

ORDINANCE NO. 694

SEWER RATE ORDINANCE

An Ordinance amending a schedule of rates and charges to be collected by the Town of Middlebury from the owners of property served by the sewage works of said Town and other matters connected therewith.

WHEREAS, the Town has heretofore constructed and has in operation sewage works for the purpose of collecting and disposing of the sewage of the Town in a sanitary manner and proposes to construct improvements thereto;

WHEREAS, it is necessary to establish a new schedule of rates and charges so as to produce sufficient revenue to pay expenses of maintenance and operation, and to provide funds for necessary replacements and improvements to the sewage works, and to pay the principal and interest on the proposed revenue bonds in accordance with the applicable bond ordinance, all in a manner in accordance with the guidelines of the U.S. Environmental Protection Agency;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIDDLEBURY, INDIANA:

Section 1. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- (a) "Ammonia" (or NH₃-N) shall have the same meaning as defined in the Sewer Use Ordinance.
- (b) "Board" shall mean the Town Council of the Town of Middlebury, or any duly authorized officials acting on its behalf.
- (c) "BOD" (or Biochemical Oxygen Demand) shall have the same meaning as defined in the Sewer Use Ordinance.
- (d) "CBOD" (or Carbonaceous Biochemical Oxygen Demand) shall have the same meaning as defined in the Sewer Use Ordinance.
- (e) "COD" (or Chemical Oxygen Demand) shall have the same meaning as defined in the Sewer Use Ordinance.
- (f) "Debt Service Costs" shall mean the average annual principal and interest payments on all existing and proposed revenue bonds or other long-term capital debt.
- (g) "Excessive Strength Surcharge" shall mean an additional charge which is billed to users for treating sewage wastes with an average strength in excess of "normal domestic sewage."

- (h) "Industrial Wastes" shall mean the wastewater discharges from industrial, trade, or business processes as distinct from employee wastes or wastes from sanitary conveniences.
- (i) "NPDES Permit" (or National Pollutant Discharge Elimination System Permit) shall have the same meaning as defined in the Sewer Use Ordinance.
- (j) "Normal Domestic Sewage" (for the purpose of determining surcharges) shall mean wastewater or sewage having an average daily concentration as follows:

S.S. not more than 240 mg/l
BOD not more than 240 mg/l
Ammonia not more than 30 mg/l
Phosphorus not more than 7 mg/l
Fats, wax, grease, or oils, collectively, whether
emulsified or not, not more than 100 mg/l

As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from industrial wastes.

- (k) "Operation and Maintenance Costs" include all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related Federal, State and local requirements. (These costs included replacement.)
- (l) "Other Service Charges" shall mean tap charges, connection charges, area charges, and other identifiable charges other than excessive strength surcharges.
- (m) "Person" shall mean any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, copartnership, limited partnership, limited liability partnership, limited liability company, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, the State of Indiana and political subdivisions thereof, the United States of America, or other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.
- (n) "Phosphorus" shall have the same meaning as defined in the Sewer Use Ordinance.
- (o) "Replacement Costs" shall mean the expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
- (p) "S.S." (or suspended solids) shall have the same meaning as defined in the Sewer Use Ordinance.

- (q) "Shall" is mandatory; "May" is permissive.
- (r) "Sewage" shall have the same meaning as defined in the Sewer Use Ordinance.
- (s) "Sewer Use Ordinance" shall mean a separate and related enactment to this Ordinance, which regulates the connection to and use of public and private sewers, known as the Town of Middlebury Sewer Use Ordinance.
- (t) "Town" shall mean the Town of Middlebury acting by and through the Town Council.
- (u) "User Charges" shall mean a charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works pursuant to Section 204(b) of Public Law 92-500.
- (v) "User Class" shall mean the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities (i.e. residential, commercial, industrial, institutional, and governmental in the User Charge System).

Residential User - shall mean a user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, etc.

