the first day of the month.

(B) The owners of properties served, which are occupied by tenants, may examine the collection records of the town for the purpose of determining whether the rates and charges have been paid by the tenants, provided that an examination shall be made in the office which the records are kept and during the hours that the office is open for business.

(C) For the purpose of billing and collecting charges for water usage, water meters shall be read monthly and the customer shall be billed monthly provided; however, that Ossian utilities shall have the option of estimating a customer's monthly water usage in the event that a meter reading cannot be taken for a particular month. If a customer's water usage is estimated, the bill shall be adjusted accordingly based upon the next actual meter reading.

(D) In the event that a customer requests a termination of water utility service, the meter shall be read on the date of the termination of services and billed accordingly. The final bill shall not be less than any minimum charge established by ordinance or policy adopted by the Ossian utilities.

(E) All bills shall be paid on or before the due date indicated on the billing. Any payment not received on or before the due date shall be subject to a late fee assessed in accordance with ordinances or policies adopted by the Ossian utilities.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.052 DEPOSIT FOR SERVICES.

(A) Except as provided in divisions (E) and (F) below, utility services may not be commenced or reinstated until the applicable meter deposit in (B) or (C) below, any then remaining delinquent bills, and any reconnection fee, have been paid in full.

(B) A \$75 meter deposit shall be paid against the account of a customer, who is an owner of record of the property located at the service address, as a part of each application for utility services submitted to the town.

(C) A \$150 meter deposit shall be paid against the account of a customer who is not an owner of record of the property located at the service address, as a part of each application for utility services submitted to the town.

(D) Deposits shall be held, without interest, and upon a termination of service to that applicant, applied against the connection's account obligations to Ossian utilities, with any then remaining balance refunded to that customer, in accordance with the requirements of applicable authority.

(E) *Deposit waived.* The deposit required under divisions (B) or (C) above shall be waived for a current Ossian utilities customer who applies for utility services at a new service address who, within the last 12 billing cycles, has:

- (1) No more than one delinquent payment charge assessed within the last 12 billing cycles;
- (2) No returned check charges; and
- (3) No discontinuance of service for nonpayment.

(F) *Deposit reduced.* The deposit required under divisions (B) or (C) above shall be reduced to \$25 for a customer who applies for utility services that is not a current Ossian utilities customer but has provided documentation to the Ossian utilities from a like utility service provider that, within the last 12 billing cycles, he or she has:

- (1) No more than one delinquent payment charge assessed;
- (2) No returned check charges; and
- (3) No discontinuance of service for nonpayment.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.053 DELINQUENT PAYMENT CHARGES.

(A) Customer's failure to pay the charges identified in § 51.18 within 30 days from billing shall incur a 10% late charge on the delinquent solid waste charges.

(B) Customer's failure to pay the charges identified in § 52.01 within 20 days from billing shall incur a 10% late charge on the delinquent storm water charges.

(C) Customer's failure to pay the charges identified in § 52.50 within 20 days from billing shall incur a 10% late charge on the delinquent water charges.

(D) Customer's failure to pay the charges identified in § 53.01 within 20 days from billing shall incur a 10% late charge on the delinquent waste water charges.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.054 COLLECTION OF DELINQUENT CHARGES.

(A) It shall be the duty of the Clerk-Treasurer, charged with the collection of rates or charges, to enforce payment thereof, together with the penalty herein provided.

(B) In the event that a lawsuit is filed to collect a delinquent utility bill, town shall recover its costs of collection, including attorney's fees and court costs.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.055 INSUFFICIENT CHECK CHARGE.

There will be a charge of \$20 assessed to the consumer for each check which is returned to the town for non-sufficient funds. Personal checks will not be accepted as payment on the account of a consumer which has had one or more such bad checks in the most recent 12 monthly billing periods.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.056 DISCONTINUANCE OF SERVICE FOR NON-PAYMENT.

If the utility bill is not paid within ten days from the date due thereof, as stated on the bill, the past due amount will be indicated on the following bill. If the past due amount still remains unpaid as of the next following billing date, a disconnect notice shall be mailed to the user. If the utility bill is not paid within seven from the date the disconnect notice is mailed, the water service shall be turned off at the curb shut-off valve.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.057 RECONNECTION CHARGE.

When utility service is discontinued for nonpayment, a charge of \$50 shall be made for disconnecting the water service. This charge must be paid and customer must replenish the deposit required by § 50.52 before the water will be reconnected.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.058 TEMPORARY DISCONNECT CHARGE.

(A) A user shall pay a charge of \$25 for each request that water and waste water services be discontinued for a period of time.

(B) This charge shall be assessed and payable upon customer submitting the turn off request.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.059 SERVICE CALLS AND FEES.

(A) Work hours for Ossian Utilities are Monday through Friday 7:00 a.m. to 3:30 p.m. Any service call outside of these hours will be considered an after-hours service call.

(B) Ossian Utilities is responsible for and will maintain and repair the pipes connecting the water main to the customer's property, from the main up to and including the curb stop or meter pit, and the water meter. Customer is responsible for the maintenance and repair of the pipe from the curb stop or meter pit, excluding any inside meter, up to and within any structures served by the Ossian Utilities.

(C) An after-hours service fee of \$125 will be charged for each service call for a situation on the customer's side of town's curb stop or meter pit.

(D) It is the customer's responsibility to supply sufficient heat to prevent freezing of the water meter. If the meter is discovered to be frozen due to insufficient heat the customer shall pay town \$25 for repair of freeze plate, or cost of meter materials together with all applicable service calls and fees. (Ord. 15-8-1, passed 8-24-2015)

CROSS-CONNECTION CONTROL; BACKFLOW PREVENTION; DISCONNECTIONS**§ 50.070 DEFINITIONS.**

For the purpose of this chapter, the definitions contained in I.C 13-11-2, 327 IAC 1, and 327 IAC 8-10-1, as each is from time to time amended, are hereby incorporated by reference and shall apply unless the context clearly indicates or requires a different meaning. Two copies of the materials referenced shall be available for inspection and copying at the Clerk-Treasurer's Office during normal business hours.

(Ord. 16-3-1, passed 3-14-2016)

§ 50.071 CROSS-CONNECTIONS PROHIBITED; REGULATION OF BOOSTER PUMPS.

(A) No customer shall establish, maintain, or permit to be established or maintained any cross-connection.

(B) No interconnection shall be established whereby a secondary source of supply may enter the supply or distribution system of the town's public water supply system unless the secondary source of supply and the method of connection and use are approved by the Ossian utilities and IDEM in accordance with 327 IAC 8-10, as amended.

(C) No customer shall install or maintain a booster pump to the town's public water supply system unless a device is installed to control the operation of the booster pump in accordance with 327 IAC 8-10-3, as amended.

(Ord. 16-3-1, passed 3-14-2016)

§ 50.072 BACKFLOW PREVENTER REQUIRED.

(A) All customers whose facilities are designated as cross-connection hazards, as defined in 327 IAC 8-10-4, as amended, shall install and maintain an approved backflow prevention device. The type of protection assembly required shall depend on the degree of hazard which exists pursuant to 327 IAC 8-10, as amended.

(B) All customers who install or maintain a connection to the town's public water supply system of any land irrigation facility buried below ground that has a sprinkler outlet located less than six inches above grade shall install and maintain either:

- (1) An approved backflow prevention device;
- (2) An air gap installed in accordance with 327 IAC 8-10-7, as amended; or
- (3) A pressure type vacuum break installed in accordance with 327 IAC 8-10-7, as amended.

(C) If, in the judgment of the Commissioner, Cross-Connection Control Device Inspector, Town Manager, or town's Water Supervisor, an approved backflow prevention device is necessary for the safety of the town's public water supply system, the Town Manager, town's Water Supervisor, or Cross-Connection Control Device Inspector shall give the customer notice to install an approved backflow prevention device immediately. The notified customer shall install an approved backflow prevention device within 30 days.

(Ord. 16-3-1, passed 3-14-2016)

§ 50.073 INSTALLATION OF BACKFLOW PREVENTER.

(A) The customer shall install an approved backflow prevention device according to the IDEM Cross-Connection Control and Backflow Prevention Manual: 2013 Edition, and 327 IAC 8-10-7, as amended, in a location which is above ground level, downstream from the meter, and approved in advance by the town's Water Supervisor. Two copies of the materials referenced shall be available for inspection and copying at the Clerk-Treasurer's Office during normal business hours.

(B) The customer shall purchase, install, and maintain the backflow prevention device at its own expense.

(Ord. 16-3-1, passed 3-14-2016)

§ 50.074 INSPECTIONS.

(A) The Cross-Connection Control Device Inspector, as defined in 327 IAC 8-10-1, as amended, includes a private inspector hired by the town or customer for this purpose.

(B) Upon presentation of proper credentials, the Cross-Connection Control Device Inspector and town's Water Supervisor shall have the right to request entry at any reasonable time to examine the property serviced by the town's public water supply system for cross connections.

(C) Upon request from the Town Manager, town's Water Supervisor, or Cross-Connection Control Device Inspector, the customer shall furnish to the Ossian utilities any pertinent information regarding the piping systems or fire prevention assemblies installed on the customer's property.

(D) The customer shall, at its own expense, schedule a Cross Connection Control Device Inspector to perform the inspections and re-inspections required pursuant to 327 IAC 8-10-8, as amended, of properties serviced by the town's public water supply system where Cross Connections are present or deemed possible.

(E) In the event an inspection is performed by Cross Connection Control Device Inspector not employed by the town, the customer shall furnish a copy of the report to the Ossian utilities within seven days of receipt.

(F) The customer shall be assessed any inspection fees incurred by the town as a result of the customer's failure to comply with subsection (D) or (E).

(Ord. 16-3-1, passed 3-14-2016)

§ 50.075 VIOLATIONS.

(A) The town may proceed with an involuntary disconnection pursuant to § 50.080(A) in the event of:

(1) A customer's violation of §§ 50.061, 50.062 or 50.063;

(2) A customer's failure to permit the Cross-Connection Control Device Inspector or town's Water Supervisor access to premises for performing an inspection pursuant to § 50.064;

(3) A customer's failure to complete the inspections within the required intervals; or

(4) Upon a written determination issued to the customer by the Town Manager, town's Water Supervisor, or Cross-Connection Control Device Inspector that conditions posing a danger of contamination to the town's public water supply system are present or are suspected to exist and are not eliminated.

(B) The town may proceed with an involuntary disconnection pursuant to § 50.080(B) in the event that a cross-connection or an emergency endangers public health, safety, or welfare and requires immediate action. A written finding to that effect shall be filed with the Clerk-Treasurer with a copy delivered the customer. Upon the customer's request, the customer shall appear before the Town Council for a hearing on the emergency involuntary disconnection at its next regularly-scheduled meeting. (Ord. 16-3-1, passed 3-14-2016)

PROHIBITIONS

§ 50.090 PROHIBITIONS.

(A) No person, without written authority from the town, shall run on the water to any service. This rule does not prevent plumbers from testing their work, but they must not in any case leave the water turned on without written authority from the Town Manager.

(B) No person without written authority from the Town Manager, shall tamper with or permit any tampering with any service pipe, curb stop or service valve, meter or meter seal or any other appliance or equipment owned by the utility.

(C) There shall be no cross-connections of water systems between private wells and the public water system.

(D) The use of any jumper line or other connector to obtain water service without the town's connection or approval is prohibited.

(E) The digging and construction of water wells for private use, whether commercial or residential, shall be prohibited within the corporate boundaries of the town. This shall not prohibit the use or repair of water wells that exist within the town at the time of the passage of this section.

(F) No person shall open any fire hydrant or remove or obstruct the stopcock of any hydrant, or place or deposit any dirt or other material in any stopcock boxes, or meter boxes or turn any public or private stopcock or commit any act tending to obstruct the use thereof.

(G) It shall be unlawful, except in time of fire, to draw or cause the water to be removed from any public or private hydrant, unless metered, or to open any valve on the hydrants, or fire protection openings except in case of fire. This is not intended to prevent any department from using fire hydrants to flush sewers.

