

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**PETITION OF THE MUNCIE SANITARY )**  
**DISTRICT, FOR APPROVAL OF A )**  
**REGULATORY ORDINANCE COVERING ) CAUSE NO. 45055**  
**UNINCORPORATED AREAS OF )**  
**DELAWARE COUNTY, INDIANA )**

**PETITION FOR APPROVAL**

Pursuant to Indiana Code §8-1.5-6, Petitioner, the Muncie Sanitary District (hereinafter "The MSD") petitions the Indiana Utility Regulatory Commission to assume jurisdiction over certain unincorporated areas of Delaware County, Indiana and for approval of Muncie City Ordinance 2015-16, regulating the provision of sanitary and sewer service to the fullest extent permitted by law. In support of its Petition, The MSD states:

1. The MSD is a sanitary district created by the Common Council of Muncie in Muncie City Ordinance 50.01 enacted under the authority of Indiana Code 36-9-25 in 1968.

2. The MSD serves all customers within the corporate boundaries of the City of Muncie, Delaware County, Indiana. The MSD also has sewer service agreements with other customers in Delaware County as well as treatment contracts with regional sewer districts located within Delaware County.

3. The MSD has served its customers before and after the passage of various regulatory ordinances, including Muncie City Ordinance 2015-16. Muncie City Ordinance 2015-16 exercises The MSD's rights under Ind. Code § 36-9-2 to regulate the furnishing

of sanitary and sewer service within its corporate boundaries and unincorporated areas within four miles of its corporate boundaries. A copy of the Ordinance is attached as **Exhibit 1**.

4. Other Regional Districts within the MSD's regulated territory have the right to enact regulatory resolutions under Ind. Code § 13-26.

5. Liberty Regional Wastewater District (hereinafter "LRWD") currently operates as a regional district established under Ind. Code § 13-26 in Delaware County, Indiana.

6. The four mile area outside of Muncie's corporate boundaries includes an area of overlap with the territory established as the LRWD. The MSD provides sewage treatment services for LRWD through contractual agreement.

7. The MSD has rights to raise the rates it charges LRWD under the terms of the contract entered into in 1970 between the two districts. LRWD has recently challenged rate increases sought be enforced by The MSD. The litigation is currently pending in Delaware County Circuit Court Number 2, Cause Number 18C02-1412-CC-186, *Liberty Regional Waste District v. The Muncie Sanitary District*.

8. Ordinance 2015-16 does not claim jurisdiction over new or existing customers within the LRWD service area. Ordinance 2015-16 does claim exclusive jurisdiction over customers within four miles outside of Muncie's corporate boundaries that were not within an existing district or currently already being served by another utility at the time of the Ordinance's passing.

9. Delaware County Regional Wastewater District (hereinafter "DCRWD") currently operates as a regional district established under Ind. Code § 13-26 in Delaware County, Indiana.

10. The four mile area outside of Muncie's corporate boundaries includes an area of overlap with the territory established as the DCRWD. The MSD provides sewage treatment services for DCRWD through contractual agreement.

11. Ordinance 2015-16 does not claim jurisdiction over new or existing customers within the DCRWD service area. Ordinance 2015-16 does claim exclusive jurisdiction over customers within four miles outside of Muncie's corporate boundaries that were not within an existing district or currently already being served by another utility at the time of the Ordinance's passing.

12. The MSD currently serves in excess of 27,000 customers within the corporate boundaries of the City of Muncie and in excess of 1,700 customers in the unincorporated area around the City of Muncie through sewer service agreements. To do so, The MSD has built and maintained its systems such that it is ready and able to offer service to all customers within the Ordinance 2015-16 regulated territory who may reasonably request service. See Exhibit A attached to **Exhibit 1** (A map of the area).

13. The MSD first began to serve customers in the four mile unincorporated area outside of the City of Muncie when Cowan High School's treatment plant failed. Cowan requested that The MSD provide sanitary treatment for their facility in 2015.

14. The MSD and Cowan have since entered into a sewer service agreement for the treatment of Cowan's waste and The MSD has since built the required infrastructure to connect Cowan to The MSD's treatment plant.

15. The MSD also serves a number of households in the Old Town Hill Estates area southeast of The City of Muncie's corporate boundaries. The MSD was approached by homeowners in the Old Town Hill Estate neighborhood as well as the Delaware County Health Department that a number of septic systems were failing in that area and they needed to find an alternative for their waste treatment. Like many areas outside and around the City of Muncie, these homes were built on small lots still using original septic systems from the 1950s and 1960s. Because of the small lots sizes and high seasonal water table, these homes cannot accommodate additional septic leachfields to repair their existing systems. The Delaware County Health Department wrote a letter to The MSD requesting they provide service to this area in anticipation of continued failures of more septic systems in that area. The MSD is in the process of building the necessary infrastructure to facilitate the connection of that neighborhood and begin treating waste from that area. See attached **Exhibit 2**.