Commercial User - shall mean any establishment involved in a commercial enterprise, business, or service which based on a determination by the Town discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

Institutional User - shall mean any establishment involved in a social, charitable, religious, and/or educational function which, based on a determination by the Town discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

Governmental User - shall mean any Federal, State, or local governmental user of the wastewater treatment works.

Industrial User - shall mean any industrial, manufacturing, business, trade, or processing facility that discharges industrial waste to a wastewater treatment works.

Section 2. Every person whose premises are served by the Town's sewage works shall be charged for the service provided. These charges are established for each user class, as defined, in order that the sewage works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works. User charges shall be uniform in magnitude within a user class.

- (a) User charges are subject to the rules and regulations adopted by the U.S. Environmental Protection Agency at 40 CFR 35.2140. Replacement costs, which are recovered through the system of user charges, shall be based upon the expected useful life of the sewage works equipment.
- (b) The various classes of users of the treatment works for the purpose of this Ordinance, shall be as follows:

Class I – Residential
Commercial
Governmental
Institutional
Industrial

Section 3. For the use of 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 sewage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewage system of the Town. Such rates and charges include user charges, debt service costs, excessive strength surcharges and other service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determined as follows:

- (a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, plus a base charge based on the size of water meter installed except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed each month (or period equaling a month). If for any reason the monthly meter reading is not available, a bill will be prepared, based on the estimated usage, and a correction will be made when meter readings are available. The water usage schedule on which the amount of said rates and charges shall be determined is as follows:

All Class I Users

- (1) Treatment rate per 1,000 gallons of usage per month: \$8.00 plus:
- (2) **Base rate per month:**

<u>Water Meter</u>	<u>Amount</u>
5/8"-3/4"	\$ 17.15
1"	\$ 25.80
1 1/4"-1 1/2"	\$ 44.75
2"	\$68.90
3"	\$143.65

4"	\$241.40
6"	\$534.65

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

Monthly Rate

Residential: Single family dwelling unit \$76.61

- (c) As contemplated by applicable Indiana law, the Town and other government users shall be subject to the same rates and charges established herein for their use and receipt of sewage services by the Town.
- (d) In order to recover the cost of monitoring industrial wastes, the Town shall charge the user not less than \$36.00 per sampling event plus the actual cost for collecting and analyzing the sample(s) as determined by the Town or by an independent laboratory. This charge will be reviewed on the same basis as all other rates and charges in this ordinance.
- (e) In order to recover a portion of the debt service for the Town of Middlebury Sewage Works Revenue Bonds of 2021, there will be a Twenty Dollar (\$20.00) per month debt service surcharge assessed to the users of the Middlebury sewage works who are connected to the sanitary sewer mains extended, constructed, and installed as a part of the 2021 Middlebury Southwest Quadrant Infrastructure Project. The monthly debt service surcharge will remain in effect so long as any of the Sewage Works Revenue Bonds of 2021 remain outstanding. The monthly debt service surcharge is not subject to the provisions of Section 6 of this Ordinance.

Section 4. The quantity of water discharged into the sanitary sewage system and obtained from sources other than the water utility that serves the Town shall be determined by the Town in such manner as the Town shall reasonably elect, and subject to payment by the user of the method used for measuring such usage, and the sewage service shall be billed at the appropriate rates; except as hereinafter provided in this section, the Town may make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the Town that such quantities do not enter the sanitary sewage system.

- (a) In the event a lot, parcel of real estate, or building other than a single family dwelling unit discharging sanitary sewage, industrial wastes, water or other liquids into the Town's sanitary sewage system, either directly or indirectly, is not a user of water supplied by the water utility serving the Town, and the water used thereon or therein is not measured by a water meter, or is measured by a water meter not acceptable to

the Town, then the amount of water used shall be otherwise measured or determined by the Town. In order to ascertain the rate or charge provided in this ordinance, the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.