(H) There shall be no waste of water either to prevent freezing of water lines or for any other purpose. Water will not be furnished to premises where there are leaky pipes or fixtures. When like conditions are found, the supply will be shut off until repairs have been made. Consumers shall keep their own service pipes in repair and protect same from freezing at their own expense, and must prevent all unnecessary waste or use of water.

(Ord. 15-8-1, passed 8-24-2015)

DISCONNECTION

§ 50.100 INVOLUNTARY DISCONNECTION.

(A) Upon written notice provided to the customer at least seven days before termination of service, advising the customer of date of proposed disconnect, specific basis for disconnection, the telephone number for the utilities office, a reference to where the customer can find information concerning their rights, the town may disconnect utility service without request of the customer:

(1) For failure to repair any leak in the service pipe or appurtenances between the service connection and the meter, in any private protection system, or other unmetered facilities;

(2) For failure to timely pay the bill or other charges in connection with Ossian utilities services;

(3) For failure to provide reasonable, unobstructed and non-hazardous access to the premises and meter, appliance and/or other utility-owned equipment so that representatives of the utility may take meter readings, make all necessary inspections, and maintain, replace or remove the meter, appliances and/or equipment of the utility;

(4) Upon discovery of improper installation of a new service pipe and appurtenances, or alteration or removal of existing service pipe and appurtenances, including the meter, without written authority of the utility;

(5) If a customer issues or causes to be issued a check for services which is not honored because of insufficient funds or no account found; or

(6) For failure to comply with the terms of an extension payment agreement.

(B) Town may disconnect utility service without request of the customer and without advance notice to the customer only if:

(1) A condition dangerous or hazardous to life, physical safety, or property exists;

(2) Under order of any court, the IURC, or other duly authorized public authority;

(3) Fraudulent or unauthorized use of water is detected and the utility has reasonable grounds to believe the affected customer is responsible for the use; or

(4) The utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for the tampering.

(C) Reconnection after remedying the condition triggering termination of service, paying all delinquent charges to the utility, and paying any applicable deposit or reconnection fees, shall be completed within one business day.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.101 VOLUNTARY DISCONNECTION.

Whenever a request is made to and complied with by the town that a customer's water service be shut off at the town's water valve for routine or emergency repairs to the inside plumbing; the property owner shall install a shut-off valve immediately before the meter when the meter setting is inside the building structure; or immediately after the point where the service pipe enters the building structure if the meter setting is outside the building as a precondition to water service being restored.

(Ord. 15-8-1, passed 8-24-2015)

EMERGENCY PROHIBITIONS

§ 50.115 EMERGENCY MEASURES.

In the event that the Town Manager or his or her authorized employee determines that the town's water system is in imminent danger of a shortage of water or is experiencing a shortage of water, the

Town Manager shall declare a water emergency and the Council shall prescribe rules for conservation of water until a time as the emergency is determined by the Town Manager to have passed.
(Ord. 15-8-1, passed 8-24-2015)

[Text continues on page 23.]

CHAPTER 51: SOLID WASTE, HAZARDOUS WASTE AND THE LIKE

Section

General

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Collection, Processing and Disposal

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GENERAL

§ 51.01 REGULATING THE ACCUMULATION AND DISPOSAL OF WASTE, GARBAGE AND JUNK.

(A) *Specific acts prohibited.* The following acts are specifically prohibited in the county. No person shall:

(1) Cause, or allow to be caused, an accumulation or scattering of any solid waste in the county. However, this does not include:

(a) Accumulations of solid waste, prior to compaction and application of daily cover, at sanitary landfills; and

(b) Accumulations of solid waste for the purposes of pick-up and disposal at sanitary landfills. These accumulations shall be stored only in rat-proof covered containers, or containers otherwise approved by the Wells County Board of Health.

(2) Maintain any condition which may support vectors, generate, transmit or promote disease; or, in general, cause or possibly cause health problems for a person or persons of the county or Town of Ossian.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COUNTY. Wells County, Indiana and those unincorporated areas which are under the jurisdiction of the Wells County Health Officer and not incorporated cities or towns, except as provided for under the authority of I.C. 16-20.

CURBSIDE. That portion of right-of-way adjacent to paved or traveled town roadways.

DISPOSAL. The discharge, deposit, injection, spilling, leaking or placing of any solid waste or hazardous waste, as defined herein, into or on any land or water.

GARBAGE. All putrescible animal solid, vegetable solid and semi-solid wastes resulting from the processing, handling, preparing, cooking, serving, consumption of food or food materials.

HEALTH OFFICER. The Wells County Health Officer, or his or her authorized representative.

PERSON. Not limited to any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate or his or her legal representative or agent.

RUBBISH. Includes ashes, cans, metalware, broken glass, crockery, sweepings, boxes, furniture, appliances, cardboard and all similar matter.

SOLID WASTE. Any garbage, rubbish or other material that is typically discarded, including solid, liquid and semi-solid debris resulting from commercial, mining or agricultural operations or from community activities. However, the term solid waste does not include:

(a) Solid or dissolved material in domestic sewage as defined in 410 I.A.C. 608, or dissolved materials in irrigation return flows or industrial discharge, which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act Amendments (P.L. 92-500) being 33 USC 1342;

(b) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, being USC 2011 et seq.; or

(c) Manures or crop residues returned to the soil as fertilizers or soil conditioners.

TOWN. Town of Ossian.

VECTOR. Any living organism that is capable of harboring and/or transmitting any disease-producing virus or micro-organism from one animal to another animal or human being.

(C) *Enforcement.*

(1) The provisions of this section shall be enforced by the Health Officer or the County Sheriff.

(2) The Health Officer or County Sheriff may enter upon and inspect private property at proper times after due notice in regard to violations of this section.

(D) *Notice.*

(1) Whenever the Health Officer or County Sheriff determines that there are reasonable grounds to believe that there has been a violation of any provision of this section, the Health Officer or County Sheriff shall give notice of the alleged violation to the person responsible therefor.

(2) The notice shall:

(a) Be in writing;

(b) Include a statement which indicates the precise reason for the issuance of notice;

(c) Indicate a reasonable time for the performance of any act required to bring the situation into compliance;

(d) Be served upon the person responsible, or the occupant, or the landowners, as the case may be; be deemed to be properly served upon the person, occupant or landowner, if a copy thereof is posted in a conspicuous place in or about the area affected by the notice, or if he or she is served with the notice by any other method authorized or required under the laws of this state; and

(e) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this section.

(E) *Appeal hearings.*

(1) Any person affected by any notice issued by the Health Officer or County Sheriff may request and shall be granted a hearing before the County Board of Health if the person affected files in the office of the Health Officer within 10 calendar days after the service of the notice a written petition requesting the hearing and setting forth a brief statement of the grounds therefor.

(2) Upon receipt of the petition, the Health Officer shall arrange a time and place for the hearing, and it shall be held as soon as practicable after the receipt of the request.

(3) The Board of Health shall sustain, modify or withdraw the notice based upon their findings on the relevant facts and the applicable violations. Action may be taken by a majority vote, provided a quorum is present.

(F) *Violations.* An action under this section may be brought by the Wells County Attorney or the Wells County Prosecuting Attorney.

(Ord. 96-11-1, passed 11-12-1996; Am. Ord. 15-8-1, passed 8-24-2015) Penalty, see § 51.99

§ 51.02 SOLID WASTE REVENUE FUND.

(A) There is hereby established a Solid Waste Revenue Fund on the books and accounts of the town.

(B) The Solid Waste Revenue Fund shall be subject to all of the provisions of Indiana law with respect to the deposit of funds, the filing of claims for payments therefrom, and funds therefrom shall be paid by the Clerk-Treasurer only on the appropriation and approval for payment as provided by law.

(C) All user charges imposed and collected by the town for the collection, receipt, acceptance and disposal of domestic solid waste under the provisions of this chapter shall be deposited in the Solid Waste Revenue Fund.

(Ord. 15-8-1, passed 8-24-2015)

COLLECTION, PROCESSING AND DISPOSAL

§ 51.15 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BAGS. Plastic sacks designed to store refuse, provided by the contractor at a set cost to residents for refuse in excess of that contained in the provided containers.

BULKY WASTE. Stoves, refrigerators (with freon removed), water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for containers.

BUNDLE. Tree, shrub and brush trimmings which lengths do not exceed 4 feet or are enclosed in a container. The maximum size **BUNDLE** shall not be more than 12-inch diameter, 4 feet long and does not exceed 60 pounds in weight.

COMMODITY BUYER. A buyer or processor, selected by contractor pursuant to the contract documents of recyclable materials delivered by contractor.

CONSTRUCTION DEBRIS. Waste building materials resulting from construction, remodeling, repair or demolition operations.

CONTAINER. Ninety-gallon cart designed for the purpose of refuse collection provided by the contractor.

CONTRACT DOCUMENTS. The request for proposals, instructions to proponents, contractor's proposal, general specifications, the contract performance bond and any addenda or changes to the foregoing documents agreed to by the town and contractor.

CONTRACTOR. The person, corporation or partnership performing refuse and/or recyclable materials collection and disposal under contract with the town.

DEAD ANIMALS. Animals or portions thereof equal to or greater than 10 pounds in weight that have expired from any cause, except those slaughtered or killed for human use or consumption.

DISPOSAL SITE. A refuse depository including but not limited to sanitary landfills, transfer stations, incinerators and waste processing separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring licenses, permits or approvals to receive refuse and dead animals for processing or final disposal.

GARBAGE. All table matter that results from the preparation and use of meat, fish, fowl, fruit or vegetable matter. It shall further mean and include tin cans, glass cans, bottles, crockery and other food containers which have been used as food or beverage holders.

HAZARDOUS WASTE. Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law. For purposes of this contract, the term **HAZARDOUS WASTE** shall also include motor oil, gasoline, paint and paint cans.

OWNER. A person, partnership, corporation, association, estate, trust or other organization which holds title to a unit within the corporate boundaries of the town.

PICKUP LOCATION. Each improved lot and improved parcel of real estate within the town to which service is available under this chapter.

PRODUCER. An occupant of a residential unit who generates refuse and residential refuse.

RECYCLABLE MATERIAL(S). The following recyclable materials which are collected by the contractor pursuant to the contract documents and other recyclable materials mutually agreed upon by the town and the contractor: old newsprint; clear, brown and green glass bottles and jars; aluminum, tin, bi-metallic and steel cans; clear HDPE plastic milk, water and juice jugs and bottles; and PET soda bottles.

REFUSE. Residential refuse and bulky waste, construction debris and stable matter generated at a residential unit unless the context otherwise requires.

RESIDENTIAL REFUSE. All garbage and rubbish generated by a producer at a residential unit.

RESIDENTIAL UNIT. A dwelling within the corporate limits of the town occupied by a person or group of persons comprising not more than 4 dwelling units. A **RESIDENTIAL UNIT** shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of 4 or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any **RESIDENTIAL UNIT** shall be billed separately as a **RESIDENTIAL UNIT**.

RUBBISH. Material other than garbage, resulting from ordinary household operations, including items such as papers, magazines, newsprint, boxes (that cannot be recycled), also rags, small cartons, small TV's, radios or small metal appliances and including shrubbery and tree bundles.

SOURCE SEPARATION. Segregation of individual types of materials at the point of generation or discard, as opposed to their entry into the mixed waste flow or refuse bin.

STABLE MATTER. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

TOWN. Town of Ossian.

USER. Includes the owner and occupant of each unit within the town, and each use by an owner or occupant shall be deemed a separate user.
(Ord. 96-12-1, passed 9-14-1998)

§ 51.16 ADMINISTRATION.

(A) The Refuse Department of the Town of Ossian, Indiana, shall consist of all town officers and employees assigned to any duties in connection with and disposal of domestic solid waste, and recyclable material including bidding and contracting, operations, billings and supervisory personnel.

(B) The Refuse Department shall be a part of the Street Department. The Refuse Department shall have employees as are required, appointed by the Town Council, in accordance with the number of employees authorized in the budget approved by the Town Council. Employees shall be paid salaries as are provided for in the budget.
(Ord. 96-12-1, passed 9-14-1998)

§ 51.17 METHOD OF PICKUP AND CHARGES.