16. The MSD recognizes that it is in the public interest that The MSD be prepared and able to serve customers in the four mile unincorporated area around the City of Muncie when requests are made, and treatment plants or septic systems fail. For this reason, The MSD began the process of proposing and passing Ordinance 2016-15.

13. Pursuant to Ind. Code §8-1.5-6-9(b)(2), the proposed rates and charges for the services to be provided in the regulated territory outside of the City of Muncie's corporate boundaries would be those rates that are approved by the Board of Sanitary Commissioners for The MSD by the passage of rate resolutions. These rates apply to all services for all customers of The MSD. The current Rate Resolutions in effect are Resolution 2016-10 for sanitary service and Resolution 2017-1 which amends Resolution

2016-10, and Resolution 2016-11 for stormwater service. These are attached as **Exhibit 3a, 3b, and 3c.**

13. The MSD believes that Ordinance 2015-16 protects the health, safety, convenience and welfare of the public, including planning for the provision of utility service into anticipated growth areas outside of municipal corporate boundaries and would serve the public interest if the Commission approves same.

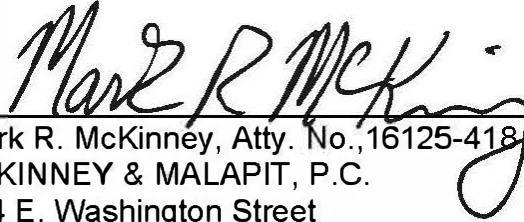
14. Pursuant to Indiana Code §8-1.5-6(9), The MSD requests approval of Ordinance 2015-16.

15. Service of all petitions, motions, reports, testimony, exhibits, or papers of any kinds to be served upon The MSD in this cause should be served on The MSD's counsel of record as set below:

Mark R. McKinney  
McKINNEY & MALAPIT, P.C.  
114 E. Washington Street  
Muncie, IN 47305  
T:(765) 896-8964  
F:(765) 896-9298

WHEREFORE, the Muncie Sanitary District, by counsel, respectfully requests that the Commission assert its jurisdiction, conduct a prehearing conference and an evidentiary hearing and thereafter issues such orders as are necessary approving Muncie City Ordinance 2015-16, determine the public interest in the continued provision of utility service in the regulated unincorporated areas; and for all other relief proper in the premises.

Respectfully Submitted,

A handwritten signature in black ink, reading "Mark R. McKinney". The signature is written in a cursive style and is positioned above a horizontal line.

Mark R. McKinney, Atty. No., 16125-418

McKINNEY & MALAPIT, P.C.

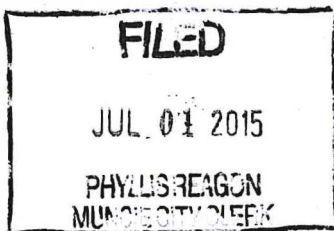
114 E. Washington Street

Muncie, IN 47305

(765) 896-8964

(765) 896-9298

*Attorneys for the Muncie Sanitary District*



ORDINANCE 16 2015-

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MUNCIE APPROVING THE MUNCIE SANITARY DISTRICT EXPANDING THE REGULATED AREA OF THE DISTRICT'S EXISTING SEWER UTILITY TO INCLUDE ALL TERRITORY, WITH SOME EXCEPTIONS, LOCATED INSIDE AND WITHIN FOUR (4) MILES OF THE CITY OF MUNCIE'S CORPORATE BOUNDARIES

WHEREAS, the City of Muncie, Delaware County, Indiana (the "City"), is a "City" as defined in Indiana Code § 36-1-2-3 and therefore, a "municipality" as defined in Indiana Code § 36-1-2-11 and therefore, a "unit" as defined in Indiana Code § 36-1-2-23; and

WHEREAS, the Muncie Sanitary District ("District") is a special unit of government created under Indiana State law by the action of an Ordinance of the City adopted in 1968; and

WHEREAS, the District owns, operates, manages and controls a sewer utility which provides sewer service within the City and into territory surrounding the City; and

WHEREAS, Indiana Code § 36-9-2-16 provides that, "A unit may regulate the furnishing of the service of collecting, processing, and disposing of waste substances and domestic or sanitary sewage. This includes the power to fix the price to be charged for that service."; and