- (b) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water or other liquids into the Town's sanitary sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the Town, and in addition, is a user of water from another source which is not measured by a water meter or is measured by a meter not acceptable to the Town, then the amount of water used shall be otherwise measured or determined by the Town. In order to ascertain the rates or charges, the owner or other interested parties shall, at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.
- (c) In the event two (2) or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water, or other liquids into the Town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels of real estate, or buildings served through the single water meter.
- (d) In the event two (2) or more dwelling units such as mobile homes, apartments, or housekeeping rooms discharging sanitary sewage, water, or other liquids into the Town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, billing shall be for a single service in the manner set out elsewhere herein, except that the minimum charge shall be \$31.61 per month per dwelling unit served through the single water meter. In the case of mobile home courts, the number of dwelling units shall be computed and interpreted as the total number of mobile home spaces available for rent plus any other dwelling units served through a meter. A dwelling unit shall be interpreted as a room or rooms or any other space or spaces in which cooking facilities are provided.
- (e) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water or other liquids into the Town's sanitary sewage system, either directly or indirectly, and uses water in excess of 25,000 gallons per month, and it can be shown to the satisfaction of the Town that a portion of water as measured by the water meter or meters does not and can not enter the sanitary sewage system, then the owner or other interested party may, at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge; but upon failure to do so, the billing shall be based upon the water usage.

- (f) In order that domestic and residential users of sewage services shall not be penalized for sprinkling lawns during the months of July, August, and September, the billing for sewage services for residential and/or domestic users for said months shall be based upon the average water usage per month for the previous billed months of October through June, if such average usage is lower than the summer months, and if the owner of the property has remained the same. Said 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 such premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water service so that the residential portion of the premises is served through a separate meter, and in such 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.
- (g) The provisions of Section 4(f) of this Ordinance may from time to time be extended to and be applicable in the months of May, June, and/or October upon motion and approval by the Town Council of the Town of Middlebury, Indiana at a duly called public meeting of the Town Council.

Section 5. In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the Town shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and wastes for which it is required to treat and dispose. The Town shall require the user, at the user's expense, to determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the sanitary sewage system, in such manner, by such method, and at such times as the Town may deem practicable in light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the Town at all times.

- (a) Normal domestic sewage waste strength should not have biochemical oxygen demand in excess of 240 milligrams per liter of fluid; suspended solids in excess of 240 milligrams per liter of fluid; ammonia in excess of 30 milligrams per liter of fluid; phosphorus in excess of 7 milligrams per liter of fluid; and fats, wax, grease, or oils, collectively, whether emulsified or not, in excess of 100 milligrams per liter of fluid. Additional charges for treating stronger-than-normal domestic sewage shall be made on the following basis:

(1) **Rate Surcharge Based Upon Suspended Solids**

There shall be an additional charge of \$0.97 per pound of suspended solids for suspended solids received in excess of 240 milligrams per liter of fluid.

(2) **Rate Surcharge Based Upon BOD**

There shall be an additional charge of \$0.97 per pound of biochemical oxygen demand for BOD received in excess of 240 milligrams per liter of fluid.

(3) **Rate Surcharge Based Upon Ammonia**

There shall be an additional charge of \$1.18 per pound of ammonia for ammonia received in excess of 30 milligrams per liter of fluid.

(4) **Rate Surcharge Based Upon Phosphorus**

There shall be an additional charge of \$2.73 per pound of phosphorus received in excess of 7 milligrams per liter of fluid.

(5) **Rate Surcharge Based Upon Oils and Grease**

There shall be an additional charge of \$0.53 per pound of fats, wax, grease, or oils, collectively, whether emulsified or not, received in excess of 100 milligrams per liter of fluid.

- (b) The determination of suspended solids, biochemical oxygen demand, ammonia, phosphorus, and fats, wax, grease, or oils, whether emulsified or not, contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Elimination of Water, Sewage and Industrial Wastes," as written by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, and in accordance with "Guidelines Establishing Test Procedures for the Analysis of Pollutants," 40 CFR Part 136, as hereinafter amended, supplemented, or replaced.