(A) Refuse collection service shall be afforded once a week only to owners and/or occupants of all units in the town. Unless this chapter is modified or amended, the town shall not be required to provide services to commercial or industrial establishments within the town, who must provide collection service at their expense.

(B) (1) Refuse and acceptable materials for collection when used in this chapter shall be garbage and refuse, which are also known as domestic solid waste and recyclable material.

(2) The contractor will not be required to collect commingled recyclable material or those recyclable material which are mixed with garbage, trash and rubbish. The contractor will notify the town of any addresses where the residents are so commingling waste with recyclable material and will tag the containers as being unacceptable for collection.

(C) Unacceptable materials for collection in this chapter, and except as otherwise provided herein, shall include, but not be limited to debris, hazardous waste and miscellaneous waste.

(D) The owner or occupant of a unit shall dispose of domestic solid waste in the container provided by the contractor and shall maintain in good order that container. Refuse bags for pickup must be plastic bags provided by the contractor for a cost.

(E) Each container, bag and bundle shall be placed at curbside for collection. Containers, bags and bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, containers, bags and bundles shall be placed as close as practicable to an access point for the collection vehicle. Contractor may decline to collect any container, bag and bundle not so placed or any residential refuse not in a bag.

(F) Solid waste disposal containers intended for collection shall be placed by the owner or occupant of the unit at the collection point no earlier than 7:00 p.m. of the day proceeding the collection and no later than 6:00 a.m. on the day of collection. Containers shall be removed from the collection point after collection by 7:00 p.m. on the day of collection.

(G) The schedule of routes and days for the weekly domestic solid waste collection created by this chapter shall be determined by the Town Council and the contractor.

(H) The contractor will be required to provide town clean-up one day, per year, of all household trash and rubbish placed at the curb, at a time to be agreed upon by the Town Council and the contractor. This service will be provided at no additional cost.

(I) Bulk items acceptable for limited collection under the provisions of this chapter shall include, but not be limited to debris, empty cartons, crates, boxes, wrapping materials, discarded furniture, appliances, large crates, toys, bicycles, plumbing fixtures and barrels. Acceptable bulk items shall not be collected during regular weekly collection of domestic solid waste, but rather may be collected at a time and a price negotiated between the owner/occupant and the contractor at the regular collection point. (Ord. 96-12-1, passed 9-14-1998; Am. Ord. 96-12-1, passed 8-9-1999; Am. Ord. 96-12-1, passed 6-13-2005; Am. Ord. 96-12-1, passed 10-26-2009; Am. Ord. 15-8-1, passed 8-24-2015) Penalty, see § 51.99

§ 51.18 CHARGES FOR SOLID WASTE.

(A) The user fee to be paid by unit for services rendered under this chapter shall be established from time to time by ordinance of the Town Council and shall be sufficient to cover the cost and expense of administration of this domestic solid waste collection service including, but not limited, to the funding of the cost of any agreement between the town and any person for the collection, receipt, acceptance and disposal of domestic solid waste produced within the corporate limits of the town.

(B) Beginning September 30, 2016, each unit shall be assessed and pay to the town a monthly user fee for garbage, refuse, and recyclable collection of \$11.68 plus an administration fee of \$1 for a total of \$12.68.

(C) All units within the town shall be subject to the user charge set forth herein.

(D) The owner or occupant of a dwelling unit on the first day of the month will be responsible for the solid waste charges for that month.

(E) In the event that the user fee to be paid by unit for services rendered under this chapter is not paid by the occupant, the owner of the unit shall be responsible for the fee and any delinquent payment charges assessed by the town.

(Ord. 15-8-1, passed 8-24-2015; Am. Ord. 16-6-2, passed 6-13-2016)

§ 51.19 MISCELLANEOUS.

(A) The Town Clerk-Treasurer from time to time shall prepare cost studies showing the cost of providing regular and any experimental service in the manner provided in this chapter, including all costs of collecting materials, all moneys saved by not having to pay fees for landfill disposal of materials, and all moneys received from the sale of recyclable materials either by the town or its contractor.

(B) No person shall, without prior written authorization from the town, collect any newspapers, glass or aluminum or metal cans/containers or any other domestic solid waste containers that are placed at the curb for collection under the terms of this chapter, provided, however, that the town may from time to time permit collection to be made by civic organizations that make application therefore if the collection does not violate the terms of any contract for collection. In that case, the organization may keep the money received.

(Ord. 96-12-1, passed 9-14-1998; Am. Ord. 15-8-1, passed 8-24-2015) Penalty, see § 51.99

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) It shall be unlawful to violate any of the terms, conditions or restrictions of § 51.01. Any person or legal entity who is found by a court of competent jurisdiction to have violated any provision of § 51.01 may be fined not more than \$2,500 per offense per day plus costs and attorneys' fees where a judgment has been entered accordingly.

(Ord. 96-11-1, passed 11-12-1996)

(C) Any person who violates any of the applicable provisions of §§ 51.15 through 51.18 shall, upon conviction, be guilty of an infraction punishable by a fine of not more than \$100.
(Ord. 96-12-1, passed 9-14-1998)

[Text continues on page 37.]

CHAPTER 52: WATER

Section

- 52.01 Storm water rates
- 52.02 Assessment lien

Rates and Charges

- 52.50 Water rates and charges
- 52.51 Temporary users

Quality Standards

- 52.80 Water quality management planning responsibility

§ 52.01 STORM WATER RATES.

(A) For the use of and the service rendered by the storm water utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that discharges storm water, either directly or indirectly, into the storm water system of the town, which rates and charges shall be based on Equivalent Residential Units (ERU) payable as hereinafter provided and shall be in an amount determinable as follows based on the descriptions in division (E) below.

<i>Type of Property</i>	<i>ER U</i>	<i>Monthly Charge</i>
Residential	1.0	\$8
Apartments:		
First 4 dwelling units	1.0	\$8
Each additional dwelling unit	1.0	\$8
Commercial	2.0	\$16
Industrial	10.0	\$80
Municipal	2.0	\$16

(B) Rates and charges incurred under this section shall be prepared and collected by the town in accordance with those provisions regulating the preparation and issuance of bills for sewer service generally. The monies collected under this section shall be deposited in the Storm Water Revenue Fund.

(C) This section shall be in full force and effect from and after its passage, provided, however, that the schedule of rates and charges herein set forth shall be effective with the commencement of the billing cycle as soon as possible.

(D) (1) The rates and charges shall be prepared and billed by the town monthly, as the town may deem appropriate and as determined by the bylaws and regulations for the town as hereinafter provided by law and ordinance.

(2) This charge shall be paid, in arrears, by the twentieth of the month following the service. Current charges unpaid by the twentieth of the billing month will be assessed a penalty of 10%. The rates and charges will be billed to the tenant or tenants occupying the property served unless otherwise requested in writing by the owners, but billing shall in no way relieve the owner from liability in the event payment is not made as herein required.

(3) The owners of the properties served, which are occupied by tenants, shall have the right to examine the collection records of the town for the purpose of determining whether the rates and charges have been paid by the tenants, provided that an examination shall be made in the office in which the records are kept and during the hours that the office is open for business. If charges are not paid within 30 days after due, the amount of the charge, together with the penalty of 10%, any necessary attorney fees and/or any necessary collection fees, may be recovered by the town.

(E) (1) **APARTMENTS.** A structure with the primary purpose of serving 5 or more dwelling units. Included in this classification are planned apartment complexes with multiple units and multiple buildings under 1 property ownership. For billing purposes, the equivalent units for each structure that is separate and distant shall be:

(a) First 4 dwelling units: 1 ERU; and

(b) Each additional dwelling unit: 1 ERU.

(2) **COMMERCIAL.** A property or parcel of land which is primarily used for commercial purposes. Included within this classification are governmental and institutional properties, places of worship, schools and retail shops. For billing purposes, each facility that is separate and distinct shall be considered 2.0 equivalent residential units.

(3) **INDUSTRIAL.** A property or parcel of land that is used primarily for manufacturing purposes. For billing purposes, each site or other facility that is separate and distinct shall be considered 10.0 equivalent residential units.

(4) **MUNICIPAL.** A property or parcel of land that is used primarily for municipal purposes. For billing purposes, each municipal site shall be considered 2.0 equivalent residential units.

(5) **RESIDENTIAL.** A single-family structure for which the primary purpose is to provide not more than 4 dwelling units. Included within this classification are mobile homes, duplexes, modular homes and freestanding apartment units. For billing purposes, a structure shall be considered as 1 equivalent residential unit.

(Ord. 05-6-2, passed 8-8-2005)

§ 52.02 ASSESSMENT LIEN.

(A) Delinquent fees and charges shall be assessed against real property constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in divisions (B) and (C), the lien attaches when notice of the lien is filed in the County Recorder's Office under I.C. 8-1.5-5-30.

(B) In the event a service address is occupied by someone other than the owner, the delinquent fees and charges shall be assessed against real property and constitute a lien against the property only if the utility notifies the owner not later than 20 days after the time the fees become 60 days delinquent. A notice sent to the owner under this subsection must be sent by first class mail or by certified mail, return receipt requested (or an equivalent service permitted under I.C. 1-1-7-1) to:

(1) The owner of record of real property with a single owner; or

(2) At least one of the owners of real property with multiple owners; at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice of the delinquency, or to another address specified by the owner, in a written notice to the utility, at which the owner requests to receive a notice of delinquency under this division. The cost of sending notice under this division is an administrative cost that may be billed to the owner.

(C) Delinquent fees and charges are not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the County Recorder before the conveyance to the subsequent owner.

(Ord. 15-8-1, passed 8-24-2015)

RATES AND CHARGES**§ 52.50 WATER RATES AND CHARGES.**

There shall be and there are hereby established for the use of and the service rendered by the municipal water utility of the town, the following rates and charges, based on the use of water supplied by the municipal water utility system:

(A)

<i>Metered rates per month****</i>	<i>Phase I*</i>	<i>Phase II**</i>	<i>Phase III***</i>
<i>Consumption per month</i>			
First 2,500 gallons	\$4.97	\$5.94	\$7.10
Next 7,500 gallons	\$4.56	\$5.46	\$6.52
Next 15,000 gallons	\$3.84	\$4.58	\$5.48
Next 25,000 gallons	\$3.01	\$3.60	\$4.30
Over 50,000 gallons	\$2.28	\$2.73	\$3.26
<i>Minimum monthly charge</i>			
Each customer (user) shall pay a minimum charge each month in the amount of:	\$12.43	\$14.85	\$17.75

(B)

<i>Fire Protection Charges</i>	<i>Phase I*</i>	<i>Phase II**</i>	<i>Phase III***</i>
<i>For stand-by ready-to-sever, fire demand, the following charges shall apply:</i>			
<i>Hydrant charge- per hydrant per annum</i>			
Municipal	\$179.31	\$214.28	\$256.06
Private	\$179.31	\$214.28	\$256.06
<i>Fire sprinkler connections, per connection, per annum:</i>			
2-inch connection	\$19.96	\$23.86	\$28.50
3-inch connection	\$44.81	\$53.55	\$63.99
4-inch connection	\$79.89	\$95.46	\$114.08

<i>Fire Protection Charges</i>	<i>Phase I*</i>	<i>Phase II**</i>	<i>Phase III***</i>
6-inch connection	\$179.31	\$214.28	\$256.06
8-inch connection	\$318.65	\$308.78	\$455.04
*	The Phase I rates of (A) and (B) above shall be effective for the first full monthly billing period of the municipal water utility following the adoption and effectiveness of this section.		
**	The Phase II rates of (A) and (B) above shall supersede and replace those Phase I rates effective as of and for and after the first full monthly billing period of the municipal water utility following June 30, 2009.		
***	The phase III rates of (A) and (B) above shall supersede and replace those Phase II rates effective as of and for and after the first full monthly billing period of the municipal water utility following June 30, 2010.		
****	The rates and charges fixed above shall apply to individual customer; the shall not be construed to permit multiple customers being served through one meter, except as expressly authorized in advance in writing by the Town Council.		