WHEREAS, Indiana Code § 36-9-2-18 provides that, "A municipality may exercise powers granted by [Indiana Code § 36-9-2-16] in areas within four (4) miles outside its corporate boundaries"; and

WHEREAS, pursuant to Indiana Code §§ 36-9-2-16 and -18, the City, through the District, is authorized to regulate the furnishing of sewer service to the public inside and within four (4) miles outside its corporate boundaries; and

WHEREAS, Indiana Code § 36-1-2-15 provides that the term "regulate" includes license, inspect, or prohibit" and does not expressly limit a local government's regulatory activities to those enumerated actions; and

WHEREAS, the General Assembly has clearly articulated and affirmatively expressed its intention that Indiana municipalities have the discretionary right to regulate the furnishing of sewer service within their corporate boundaries and in unincorporated areas within four (4) miles of their corporate boundaries; and

WHEREAS, pursuant to Indiana Code § 36-7-4-201, the General Assembly has clearly articulated and affirmatively expressed its intentions for Indiana municipalities to plan for the future development of their communities and to protect the health, safety, convenience and welfare of their citizens, including planning for the provision of utility services in each

**EXHIBIT 1**

municipality's anticipated growth areas and expansion of the provision of utility service, such as sewer service, to areas outside such municipality's corporate boundaries; and

**WHEREAS**, the General Assembly in enacting Indiana Code § 8-1.5-6 has articulated and expressed its intentions for Indiana municipalities to continue to plan for the future development of their communities and to protect the health, safety, convenience and welfare of their citizens, including planning for the provision of utility services in each municipality's anticipated growth areas and expansion of the provision of utility service, such as sewer service, to areas outside such municipality's corporate boundaries; and

**WHEREAS**, the General Assembly in enacting Indiana Code § 8-1.5-6 has recognized that in exercising its future development planning Indiana municipalities will encounter disputed areas of claimed service exclusivity and has provided an administrative solution to said conflicts by a resolution procedure under the jurisdiction of the Indiana Utility Regulatory Commission ("IURC"); and

**WHEREAS**, the City and the District believe that newly enacted ordinances establishing or altering existing regulatory service territory ordinances must secure approval from the IURC before said ordinance may be effective and enforced; and

**WHEREAS**, consistent with the General Assembly's above-stated intentions, the City has planned for growth by planning capital improvements to the sewer utility, which capital improvement plans include plans for capital improvements located outside the City's corporate boundaries; and

**WHEREAS**, to promote orderly, efficient and well-planned installation and expansion of sewer infrastructure and service in all areas inside and within four (4) miles of the City's corporate boundaries, excepting therefrom areas located inside the corporate limits of another municipality, and existing end-user connections to other sewer utilities as of the date this Ordinance is adopted (the "Regulated Territory"), and to reduce the potential for duplication of facilities by neighboring sewer utilities, the City deems it to be in the best interests of the City, the City's residents, the City's sewer utility and the customers, existing and future, of the City's sewer utility that the City regulate the furnishing of sewer service to the public within the Regulated Territory; and

**WHEREAS**, the City and the District believe that the regulation of sewer service in the Regulated Territory enhances and promotes the logical growth of the City and its sewer utility, represents the most efficient method for providing sewer service to future customers within the Regulated Territory, protects the investment in sewer infrastructure and improvements and maximizes the anticipated utilization of the District's existing sewer utility facilities; and

**WHEREAS**, the District's regulation of the furnishing of sewer service in the Regulated Territory will not extend beyond the corporate boundaries of Delaware County, Indiana, and will not include customers connected to and receiving sewer service from other existing sewer utilities, as of the date this Ordinance is adopted.



NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA, as follows:

Section 1. After investigation and consideration, it has been determined that it is necessary to regulate the furnishing of sewer service in areas within its and four (4) miles outside its corporate boundaries of the City (the "Regulated Territory").

Section 2. This District has found that public convenience and necessity requires the regulation of the furnishing of sewer service within the Regulated Territory and that the public interest will be served by the its regulation of the furnishing of sewer service within the Regulated Territory.

Section 3. Upon the adoption of this Ordinance, the District shall hold an exclusive license to furnish sewer service within the Regulated Territory, and all other utilities are expressly prohibited from furnishing sewer service within the Regulated Territory, except for those customers located in the Regulated Territory that are connected to another sewer utility as of the date this Ordinance is adopted.

Section 4. Attached hereto and incorporated herein, as "EXHIBIT A" is a map depicting the Regulated Territory and the Clerk of the Common Council of the City of Muncie and the Muncie Sanitary District are directed to maintain such map for public inspection at their respective offices during regular business hours.