Section 6. All provisions hereof to the contrary notwithstanding, the rates and charges to users of the Town sewage works, for lots, parcels of real estate, or buildings, of any type or character, situated outside the corporate boundaries of the Town, shall be set and fixed at one hundred fifty percent (150%) of the rates and charges to users (and lots, parcels of real estate, or buildings) within the corporate limits of the Town.

Section 7. All rates and charges herein contemplated shall be prepared, billed, and collected by the Town in the manner provided by law and ordinance.

- (a) The rates and charges for all users shall be prepared and billed monthly.
- (b) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required.

The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the Town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

- (c) As is provided by applicable Indiana statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount

of the rates and charges not timely paid shall thereupon attach thereto and be due and owing. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill by the Town to the responsible person. Additionally, the Board hereby reserves all charging and collection rights and remedies permitted by Indiana Code, Title 36, Article 9, Chapter 23, with regard to the collection of rates and charges under this Ordinance or the Sewer Use Ordinance (or amendments, supplements, or replacements thereto), dealing with hook-ups, connections, and usage of the sewage system.

Section 8. In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users of user classes, the Town shall cause a study to be made within a reasonable period of time following the first two years of operation, following the date on which this ordinance goes into effect. Such study shall include, but not be limited to, an analysis of the cost associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users and user classes, the financial position of the sewage works, and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the wastewater treatment systems.

Thereafter, on a biennial basis, within a reasonable period of time following the normal accounting period, the Town shall cause a similar study to be made for the purpose of reviewing the fairness, equity and proportionality of the rates and charges for sewage services on a continuing basis. Said studies shall be conducted by officers or employees of the Town or by a firm of certified public accountants, or a firm of consulting engineers which firms shall have experience in such studies, or by such combination of officers, employees, certified public accountants or engineers as the Town shall determine to be best under the circumstances. The Town shall, upon completion of said study, revise and adjust the rates and charges, as necessary, in accordance therewith in order to maintain the proportionality and sufficiency of the rates.

Section 9. The Town shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical, and efficient management of the Town's sewage system, pumping stations and sewage treatment works, for the construction and use of house sewers and connections to the sewage treatment works, the sewage collection system, and for the regulation, collection, and rebating and refunding of such rates and charges.

The Town is hereby authorized to prohibit dumping of wastes into the Town's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the Town, or to require methods affecting pretreatment of said wastes to comply with the pretreatment standards included in the NPDES Permit issued to the sewage works, or as contained in the EPA General Pretreatment Regulations, 40 CFR Part 403 and any amendments thereto or the Town's Pretreatment Program Plan.

Section 10. Any person who believes himself aggrieved through the enforcement of this Ordinance has the right to seek administrative relief before the Town Council.

Section 11. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which shall be given effect without such invalid part or parts.

Section 12. This Ordinance supersedes and replaces Ordinance Number 647 of the Town of Middlebury; provided, however, that the existing schedule of sewage rates and charges shall remain in full force and effect until effectiveness of the rates and charges under this Ordinance. Ordinance Number 365-C and 686 of the Town of Middlebury shall remain in full force and effect.

Section 13. The Board is hereby further authorized to enter into special rate contracts with customers of the sewage works where clearly definable reduction in cost to the sewage works can be determined, and such reduction shall be limited to such reduced costs.

Section 14. The rates and charges as herein set forth shall become effective for the first full billing period occurring after April 1, 2024 and continuing thereafter.

Section 15. This Ordinance shall be in full force and effect from and after its adoption.

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PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MIDDLEBURY ON THE 18th DAY OF DECEMBER, 2023.

TOWN COUNCIL OF THE TOWN OF MIDDLEBURY, INDIANA

By: Miranda Cripe
Miranda Cripe, President

ATTEST:

Peggy A Hutchison
Peggy A. Hutchison, Middlebury Clerk-Treasurer