§ 52.51 TEMPORARY USERS.

Water furnished to temporary users, such as contractors, shall be charged on the basis of the metered rates set forth herein.
 (Ord. 15-8-1, passed 8-24-2015)

QUALITY STANDARDS

§ 52.80 WATER QUALITY MANAGEMENT PLANNING RESPONSIBILITY.

The town desires to be the approved designated Management Agency for the control of water pollution sources within its area of jurisdiction.
 (Ord. 15-8-1, passed 8-24-2015)

[Text continues on page 53.]

CHAPTER 53: SEWER

Section

General Provisions

- 53.01 Rates and charges
- 53.02 Assessment lien
- 53.03 Determination of charges

Connection to and Use of Drains and Sewers

- 53.15 Definitions
- 53.16 Unlawful activities
- 53.17 Superintendent, Inspector, and others' right to enter
- 53.18 Enforcement

Construction and Operation

- 53.30 Rights of the town
- 53.31 How sewage works to be constructed
- 53.32 Revenue bonds
- 53.33 Sale of bonds; role of Clerk-Treasurer
- 53.34 Accrued interest and premium of bonds
- 53.35 Revenue from sewage works
- 53.36 Operation and Maintenance Fund
- 53.37 Sewage Works Sinking Fund
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- 53.39 Bank accounts for funds
- 53.40 Records and accounts
- 53.41 Agreement to keep rates reasonable
- 53.42 Additional bonds
- 53.43 Safeguarding interests of holders of bonds
- 53.44 Rights of holders
- 53.45 Estimate of rates

- 53.99 Penalty

GENERAL PROVISIONS**§ 53.01 RATES AND CHARGES.**

(A) For the use of and the service rendered by the 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's sanitary sewer system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewer system of the town, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows.

(1) Except as herein otherwise provided, sewage rates and charges shall be based on the quantity of water used on or in the property or premises except as otherwise provided in this section, subject to rates and charges, as the same is measured by the water meter then in use.

(2) The revised rates shall apply for usage billed after adoption of this section.

(3) The water usage schedule on which the amount of the sewage rates and charges shall be determined shall be as follows:

<i>Quantity of Water Used per Month</i>	<i>Rate per 1,000 Gallons</i>
First 5,000 gallons	\$9.33
Next 5,000 gallons	\$8.28
Next 5,000 gallons	\$6.45
Next 10,000 gallons	\$6.00
Over 25,000 gallons	\$5.50

(4) The minimum charge for sewage service where the use is a metered water customer shall be based upon the water meter size as follows:

<i>Water Meter Size</i>	<i>Gallons Allowed</i>	<i>Minimum per Month</i>
5/8-inch - 3/4-inch	2,950	\$27.50
1-inch	5,000	\$46.65
1-1/2-inch	10,000	\$88.05
2-inch	16,000	\$126.30
3-inch	30,000	\$207.80
4-inch	50,000	\$317.80
6-inch	100,000	\$592.80

(B) (1) The quantity of water obtained from sources other than the municipal waterworks and discharged into the public sanitary sewer system may be determined by the town in manner as the town shall elect, and the sewage treatment service may be billed at the above appropriate rates.

(2) Unmetered mobile home parks or apartments will be charged \$32.92 per month per unit or space available.

(3) The rate for unmetered sewage usage for a single residential dwelling will be \$70.10 per month.

(4) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewer system, either directly or indirectly, is not a user of water supplied by the town's waterworks and the water used thereon or therein is not measured by a 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 of charge, or the owner or other interested party, at his or her expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of the sewage discharge.

(5) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewer system, either directly or indirectly, is a user of water supplied by the town's waterworks, and in addition uses water from another source which 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 rates or charge, or the owner or other interested party, at his or her expense, may 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.

(6) 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 sewer system, either directly or indirectly, and uses water in excess of 15,000 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 sewer system, then the owner or other interested party shall 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; or the town may agree to a fair and equitable rate to be charged the user.

(7) In the event 2 or more residential lots, parcels of real estate or buildings discharging sanitary sewage, water or other liquids into the town's sanitary sewer system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each case, for billing purposes, the quantity of water used shall be averaged for each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.

(8) (a) In the event 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 sewer system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in that case billing shall be for a single service in the manner set out elsewhere herein, except that a minimum sewer additional charge shall be added thereto in the amount of \$27.50 per month for each dwelling unit over 1 served through the single water meter.

(b) In the case of mobile home parks, the number of dwelling units shall be computed and interpreted as the total number of mobile homes located and installed in the park, 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.

(9) Where a measured water supply is used for fire protection as well as for other uses, the town may, in its discretion, make adjustments in the minimum charge and in the use charge as may be equitable.

(10) For the service rendered to the town, the town shall be subject to the same rates and charges hereinabove provided, or to rates and charges established in harmony therewith.

(C) In order that the rates and charges may be justly and equitably adjusted to the services rendered, the town shall have the right to base its charges not only on volume, but also on the strength and content of all sewage and waste discharged, either directly or indirectly, into the town's sanitary sewer system in a manner and by a method as may be deemed practical in the light of the conditions and attending circumstances of the case in order to determine the proper charge. Any and all commercial and industrial installations shall be so controlled and/or treated as to the sewage strength that their affluent discharge to the town's sewers shall have a B.O.D. (biochemical oxygen demand) not to exceed 300 parts per million, and suspended solids not to exceed 350 parts per million, at any time. The Town Council is authorized to prohibit the dumping of wastes into the town's sewer system which, in its discretion, are deemed harmful.

(D) The terms *SANITARY SEWAGE* and *INDUSTRIAL WASTES* shall be defined as follows:

INDUSTRIAL WASTES. The liquid waste or liquid-borne waste resulting from any commercial, manufacturing or industrial operation or process.

SANITARY SEWAGE. The waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, stable floor drains and all other water-carried wastes, except industrial wastes.

(E) The town shall make and enforce bylaws and regulation as it deems necessary for:

(1) The safe, economic and efficient management of the town sewer system;

(2) The construction and use of house sewers and connections to the sewer system; and

(3) The regulation, collection, rebating, and refunding of rates and charges.

(Ord. 26A, passed 7-11-2005; Am. Ord. 15-8-1, passed 8-24-2015)

§ 53.02 ASSESSMENT LIEN.

(A) Delinquent fees and charges shall be assessed against real property and constitute a lien against the property. The lien is superior to all other liens except tax liens. Except as provided in division (B) and (C), the lien attaches when notice of the lien is filed in the County Recorder's Office under, I.C. 36-9-23-33.

(B) In the event a service address is occupied by someone other than the owner, the delinquent fees and charges shall be assessed against real property and constitute a lien against the property only if the utility notifies the owner not later than 20 days after the time the utility fees become 60 days delinquent. A notice sent to the owner under this division must be sent by first class mail or by certified mail, return receipt request (or an equivalent service permitted under I.C. 1-1-7-1) to:

(1) The owner of record of real property with a single owner; or

(2) At least one of the owners of real property with multiple owners; at the last address of the owner for the property as indicated in the records of the County Auditor on the date of the notice of the delinquency, or to another address specified by the owner, in a written notice to the utility, at which the owner requests to receive a notice of delinquency under this division. The cost of sending notice under this division is an administrative cost that may be billed to the owner.

(C) Delinquent fees and charges are not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner.

(Ord. 15-8-1, passed 8-24-2015)

§ 53.03 DETERMINATION OF CHARGES.

(A) In order that the domestic and residential users of sewage service shall not be penalized for sprinkling lawns during the summer months of June, July, August and September, the billing for sewage service for residences or domestic users for those months shall be based upon the water usage for the previous months of January, February and March.

(B) In the event the water usage for the previous month of January, February and March is greater than the water usage for the months of June, July, August, and September, then the billing for sewage services shall be computed on the actual water used in the month for which the sewage service bill is being rendered. Domestic or residential sewage service as applicable to the sprinkling rate shall apply to each lot, parcel of real estate, or building which is occupied and used as a residence by the filing credit applicant during the winter months of January, February and March, and the occupants shall have filed for the sprinkling credit with the Clerk-Treasurer's office during the prescribed time period.

(C) The sprinkling rate shall not apply to any premises which are partially or wholly used for commercial or industrial purposes. In the event a portion of the premises shall be used for commercial or industrial purposes. In the event a portion of the premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water served through a separate meter and in that case the water usage as registered by the water meter serving such portion of the premises used for residential purposes would qualify under the sprinkling rate.

(Ord. 15-8-1, passed 8-24-2015)

CONNECTION TO AND USE OF DRAINS AND SEWERS

§ 53.15 DEFINITIONS.

Unless otherwise defined herein, terms shall be as adopted in the latest edition of Standard Method for the Examination of Water and Wastewater published by the American Public Health Association, and American Water Works Association and the Water Environment Federation and set forth in 40 C.F.R. 136. Waste constituents and characteristics shall be measured by Standard Methods unless a mutually agreed upon acceptable alternative method is adopted, or as established by state or federal regulatory agencies. Monitoring will be carried out by customarily accepted methods. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

B.O.D. (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

GRAY WATER. All water excepting storm water.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

INSPECTOR. The person or persons duly authorized by the town, through its Town Council, to inspect and approve the installation of building sewers and their connection to the public sanitary sewer system.

MAY. Permissive.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree so that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2-inch in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

PUBLICLY OWNED TREATMENT WORKS or **POTW.** Any arrangement of devices and structures used for treating sewage.

SANITARY BUILDING DRAIN. That part of the lowest horizontal piping of the sanitary drainage system inside the walls of any building, which receives the discharge from soil or waste stacks and branches and conveys the same to a point 3 feet outside the building walls where it connects with its respective building sewer.

SANITARY BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

SANITARY SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SANITARY SEWER.

- (1) A pipe or conduit for carrying sewage; and
- (2) A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with ground, surface and storm waters as may be present.

SHALL. Mandatory.

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24-hour concentration or flows during normal operation.

STORM DRAIN or **STORM SEWER.** A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Superintendent of the municipal sewage works of the Town of Ossian, Indiana, or his or her authorized deputy, agent or representative.

TOTAL SUSPENDED SOLIDS or **TSS.** Solids that either float on the surface of, or are in suspension in water, sewer or other liquids, and which are removable by laboratory filtering.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

(Ord. 27, passed 3-8-2004; Am. Ord. 27A, passed 4-27-2009)

§ 53.16 UNLAWFUL ACTIVITIES.

(A) (1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of the town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.

(3) 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.

(4) The owner of all houses, buildings and 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 sewer of the town, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect facilities directly with the proper public sewer in accordance with the provisions of this subchapter, which shall include connecting to the new sanitary system installed in and around 1993 and 2001, within 30 days after date of official notice to so, provided that the public sewer is within 300 feet of the property line.

(B) (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof.

(2) There shall be 2 classes of building sewer permits (taps); 1 for residential and commercial service and 2, for service to establishments producing industrial wastes. A permit (tap) fee will be charged according to the latest enacted utility rate ordinance.

(3) 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.

(4) A separate and independent building sewer shall be provided for every building.

(5) Old building sewers may be used in connection with new buildings only when they are found on examination, and tested by the Inspector, to meet all requirements of this subchapter.

(6) 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, other applicable rules and regulations of the town, and the construction standards adopted by the town.

(7) 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 the building drain shall be lifted by an approved means and discharged to the building sewer.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, other applicable rules and regulations of the town, and the construction standards adopted by the town, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All connections shall be made gas-tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(10) The application for the building sewer permit (tap) shall notify the 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 Inspector or his or her representative.

(11) 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 town.

(C) (1) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

(2) No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;

(b) 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;

(c) Any waters or wastes having a pH lower than 6.0 or higher than 9 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works; or

(d) Solid or viscous substances in quantities or of a 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, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(3) 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 the 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 or her 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 ability to treat the wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than 150°F (65°C);

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 50 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150° F (0° and 65° C);

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent;

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(e) Any waters or wastes containing:

1. Iron;
2. Chromium (hexavalent) in excess of 1.0 mg/l;
3. Chromium (trivalent) in excess of 2.0 mg/l;
4. Total chromium in excess of 3.0 mg/l;
5. Copper in excess of 1.0 mg/l;

6. Zinc in excess of 5.0 mg/l;
7. Nickel in excess of 1.0 mg/l;
8. Lead in excess of 1.0 mg/l;
9. Cadmium in excess of 0.02 mg/l; or
10. Cyanides, as CN ions in excess of 1.0 mg/l;

11. 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.