Section 5. This Ordinance shall not be construed to prohibit an individual property owner from providing septic service to such property owner's lot through the installation of approved facilities on such property so long as such private septic facilities are permissible under applicable laws and regulations; provided, however, the approved facilities on such property shall not be used to provide septic or sewer service to owners or lessees of other properties.

Section 6. The District's existing Rules and Regulations for sewer service, as amended from time to time, shall apply to and within the Regulated Territory.

Section 7. All prior Ordinances or parts thereof inconsistent with any term of provision of this Ordinance are hereby repealed. In the event anyone or more of the terms or provisions of this Ordinance shall be deemed by a court of competent jurisdiction to be contrary to law and unenforceable, then such term or provision shall be deemed severable from the remaining terms and shall not affect the validity of the other terms or provisions of this Ordinance only to the minimum extent necessary to comply with the requirements of law.

Section 8. This Ordinance shall be in full force and effect from and after its passage by the Common Council, signature of the Mayor, is approved by the IURC; and is published as is by law required. It is the intention that this Ordinance regulate the offering and provision of sewer service to the full extent of the law. It is acknowledges that this Ordinance will be submitted to the IURC which agency may require changes to this Ordinance before approval.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE,  
 INDIANA, THIS THE 10<sup>th</sup> DAY OF July, 2015.

	Yeas	Nays	Abstained	Absent
Doug Marshall	—	—	✓	—
Mark Conatser	—	—	—	✓
Mary Jo Barton	✓	—	—	—
Brad Polk	—	—	—	✓
Jerry Dishman	✓	—	—	—
Julius Anderson	✓	—	—	—
Linda Gregory	✓	—	—	—
Nora Powell	✓	—	—	—
Alison Quirk	✓	—	—	—

Passed by the Common Council of the City of Muncie, Indiana, this 10<sup>th</sup> day of July, 2015.

Mary Jo Barton

Mary Jo Barton, President  
 City Council, City of Muncie

Presented by me to the Mayor for his approval, this 13<sup>th</sup> day of July, 2015.

Phyllis Reagon

Phyllis Reagon  
 City Clerk, City of Muncie

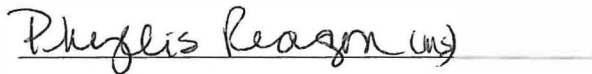
The above Ordinance is approved (vetoed) by me this 13<sup>th</sup> day of July, 2015.



Dennis Tyler

Mayor, City of Muncie


ATTEST:



Phyllis Reagon, City Clerk

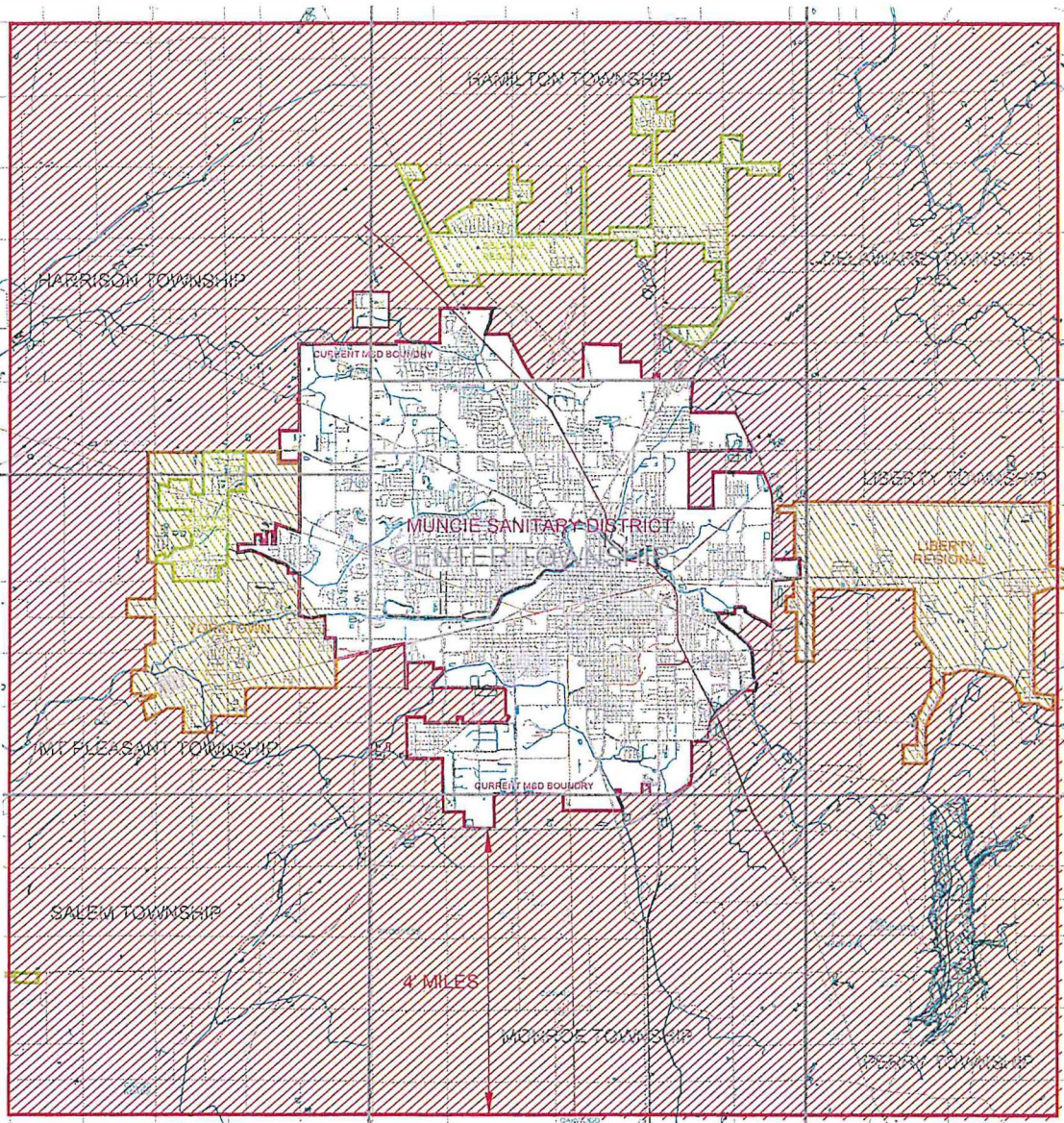
This Resolution is proposed by: 