(f) Any waters or wastes containing phenols in excess of 0.50 mg/l, 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 for the discharge to the receiving waters;

(g) 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. Any toxic radioactive isotopes, without a special permit. The radioactive isotopes I 131 and P 32 used in hospitals are not prohibited, if they are properly diluted before being discharged into the sewer system;

(h) Materials which exert or cause:

1. Unusual concentrations of inert, suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

3. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(i) Any waters or waste containing any toxic substances in quantities that are sufficient to interfere with the biochemical processes of the POTW or that will pass through the plant into the receiving stream in amounts exceeding the standards set by federal, interstate, state, or other competent authority having jurisdiction;

(j) Any waters or waste that for a duration of 5 minutes or more have concentration of more than 5 times the average concentration of the B.O.D. or the suspended solids of the customer's sewage discharge during a 24-hour period of normal operation;

(k) Any waters or waste containing suspended solids of a character and quantity that unusual provision attention and expense would be required to handle such materials at the POTW, its pumping stations, or facilities;

(l) Any noxious or malodorous gas or substance which, either alone or by interaction with other waste, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair; or

(m) Any water or wastes containing a phosphate content in excess of 12 mg/l or an ammonia-nitrogen content of 15 mg/l.

(4) (a) 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 division (C)(3) of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge; and/or

4. Require a surcharge payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of the latest enacted utility rate ordinance. If the discharge is allowed (within these provisions) by the Superintendent, the user shall pay a surcharge for wastewater with BOD and/or TSS higher than 200 mg/l based on actual flows and testing as required by this subchapter. The amount of the surcharge will be justly and equitably adjusted on an annual basis to ensure that all customers pay for their fair share of wastewater transport and treatment costs.

(b) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plans 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.

(5) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. Written records of maintenance and cleaning of these interceptors must be kept and available to be examined by the Inspector.

(6) 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 or her expense.

(7) 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 necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. A manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. This manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(8) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with 40 C.F.R. 136, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. 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.

(a) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage and property. (This particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

(b) In addition, any industrial wastes discharged into the public sewers shall be subject to periodic inspection and determination of character and concentration. The examination shall be made as often as the Superintendent deems it necessary (but at least once a year) and may include the use of suitable continuously monitoring instruments in appropriate cases. Samples shall be collected either manually or by approved mechanical devices and in such a manner as to be representative of the overall composition of the wastes. Sampling period shall be for a period of 7 consecutive days, but may be of longer duration at the discretion of the town. In periods when the sampling program extends for a greater number of consecutive days than 7, the town shall have the prerogative of selecting the 7 consecutive days of its choice. Every care shall be exercised in collecting the samples to ensure their preservation, until analyzed, in a state comparable to that at the time the samples were collected.

(9) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial water of unusual strength or character may be accepted by the town for treatment, subject to payment therefor, by the industrial concern.

(D) No authorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage work. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. 27, passed 3-8-2004; Am. Ord. 27A, passed 4-27-2009) Penalty, see § 53.99

§ 53.17 SUPERINTENDENT, INSPECTOR, AND OTHERS' RIGHT TO ENTER.

(A) 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 in accordance with the provisions of this subchapter. The Superintendent or his or her representatives 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.

(B) While performing the necessary work on private properties referred to in division (A) of this section, 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's 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 may be caused by negligence or failure of the company to maintain safe conditions as required in § 53.16(C)(8).

(C) 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 the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 27, passed 3-8-2004; Am. Ord. 27A, passed 4-27-2009) Penalty, see § 53.99

§ 53.18 ENFORCEMENT.

(A) *Liability.* Any person violating any of the provisions of this subchapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of the violation.

(B) *Administration and jurisdiction.* All entities discharging non-domestic wastewater to the POTW are subject to the provisions of the ERP. The POTW consistently administers and implements all elements of the ERP. The ERP does not preclude the POTW from taking any, all, or any combination of action against a noncompliant industrial user (IU).

(C) *Abbreviations.*

- (1) AO - Administrative Order.
- (2) EPA - Environmental Protection Agency.

- (3) ERG - Enforcement Response Guide.
- (4) ERP - Enforcement Response Plan.
- (5) IDEM - Indiana Department of Environmental Management.
- (6) IU - Industrial User.
- (7) IPC - Industrial Pretreatment Coordinator.
- (8) NOV - Notice of Violation.
- (9) POTW - Publicly Owned Treatment Works.

(D) *Personnel responsibilities.*

(1) *Industrial Pretreatment Coordinator.* The Industrial Pretreatment Coordinator (IPC) is responsible for the day to day implementation and enforcement of the industrial pretreatment program. Potential enforcement responses carried out by the IPC are as follows:

- (a) Informal notices (verbal and written).
- (b) Notices of violation.
- (c) Referrals to the state or EPA for criminal action.

(2) *Superintendent.* The Superintendent has the responsibility to monitor the IPC's actions and to initiate these additional enforcement actions at the recommendation of the IPC:

- (a) Administrative orders.
- (b) Compliance schedule.
- (c) Show cause hearings.
- (d) Termination of service.
- (e) Administrative fines.
- (f) Cost recovery.
- (g) Referrals to the city attorney for judicial action.
- (h) Referrals to the state or EPA for criminal action.

(3) *POTW Attorney*. The POTW Attorney will provide legal consultation as requested by the Superintendent on compliance schedules, administrative fines, administrative orders, and cost recovery and will take the lead on all referrals for judicial action and POTW initiated criminal investigations.

(E) *Description of enforcement actions*. Following are the types of enforcement action that may be undertaken by the POTW:

(1) *Informal notice*. An informal notice may be either a documented phone call, written warning, or a meeting notifying the IU of minor incidences that have occurred and that need to be corrected. Repeat performance of the same incidence, or escalation of the incidence, will result in escalated enforcement action.

(2) *Notice of violation (NOV)*. An NOV is the initial formal enforcement action for a violation. The certified letter notifies the IU signatory authority of the violation and requires the following:

- (a) Immediate corrective action or steps being taken to correct the problem;
- (b) Increased sampling of the parameter in violation within 30 days;
- (c) Written response within 10 business days of receipt of NOV.

(3) *Administrative order (AO)*. An administrative order is notification to the IU to undertake or to cease specified activities by a specified deadline. It is the first formal response to significant noncompliance (unless factors necessitate escalated enforcement actions). It may contain compliance schedules, administrative fines, termination of service, and show cause orders. In addition, it specifies the name of the parties involved, statement of the facts, the requirement to ensure compliance, and the enforcement associated with any future noncompliance.

(4) *Compliance schedule*. A compliance schedule is a formal time and management schedule established for the non-compliant IU to achieve compliance. It is established for existing IUs to meet the categorical pretreatment standards or local standards. It contains increments of progress in the form of dates for the commencement and completion of major events leading to compliance. In addition, all compliance schedules shall contain the following:

- (a) Monitoring requirements with the location for monitoring;
- (b) How the data will be used for evaluating compliance;
- (c) Enforcement associated with non-compliance;

(d) Closure date after which IU will be considered either non-compliant with the established compliance schedule, or evaluated for compliance.

(5) *Show cause hearing.* A show cause hearing is when the IU and the POTW meet to discuss the cause and effect of the violation, as well as the enforcement action the IU will be subjected to. The IU may present its case as to why the violation occurred and why further enforcement should not be applied. Corrective actions to be undertaken by the IU can also be a part of this meeting.

(6) *Termination of service.* Termination of service is the revocation of an IU's privilege to discharge non-domestic wastewater into the sewer system. Termination of service is used when the discharge from an industrial user presents imminent endangerment to the health or welfare of persons, or the environment; or threatens to interfere with the POTW's operations, or as an escalating enforcement action to a significant violation when a noncompliant industrial user fails to respond adequately to previous enforcement actions. Termination of service may be accomplished by physical severance of the IU's connection to the collection system, issuance of an AO (cease and desist order) which compels the IU to immediately terminate its discharge, revocation of the IU's discharge permit, or a court ruling.

(7) *Administrative fines.* An administrative fine is a punitive monetary charge assessed by the town rather than a court. The penalty authority must be authorized in the POTW's SUO. The purpose of the fine is to recover the economic benefit of noncompliance and to deter future violations. When assessing an administrative fine the following factors are considered:

- (a) Type and severity of the violation;
- (b) Number of violations cited;
- (c) Duration of noncompliance;
- (d) Impact of the violation on the receiving water, sludge quality, and POTW operation;
- (e) Whether the violation threatened public health;
- (f) The economic benefit or savings the industrial user gained from the noncompliance;
- (g) Compliance history of the industrial user; and
- (h) Whether the industrial user is making a good faith effort to comply.

(8) *Cost recovery.* In addition to administrative fines imposed by the Superintendent, the IU shall be responsible for paying the following (but not limited to) costs incurred by the town for the IU's failure to comply:

- (a) Cost of mileage and labor incurred in detecting and correcting the violation;
- (b) Laboratory analysis costs associated with detecting and correcting the violation;

(c) Additional treatment costs caused by the violation or associated with detecting and correcting the violation;

(d) Costs of any additional equipment acquired or expended by the town for detecting or correcting the violation;

(e) Repair and/or replacement of any part of the sewerage system damaged by the violation;

(f) Any liability, damages, fines, or penalties incurred by the town as a result of the violation;

(g) Any and all expenses of outside professionals to include, but not be limited to, engineers, scientists, and/or legal counsel; and

(h) Other costs associated with the detection and correction of the violations.

(9) *Judicial action.* Judicial action will be taken when it is deemed necessary to force the IU to correct the violation and comply with the permit. Judicial action may consist of civil prosecution; criminal prosecution; or an action for injunction, at the discretion of the POTW and its counsel. As an alternative to judicial action, the POTW and IU may agree to a voluntary zero discharge of industrial waste by the IU pending correction of the violation.

(10) *Referral to EPA or the state.* Where a POTW does not rely on criminal prosecution for its enforcement authority, referral to the state or EPA may be made. For violations that may warrant criminal prosecution, the POTW will refer the case to EPA or the state for further action. Circumstances that trigger EPA or state referrals include (but are not limited to) evidence of willfulness, evidence of negligence, and/or bad faith shown by the Industrial User.

(11) *Threat.* Violations that threaten health, property, or environmental quality are considered emergencies and will receive immediate responses, such as halting the discharge or terminating service.

(F) *Enforcement response guide.*

(1) *Enforcement options.* The enforcement response guide (ERG) designates several enforcement options for each type (or pattern) of noncompliance. The intent of the ERG is to provide direction for appropriate enforcement response and to ensure consistent enforcement for similar violations and circumstances. Factors that will be evaluated when determining the appropriate response are as follows:

(a) Good faith of the IU;

(b) Compliance history of the IU;

(c) Previous success of any prior enforcement actions against the IU (e.g., if historically NOVs have not been effective in returning the user to compliance in a reasonable period of time, an administrative order would be a more appropriate response);

(d) Violations' effect on the environment and/or public health;

(e) Violations' effect on the POTW.

(2) *Violations resulting in significant noncompliance.* Any violation that results in significant noncompliance (SNC) will be addressed through formal enforcement action regardless of the enforcement response otherwise required by the enforcement response guide. The minimum level of enforcement used to address SNC is an AO.

(3) *Categories.* The following categories of SNC of IUs shall be subject to enforcement actions initiated by the town:

(a) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a 6-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter.

(b) Technical review criteria (TRC) violations, defined as those in which 33% or more of all of the measurements for each pollutant parameter taken during a 6-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. (TRC equals 1.4 for biochemical oxygen demand, total suspended solids, fats, oil, and grease and 1.2 for all other pollutants except pH.)

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under 327 IAC 5-19-3(1)(G) to halt or prevent such a discharge.

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or administrative order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within 30 days after the due date, required reports such as:

1. Baseline monitoring reports;
2. Ninety-day compliance reports;
3. Periodic self-monitoring reports; and

4. Reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations that the POTW determines will adversely affect the operation or implementation of the approved POTW pretreatment program.

(4) *Escalating enforcement response.* Escalating enforcement response will be used for recurring violations and failure to achieve compliance subsequent to informal or formal enforcement. A recurring violation is one in which the same type of violation occurs on consecutive reporting periods, the violation occurs seasonally, or any other pattern of noncompliance is shown.

(5) *Violations falling under more than one category.* Violations that fall under more than one category in the enforcement response guide will be addressed through the more severe enforcement response. All alleged violations will be included in the more severe response.

(G) *Definitions of violations.*

(1) *Minor sampling, monitoring, or reporting deficiencies.*

(a) Reports/correspondence submitted up to 10 business days late.

(b) Incomplete reports and/or chain-of-custody (first offense).

(c) Transcription error.

(d) Improper sampling or analytical procedure (first offense).

(e) Late notification of violation to POTW (first offense).

(f) Failure to report any operational changes which affects the discharge flow rate but does not impact the permit (first offense).

(g) Any other violation categorized as minor sampling, monitoring, or reporting deficiencies by the POTW.

(2) *Major sampling, monitoring, or reporting deficiencies.*

(a) Reports/correspondence late by 10 - 30 business days.

(b) Sampling point not accessible to the POTW.

(c) Reports not certified.

(d) Failure to report any operational changes which affects the discharge flow rate and impacts the permit.

(e) Incomplete report or chain-of-custody information (repeat offense).

(f) Failure to submit all the information that leads to the determination of a category of an IU.

(g) Failure to use appropriate analytical methods (40 C.F.R. 136).

(h) Failure to sample for a parameter.

(i) Failure to report slug load discharge, illegal discharges, or spills with no damage to POTW.

(j) Unacceptable explanation for violation.

(k) Improper sampling or procedure (repeat offense)

(l) Any other violation categorized as “major sampling, monitoring, or reporting deficiencies” by the POTW.

(3) *Critical sampling, monitoring, or reporting deficiencies.*

(a) Reports greater than 30 days late (SNC).

(b) Complete failure to sample, monitor, or report per the requirements found in the IU’s permit.

(c) Any deficiency of sampling, monitoring, or reporting procedure which places IU in SNC.

(d) Failure to respond to a show cause or administrative order.

(e) Illegal or unauthorized discharge that results in damage to the POTW.

(f) Any violation of sampling, monitoring, or reporting procedures which directly or indirectly contributes to or is responsible for violation of POTW’s NPDES permit.

(g) Any other violation categorized as critical sampling, monitoring, or reporting deficiencies by the POTW.

(4) *Unauthorized discharge.* Discharge of any pollutant(s) from a location, process, source, or categorical operation that has not been previously approved, identified or permitted.

(5) *Damages to the POTW.* Occurs when the discharge from an IU causes:

- (a) Harm to the collection system, its accessories, and wastewater treatment plant.
- (b) Interference with the biological operations of the plant.
- (c) Deterioration of sludge quality.
- (d) The POTW to violate its NPDES permit.

(H) *Timeframes for enforcement responses.*

(1) All violations will be identified and documented within 5 days of receiving compliance information.

(2) Initial enforcement responses (informal or formal) will occur within 15 days of identifying a violation.

(3) Follow up actions for continuing or recurring violations will be taken within 60 days of the initial enforcement response.

(4) Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate response, such as halting the discharge or terminating service.

(5) *Significant noncompliance.* All violations meeting the criteria for significant noncompliance will be addressed through formal enforcement action within 30 days of the identification of SNC.
(Ord. 27A, passed 4-27-2009)

CONSTRUCTION AND OPERATION

§ 53.30 RIGHTS OF THE TOWN.

The Town of Ossian shall establish, construct, equip, own, operate and maintain sewage works, together with equipment and appurtenances as may be necessary or useful and convenient for the collection, treatment, purification and disposal in a sanitary manner of the sewage and industrial wastes of the town, including the necessary lands, rights-of-way or other property therefor within or without the corporate limits of the town, under and pursuant to I.C. 36-9-23. The terms "sewage treatment works," "works" and other like terms where used in this subchapter shall be construed to mean and include all structures and property.

(Ord. 25, passed 7-16-1970)

§ 53.31 HOW SEWAGE WORKS TO BE CONSTRUCTED.

The sewage works, consisting of lands, easements, rights-of-way, interceptor sewers, activated sludge-type sewage treatment plant and other equipment, accessories and appurtenances, shall be acquired and constructed in accordance with the plans, specifications and estimates heretofore prepared by Strauss Associates, Inc., Consulting Engineers of Fort Wayne, Indiana, which are now on file in the office of the Clerk-Treasurer of the Town of Ossian, Indiana, and are hereby adopted and approved, and by reference made a part of this subchapter as fully as if the same were attached hereto or incorporated herein; the estimated cost of construction of the works shall not exceed the sum of \$484,039; and the works shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the provisions of Chapter 284 of the Acts of the Indiana General Assembly for the year 1967, and all acts supplemental thereto.

(Ord. 25, passed 7-16-1970)

§ 53.32 REVENUE BONDS.

(A) (1) The town shall issue its sewage works revenue bonds in the amount of \$125,000 for the purpose of procuring funds to apply on the cost of the works, as defined in I.C. 36-9-23.

(2) (a) The bonds shall be issued in the denomination of \$5,000 each, numbered consecutively from 1 up, dated as of the first day of the month in which sold, and shall bear interest at a rate or rates not exceeding 8-1/2% per annum, payable on January 1 and July 1 in each year, beginning on January 1, 1971.

(b) Interest shall be evidenced by coupons attached to the bonds. Both bonds and interest coupons shall be payable in coin or currency as at the time of payment shall be legally acceptable for payment of debts due the United States of America at the Ossian State Bank, in the Town of Ossian, Indiana, or, at the principal office of the bank in the City of Indianapolis, Indiana, or the City of Fort Wayne, Indiana, as may be designated by the successful bidder subject to approval of the town; and the bonds shall mature serially in numerical order on July 1 in the years and amounts as follows.

<i>Years</i>	<i>Amounts</i>
1973-1982 incl.	\$5,000
1983-1989 incl.	\$10,000
1990	\$5,000

(B) (1) The bonds of this issue maturing on July 1, 1980, and thereafter, shall be redeemable at the option of the town from any funds regardless of source, in whole, or from time to time in part, in inverse numerical order on January 1, 1980, or any interest payment date thereafter, at the principal amount thereof and accrued interest to the date fixed for redemption, plus the following premiums:

(a) Five percent if redeemed on January 1, 1980, or thereafter on or before July 1, 1984;
or

(b) Four percent if redeemed on January 1, 1985, or thereafter prior to maturity.

(2) Notice of redemption shall be published at least 1 time in a newspaper published in Wells County and of general circulation in the Town of Ossian, not less than 30 days prior to the date fixed for redemption. Notice of redemption shall also be published in The Indianapolis Commercial, or in the event of suspension of publication of the newspaper, then in another newspaper or financial journal published in the City of Indianapolis, Indiana, by 2 insertions, the first to be at least 30 days prior to the date fixed for redemption and the second to be not more than 30 nor less than 15 days prior to the date fixed for redemption.

(3) If any of the bonds so to be redeemed are registered, notice shall be mailed to the address of the registered holder as shown on the registration record of the town. The notice shall specify the date and place of redemption and the serial numbers of the bonds called for redemption. The place of redemption may be any bank determined by the town. Interest on the bonds so called for redemption shall cease on the redemption date fixed in the notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named and when the bonds shall be presented for redemption. If any unmatured bond and coupon or coupons so called for redemption shall not be presented on the date fixed for redemption at the place of redemption, the town may place in trust at the bank constituting the place of redemption sufficient funds to effect redemption, and thereafter the holder of the bond and coupon or coupons shall be entitled to payment only from trust funds and the redemption thereof shall be deemed to have been effected and the bonds no longer outstanding.

(C) (1) Bonds shall be signed in the name of the Town of Ossian by the President of the Town Council and attested by the Clerk-Treasurer, who shall affix the seal of the town to each of the bonds. The interest coupons attached to the bonds shall be executed by placing thereon the facsimile signature of the Clerk-Treasurer, and the official, by the signing of the bonds, shall adopt as and for his or her own proper signature his or her facsimile signature appearing on the coupons. Bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana.

(2) Bonds shall be negotiable by delivery unless registered. Upon presentation of any of the bonds at the office of the Clerk-Treasurer, the Clerk-Treasurer shall register the bonds as to principal without charge or expense to the holder. Registry shall be noted on each bond so presented, after which no transfer thereof shall be valid unless made by the registered owner in person or by his or her attorney duly authorized and similarly noted on the bond, but bonds so registered may be discharged from registry by being in like manner retransferred to bearer, after which they shall be transferable by delivery but may again be registered as before. The registration of any bond shall not affect the negotiability of the interest coupons attached thereto, but coupons shall continue to pass by delivery merely and shall remain payable to bearer.

(3) (a) The bonds, and any bonds ranking on a parity therewith as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon all the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the town, including

the works herein authorized to be acquired and constructed and all additions and improvements thereto and replacements thereof subsequently constructed or acquired.

(b) The town shall not be obligated to pay the bonds or the interest thereon except from the net revenues of the works, and the bonds shall not constitute an indebtedness of the town within the meaning of the provisions and limitations of the constitution of the State of Indiana.

(D) The form and tenor of the bonds, the interest coupons to be attached thereto, and the form of registry endorsement thereon shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

(Form of Bond)
 UNITED STATES OF AMERICA
 State of Indiana County of Wells
 No. _____ \$5,000

 TOWN OF OSSIAN
 SEWAGE WORKS REVENUE BOND

The Town of Ossian, in Wells County, State of Indiana, for value received, hereby promises to pay to the bearer, or if this bond be registered then to the registered holder, solely out of the special revenue fund hereinafter referred to, the principal amount of

FIVE THOUSAND DOLLARS

on July 1, 19__ (unless this bond be subject to and called for redemption prior to maturity as hereinafter provided), and to pay interest thereon from the date hereof until the principal is paid, at the rate of ____ per cent (__ %) per annum, payable on January 1 and July 1 in each year, beginning on January 1, 1971, upon presentation and surrender of the annexed coupons as they severally become due.

Both principal and interest of this bond are payable in such coin or currency as at the time of payment shall be legally acceptable for payment of debts due the United States of America, at the Ossian State Bank, in the Town of Ossian, Indiana, or, at the option of the holder, at the principal office of _____, in the City of Indianapolis, Indiana, or, at the principal office of _____, in the City of Fort Wayne, Indiana.

This bond is one of an authorized issue of twenty-five (25) bonds of the Town of Ossian, of like date, tenor and effect, except as to numbering, interest rates and dates of maturity, in the total amount of One Hundred Twenty-five Thousand Dollars (\$125,000), numbered from 1 to 25 inclusive, issued for the purpose of providing funds to apply on the cost of sewage works, as authorized by an ordinance adopted by the Board of Trustees of the town on _____, 1970, entitled "An Ordinance concerning the construction and operation by the Town of Ossian, Indiana, of sewage works, the issuance of revenue bonds to apply on the cost thereof, the collection, segregation and distribution of the revenues of the works, the safeguarding of the interests of the holders of the bonds, and other matters connected therewith," and in strict compliance with the provisions of I.C. 36-9-23.

Pursuant to the provisions of I.C. 36-9-23 and the ordinance, the principal and interest of this bond and all other bonds of the issue, and any bonds ranking on a parity therewith, are payable solely from the Sewage Works Sinking Fund (created by the ordinance) to be provided from the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the town, including the works constructed or acquired by the use of the proceeds of this bond and the issue of which it is a part, and all additions and improvements thereto and replacements thereof subsequently constructed or acquired. This bond shall not constitute an indebtedness of the Town of Ossian within the meaning of the provisions and limitations of the constitution of the State of Indiana, and the town shall not be obligated to pay this bond or the interest thereon except from the special fund provided from the net revenues.

The Town of Ossian irrevocably pledges the entire net revenues of the sewage works to the prompt payment of the principal and interest of the bonds issued on account of the construction of the sewage works, of which this bond is one, and any bonds ranking on a parity therewith, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by the works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of the works, and for the payment of the sums required to be paid into the Sinking Fund under the provisions of I.C. 36-9-23.

In the event the town, or the proper officers thereof, shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the holder of this bond shall have all of the rights and remedies provided for in I.C. 36-9-23, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this bond and the interest thereon.

The town further covenants that it will set aside and pay into its Sewage Works Sinking Fund a sufficient amount of the net revenues of the works to meet (a) the interest on this bond and all other bonds which, by their terms, are payable from the revenues of the sewage works, as such interest shall fall due, (b) the necessary fiscal agency charges for paying the bonds and interest, (c) the principal of this bond and all other bonds payable from the revenues of the sewage works, as such principal shall fall due, and (d) an additional amount as a margin of safety to create the reserve required by the ordinance authorizing the issuance of this bond. Such required payments shall constitute a first charge upon all the net revenues of the works.

This bond and all other bonds of the issue shall have all the qualities and incidents of negotiable instruments under the laws of the State of Indiana. This bond may be registered as to principal at the office of the Clerk-Treasurer in the Town of Ossian, Indiana, in the name of the owner hereof, and such registration noted hereon by the Clerk-Treasurer. Thereafter no transfer hereof shall be valid unless made at the office by the registered owner in person or by his duly authorized attorney and similarly noted hereon, but this bond may be discharged from registration by being in like manner transferred to bearer and may again from time to time be registered or transferred to bearer as before. Such registration shall not restrict or affect the negotiability of the interest coupons hereto attached by delivery only, but such interest coupons shall always be payable to bearer.

The bonds of this issue maturing on July 1, 1980, and thereafter, are redeemable at the option of the town from any funds regardless of source, in whole, or from time to time in part, in inverse numerical order, on January 1, 1980, or any interest payment date thereafter, at the principal amount

thereof and accrued interest to the date fixed for redemption, plus the following premiums:

5% if redeemed on January 1, 1980, or thereafter on or before July 1, 1984, or

4% if redeemed on January 1, 1985, or thereafter prior to maturity.

Noticee of such redemption shall be published at least one time in a newspaper published in Wells County and of general circulation in the Town of Ossian, not less than 30 days prior to the date fixed for redemption. Said notice of redemption shall also be published in The Indianapolis Commercial, or in the event of suspension of publication of such newspaper then in another newspaper or financial journal published in the City of Indianapolis, Indiana, by 2 insertions, the first to be at least 30 days prior to the date fixed for redemption and the second to be not more than 30 days nor less than 15 days prior to the date fixed for redemption. A like notice shall be sent by mail to the holders of such bonds as are then registered. Interest on bonds so called for redemption shall cease on the redemption date fixed in the notice, if funds are available at the place of redemption to pay the redemption price on the date so named and when presented for payment. If any unmatured bond and coupon or coupons so called for redemption shall not be presented on the date fixed for redemption at the place of redemption, the town may place in trust at the bank constituting the place of redemption sufficient funds to effect such redemption, and thereafter the holder of such bond and coupon or coupons shall be entitled to payment only from such trust funds and the redemption thereof shall be deemed to have been effected and the bonds no longer outstanding.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

IN WITNESS WHEREOF, the Town of Ossian, in Wells County, State of Indiana, has caused this bond to be executed in its corporate name by the President of its Board of Trustees, its corporate seal to be hereunto affixed and attested by its Clerk-Treasurer, and the interest coupons hereto attached to be executed by placing thereon the facsimile signature of the Clerk-Treasurer, as of the first day of _____, 1970.

TOWN OF OSSIAN

By _____
President, Board of Trustees

(Seal)

Attest:

Clerk-Treasurer

(Form of Interest Coupon)

Coupon No. _____ \$ _____

On _____, 19__

(unless the bond herein mentioned shall have been called for previous redemption), the Town of Ossian, Indiana, will pay to bearer at the Ossian State Bank, in the Town of Ossian, Indiana, or, at the option of the holder at the principal office of _____, in the City of Indianapolis,

Indiana, or, at the principal office of _____, in the City of Fort Wayne, Indiana, out of its Sewage Works Sinking Fund, the amount shown hereon in such coin or currency as at the time of payment shall be legally acceptable for payment of debts due the United States of America, being the interest then due on its Sewage Works Revenue Bond, dated _____, 1970, No.

_____.

Ossian - Public Works

TOWN OF OSSIAN

By (Facsimile)

Clerk-Treasurer

(Form of Registration)

REGISTRATION ENDORSEMENT

This bond can be registered only at the office of the Clerk-Treasurer in the Town of Ossian, Indiana.
No writing hereon except by the Clerk-Treasurer.

Date of Registry	In Whose Name Registered	Clerk-Treasurer
_____	_____	_____
_____	_____	_____
_____	_____	_____

(E) (1) The Clerk-Treasurer is hereby authorized and directed to have the bonds and coupons prepared, and the President of the Town Council and the Clerk-Treasurer are hereby authorized and directed to execute the bonds and the interest coupons to be attached thereto in the form and manner herein provided. The Clerk-Treasurer is hereby authorized and directed to deliver the bonds to the purchaser thereof after sale made in accordance with the provisions of this subchapter, provided that at the time of the delivery the Clerk-Treasurer shall collect the full amount which the purchaser has agreed to pay therefor, which shall not be less than the face value of the bonds, plus accrued interest from the date thereof to the date of delivery.

(2) The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding special revenue obligations of the town, payable out of the revenues of the sewage works to be set aside into the Sewage Works Sinking Fund as herein provided, and the proceeds derived from the sale of the bonds shall be and are hereby set aside for application on the cost of acquisition, construction and installation of the sewage works hereinbefore referred to, and the expenses necessarily incurred in connection therewith. The proper officers of the town are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this subchapter.

(Ord. 25, passed 7-16-1970)

§ 53.33 SALE OF BONDS; ROLE OF CLERK-TREASURER.

(A) Prior to the sale of the bonds, the Clerk-Treasurer shall cause to be published an official notice of the sale once each week for 2 weeks in the Ossian Journal being the only newspaper published in the

Town of Ossian, the last publication to be at least 7 days prior to the date fixed for the sale. The bond sale notice shall state the time and place of sale, the character and amount of the bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made and other information as the Clerk-Treasurer and the attorneys employed by the town shall deem advisable.

(B) The notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in an amount not less than \$2,000 to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then the check and the proceeds thereof shall be the property of the town and shall be considered as its liquidated damages on account of default; also, that bidders for the bonds will be required to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that the interest rate or rates shall be in multiples of 1/8 or 1/10 of 1%. Not more than 3 different interest rates shall be named, but all bonds maturing on the same date must bear the same single rate of interest. A rate may be repeated without being considered a different rate.

(C) There shall be not more than 1 interest coupon for any coupon period on any bond. The notice shall also state that the opinion of Ice Miller Donadio and Ryan, bond counsel of Indianapolis, Indiana, approving the legality of the bonds, will be furnished to the purchaser at the expense of the town, and that no conditional bids will be considered. A notice may in the discretion of the Clerk-Treasurer be published in The Indianapolis Commercial, published in the City of Indianapolis, Indiana.

(D) The bonds shall be awarded by the Clerk-Treasurer to the highest qualified bidder who has submitted his or her bid in accordance with the terms of this subchapter and the notice of sale. The highest bidder will be the one who offers the lowest net interest cost to the town, to be determined by computing the total interest on all of the bonds to their maturities and deducting therefrom the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale will be continued from day to day thereafter without further advertisement for a period of 30 days, during which time no bid which is lower than the highest bid received at the time of the advertised sale will be considered.

(Ord. 25, passed 7-16-1970)

§ 53.34 ACCRUED INTEREST AND PREMIUM OF BONDS.

(A) The accrued interest and premium received at the time of delivery of the bonds, if any, shall be deposited in the Sewage Works Sinking Fund hereinafter created, the accrued and accruing interest to be credited to the bond and interest account thereof and the premium to be credited to the debt service reserve account thereof. The remaining proceeds from the sale of the bonds shall be deposited in a bank or banks which are legally designated depositories for the funds of the town, in a special account or accounts, separate and apart from other bank accounts of the town, to be designated as "Town of Ossian, sewage works construction account."

(B) All moneys deposited to the credit of the sewage works construction account shall be deposited, held, secured or invested in direct obligations of the United States of America, in accordance with the

laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly Chapter 9 of the Acts of 1945, as amended and supplemented. Any income from the investment shall become a part of the sewage works construction account.

(C) The funds in the special account or accounts shall be expended only for the purpose of paying the cost of the works, as defined in I.C. 36-9-23. Any balance or balances remaining unexpended in a special account or accounts of the sewage works construction account, after completion of the works, which are not required to meet unpaid obligations incurred in connection with construction, shall, within 60 days after completion of the project, be deposited in the Sewage Works Sinking Fund, credited to the debt service reserve account thereof, and shall be used solely for the purposes of the fund.

(Ord. 25, passed 7-16-1970)

§ 53.35 REVENUE FROM SEWAGE WORKS.

(A) As soon as the sewage works becomes revenue producing, all revenues derived from the operation of the sewage works and from the collection of sewage rates and charges shall be segregated and kept separate and apart from all other funds and bank accounts of the town.

(B) Out of the revenues the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the principal and interest of all bonds and fiscal agency charges of bank paying agents shall be paid, and the costs of replacements, extensions, additions and improvements shall be paid as hereinafter provided.

(C) No moneys derived from the revenues of the sewage works shall be transferred to the General Fund of the town or be used for any purpose not connected with the sewage works so long as any bonds payable from the revenues of the sewage works are outstanding.

(Ord. 25, passed 7-16-1970)

§ 53.36 OPERATION AND MAINTENANCE FUND.

There is hereby created a fund to be known as the "Operation and Maintenance Fund," to which fund there shall be credited as of the last day of each calendar month a sufficient amount of the revenues of the sewage works so that the balance in the fund shall be sufficient to pay the expenses of operation, repair and maintenance for the then next succeeding 2 calendar months. The moneys credited to this fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the sewage works on a day-to-day basis, but none of the moneys in the fund shall be used for depreciation, replacements, improvements, extensions or additions. Any balance in the fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal or interest on the outstanding bonds.

(Ord. 25, passed 7-16-1970)

§ 53.37 SEWAGE WORKS SINKING FUND.

(A) *Sinking Fund.* There is hereby created a Sinking Fund for the payment of the principal of and interest on revenue bonds which by their terms are payable from the revenues of the sewage works, and the payment of any fiscal agency charges in connection with the payment of bonds and interest coupons, which fund shall be designated the "Sewage Works Sinking Fund." There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the net revenues of the sewage works (defined as gross revenues of the sewage works after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) to meet the requirements of the bond and interest account and of the debt service reserve account hereby created in the Sewage Works Sinking Fund. Payments shall continue until the balance in the bond and interest account, plus the balance in the debt service reserve account hereinafter created, equal the principal of and interest on all of the then outstanding bonds to the final maturity thereof.

(B) *Bond and interest account.* As soon as the sewage works becomes revenue producing, there shall be credited on the first day of each calendar month to the bond and interest account an amount equal to the sum of 1/5 of the interest on all then outstanding bonds payable on the then next succeeding interest payment date, and 1/10 of the amount of principal payable on the then outstanding bonds which will be payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding respective principal and interest payment dates shall have been so credited. There shall similarly be credited to the account the amount necessary to pay the bank fiscal agency charges for paying principal and interest on the bonds as the same become payable. The town shall, from the sums deposited in the Sewage Works Sinking Fund and credited to the bond and interest account, remit promptly to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(C) *Debt service reserve account.* On the first day of each calendar month, after making the credits to the bond and interest account, there shall be credited from available net revenues to the debt service account the sum of \$250, or a higher amount as may be fixed from time to time by the Town Council of the town. Credits to the debt service reserve account shall continue until the balance therein shall equal not less than the maximum annual principal and interest requirements of the then outstanding bonds payable from the Sewage Works Sinking Fund. The debt service reserve account shall constitute the margin for safety and as a protection against default in the payment of principal of and interest on the bonds, and the moneys in the debt service reserve account shall be used to pay current principal and interest on the bonds to the extent that moneys in the bond and interest account are insufficient for that purpose. Any deficiencies in credits to the debt service reserve account shall be promptly made up from the next available net revenues remaining after credits into the bond and interest account. In the event moneys in the debt service reserve account are transferred to the bond and interest account to pay principal and interest on bonds, then depletion of the balance in the debt service reserve account shall be made up from the next available net revenues after the credits into the bond and interest account hereinbefore provided for. Any moneys in the debt service reserve account in excess of the maximum annual principal and interest requirements of the then outstanding bonds may be used for the redemption of bonds which are then callable, or for the purchase of outstanding bonds at a price not exceeding the

then applicable redemption price or the first redemption price if the bonds are not callable, or may be transferred to the Sewage Works Improvement Fund.

(Ord. 25, passed 7-16-1970)

§ 53.38 SEWAGE WORKS IMPROVEMENT FUND.

After meeting the requirements of the Operation and Maintenance Fund, and the Sewage Works Sinking Fund, any excess revenues may be transferred or credited to a fund designated the "Sewage Works Improvement Fund," and the fund shall be used for improvements, replacements, additions and extensions of the sewage works. Moneys in the Sewage Works Improvement Fund shall be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding bonds or if necessary to eliminate any deficiencies in credits to or minimum balance in the debt service reserve account of the Sewage Works Sinking Fund.

(Ord. 25, passed 7-16-1970)

§ 53.39 BANK ACCOUNTS FOR FUNDS.

The Sewage Works Sinking Fund shall be deposited in and maintained as a separate bank account or accounts apart from all other bank accounts of the town. The Operation and Maintenance Fund and the Sewage Works Improvement Fund may be maintained in a single bank account, or accounts, but the bank account or accounts shall likewise be maintained separate and apart from all other bank accounts of the town and apart from the Sewage Works Sinking Fund bank account or accounts. All moneys deposited in the bank accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations of the United States of America in accordance with the applicable laws, including particularly Chapter 9 of the Acts of the Indiana General Assembly for the year 1945, as amended or supplemented, and in the event of investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this subchapter.

(Ord. 25, passed 7-16-1970)

§ 53.40 RECORDS AND ACCOUNTS.

(A) The town shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from the works and all disbursements made on account of the works, also all transactions relating to the works.

(B) There shall be prepared and furnished to the original purchasers of the bonds and, upon written request, to any subsequent holder of the bonds, not more than 90 days after the close of each fiscal year, complete operating income and expense statements of the works, covering the preceding fiscal year and the balances in the several funds and accounts created by this subchapter. The fiscal year of the sewage works shall be from January 1 to December 31, both inclusive.

(C) Copies of all statements and reports, together with all audits of the sewage works made available to the town by the Indiana State Board of Accounts or any successor body authorized by law to audit municipal accounts, shall be kept on file in the office of the Clerk-Treasurer.

(D) Any holder or holders of the bonds then outstanding shall have the right at all reasonable times to inspect the works and all records, accounts, statements, audits, reports and data of the town relating to the sewage works. Inspections may be made by representatives duly authorized by written instrument. (Ord. 25, passed 7-16-1970)

§ 53.41 AGREEMENT TO KEEP RATES REASONABLE.

(A) The town covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service rendered by the works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the sewage works by or through any part of the sewerage system of the town, or that in any way uses or is served by the works; that rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair, replacement and maintenance of the works, and for the payment of the sums required to be paid into the Sewage Works Sinking Fund by this subchapter and by Chapter 284 of the Acts of 1967.

(B) Rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance, and the requirements of the Sewage Works Sinking Fund. The rates or charges so established shall apply to any and all use of works by and service rendered to the town and all departments thereof as the charges accrue.

(Ord. 25, passed 7-16-1970)

§ 53.42 ADDITIONAL BONDS.

(A) The town reserves the right to authorize and issue additional bonds, payable out of the revenues of its sewage works, ranking on a parity with the bonds authorized by this subchapter, for the purpose of financing the cost of future additions, extensions and improvements to the sewage works, subject to the following conditions:

(1) The interest on and principal of all bonds payable from the revenues of the sewage works shall have been paid to date in accordance with the terms thereof and all credits required to be made to the Sewage Works Sinking Fund and the accounts thereof shall have been made to date;

(2) The net revenues of the sewage works in the fiscal year immediately preceding the issuance of any bonds ranking on a parity with the bonds authorized by this subchapter shall not be less than 125% of the maximum annual interest and principal requirements of the then outstanding bonds and the proposed additional parity bonds to the final maturity of the then outstanding bonds; or, prior to the issuance of the parity bonds, the sewage rates and charges shall be increased sufficiently so that the

increased rates and charges applied to the average of the 2 preceding fiscal years' operations would have produced annual net operating revenues equal to not less than 125% of the maximum annual interest and principal requirements of the then outstanding bonds and the proposed additional parity bonds to the final maturity of the then outstanding bonds. For purposes of this division, the records of the sewage works shall be analyzed and all showings shall be prepared by a certified public accountant retained by the town for that purpose; and

(3) The interest on the additional parity bonds shall be payable semi-annually on January 1 and July 1, and the principal shall be payable annually on July 1 in the years in which principal and interest are payable.

(B) Parity bonds may also be issued to refund less than all of the then outstanding bonds issued pursuant to this subchapter or ranking on a parity therewith, but any refunding bonds shall be subject to the conditions in this section unless the bonds being refunded mature within 3 months of the date of the refunding and no other funds are available to pay the maturing bonds. In computing the maximum annual interest and principal requirements pursuant to division (A)(2) above, the interest on and principal of the refunding bonds shall be substituted for the interest on and principal of the bonds being refunded. (Ord. 25, passed 7-16-1970)

§ 53.43 SAFEGUARDING INTERESTS OF HOLDERS OF BONDS.

For the purpose of further safeguarding the interests of the holders of the bonds herein authorized, it is specifically provided as follows:

(A) All contracts let by the town in connection with the construction of the sewage works shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to 100% of the amount of the contracts, to ensure the completion of the contracts, in accordance with their terms, and the contractors shall also be required to carry the employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(B) The works shall be constructed under the supervision and subject to the approval of Strauss Associates, Inc., or another competent engineer as shall be designated by the town. All estimates for work done or material furnished shall first be checked by the engineer and approved by the town prior to payment therefor.

(C) The town shall at all times maintain its sewage works in good condition and operate the same in an efficient manner and at a reasonable cost.

(D) So long as any of the bonds herein authorized are outstanding, the town shall maintain insurance on the insurable parts of the works of a kind and in an amount as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana.

Insurance proceeds shall be used in replacing or repairing the property destroyed or damaged; or if not used for that purpose shall be deposited in the Sewage Works Sinking Fund and credited to the debt service reserve account.

(E) So long as any of the bonds are outstanding, the town shall not mortgage, pledge or otherwise encumber the works, or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except equipment or property which may become worn out, obsolete or no longer suitable for use in the sewage works.

(F) Except as hereinbefore provided in § 53.42, so long as any of the bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the sewage works shall be authorized, executed or issued by the town except as shall be made subordinate and junior in all respects to the bonds herein authorized, unless all of the bonds herein authorized have been duly called for redemption and sufficient funds to affect the redemption and retirement have been deposited at the place of redemption on the date fixed for redemption in accordance with the terms and conditions of the bonds and this subchapter.

(G) The town shall take all action or proceedings necessary and proper to require connection of all property where liquid and solid waste, sewage, night soil or industrial waste is produced with available sanitary sewers. The town shall, insofar as possible, cause all sanitary sewers to be connected with the sewage works.

(H) The provisions of this subchapter shall constitute a contract by and between the town and the holders of the sewage works revenue bonds herein authorized, and after the issuance of the bonds this subchapter shall not be repealed or amended in any respect which will adversely affect the rights of the holders of the bonds, nor shall the Town Council adopt any law, ordinance or resolution which in any way adversely affects the rights of the holders so long as any of the bonds or the interest thereon remain unpaid.

(I) The provisions of this subchapter shall be construed to create a trust in the proceeds of the sale of the bonds herein authorized for the uses and purposes therein set forth, and the holders of the bonds shall retain a lien on the proceeds until the same are applied in accordance with the provisions of this subchapter and I.C. 36-9-23. The provisions of this subchapter shall also be construed to create a trust in the portion of the net revenues herein directed to be set apart and paid into the Sewage Works Sinking Fund for the uses and purposes of the fund as in this subchapter set forth. The holders of the bonds shall have all of the rights, remedies and privileges set forth in the provisions of I.C. 36-9-23, including the right to have a receiver appointed to administer the sewage works, in the event of default in the payment of the principal of or interest on any of the bonds herein authorized or in the event of default in respect to any of the provisions of this subchapter or I.C. 36-9-23.

(Ord. 25, passed 7-16-1970)

§ 53.44 RIGHTS OF HOLDERS.

(A) Subject to the terms and provisions contained in this section, and not otherwise, the holders of not less than 66-2/3% in aggregate principal amount of the bonds issued pursuant to this subchapter and then outstanding shall have the right, from time to time, anything contained in this subchapter to the contrary notwithstanding, to consent to and approve the adoption by the town of an ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the town for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this subchapter, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(1) An extension of the maturity of the principal of or interest on any bond issued pursuant to this subchapter;

(2) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon;

(3) The creation of a lien upon or a pledge of the revenues of the sewage works ranking prior to the pledge thereof created by this subchapter;

(4) A preference or priority of any bond or bonds issued pursuant to this subchapter over any other bond or bonds issued pursuant to the provisions of this subchapter; or

(5) A reduction in the aggregate principal amount of the bonds required for consent to a supplemental ordinance.

(B) (1) The holders of not less than 66-2/3% in aggregate principal amount of the bonds outstanding at the time of adoption of a supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk-Treasurer of the town.

(2) No holder of any bond issued pursuant to this subchapter shall have any right to object to the adoption of a supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the town or its officers from adopting the same, or from taking any action pursuant to the provisions thereof.

(3) Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this subchapter shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this subchapter of the town and all holders of bonds issued pursuant to the provisions of this subchapter then outstanding, shall thereafter be determined exercised and enforced in accordance with this subchapter, subject in all respects to modifications and amendments.

(4) Notwithstanding anything contained in the foregoing provisions of this subchapter, the rights and obligations of the town and of the holders of the bonds authorized by this subchapter, and the terms and provisions of the bonds and this subchapter, or any supplemental ordinance, may be modified or altered in any respect with the consent of the town and the consent of the holders of all the bonds issued pursuant to this subchapter then outstanding.

(Ord. 25, passed 7-16-1970)

§ 53.45 ESTIMATE OF RATES.

(A) The estimate of the rates for the several classes of users or property to be served is as follows:

<i>Quantity of Water Used per Month</i>	<i>Charge per 1,000 Gallons</i>
First 5,000 gallons	\$0.85
Next 5,000 gallons	\$0.75
Next 5,000 gallons	\$0.65
Next 10,000 gallons	\$0.55
Over 25,000 gallons	\$0.50

(B) The minimum charge for any user shall be not less than \$2.50 per month.

(C) Each property to be connected shall pay \$2.00 per month during the construction period to meet interest and other expenses payable prior to completion of the works.

(Ord. 25, passed 7-16-1970)

§ 53.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) It shall be unlawful to violate any of the terms, conditions or restrictions of §§ 53.15 through 53.18. Any person or legal entity who is found by a court of competent jurisdiction to have violated any provision of §§ 53.15 through 53.18 may be fined not more than \$2,500 per offense per day, plus costs and attorney's fees where judgment has been entered accordingly.

(Ord. 27, passed 3-8-2004; Am. Ord. 27A, passed 4-27-2009)