Council Member

This Resolution is approved in form by: 

Legal Counsel

# EXHIBIT A



# Delaware County Health Department

125 North Mulberry St. Muncie, IN 47305  
www.co.delaware.in.us



Phone: 765-747-7721

Fax: 765-747-7747

**Public Health**  
Prevent. Promote. Protect.

January 4, 2018

John Anderson  
Muncie Sanitary District  
5150 W Kilgore Ave  
Muncie, Indiana 47304

RE: septic problems in the Old Town Hill Estates addition of Muncie, Indiana

John,

The Delaware County Health Department is writing to the Muncie Sanitary District (MSD) to ask for your help in a sanitary sewer solution to the septic problems that the residents of the Old Town Hill Estates area of Muncie, Indiana are experiencing. This neighborhood consists of about 50 homes that use on-site septic systems for their wastewater disposal. Many of the homes were built in the 1950's and 1960's and are still using the original septic systems that were installed when the homes were built.

Currently, our records show that at least 1 home located on East Miami Trail is on 'pump and haul' orders which means their septic system has been capped off after the septic tank due to the failure of the leachfield to handle the waste generated in the home. The home owner has to have his/her septic tank pumped about 2-3 times per month. This home, as well as all of the homes in this neighborhood, are built on lots that are too small to accommodate an additional septic leachfield when a repair is needed due to the poor soil and high seasonal water table found in this neighborhood.

Our office has been contacted by a second home owner that is starting to experience septic failure on East Delaware Trail. I am in the process of investigating repair options for this property but I expect that the lot size and high seasonal water table found on the property will not allow an onsite repair to exist. I suggested to the owner to contact your department to see if the MSD could help their situation by extending sanitary sewer to this neighborhood. I know your sanitary lines stop just north of this neighborhood at the church at Burlington Dr and the Muncie by-pass which is approximately one quarter (1/4) mile away. When more of the septic systems in this neighborhood start to fail, I expect that there will be no available onsite repair that is available.

1. The Delaware County Health Department is asking for the Muncie Sanitary District to extend their sanitary sewer lines to the Old Town Hill Estates addition which will prevent septic failures from polluting the environment.

Our department is also asking the MSD for sanitary sewer help for the homes along S. Burlington Dr from the by-pass down to County Rd. 300 South. There are approximately 20 homes along Burlington Dr on small lots that the back of their properties are adjacent to the White River. Our records show that 3 of these homes were found to have septic tanks that discharged directly to the river. We have ordered these failed septic systems to be capped and the owners have been ordered to pump and haul or have been ordered unfit for human habitation. All three homes have lots that are too small for an onsite solution to their failed septic systems.

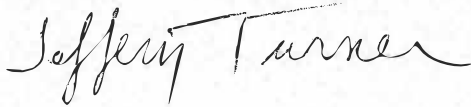
## EXHIBIT 2

2. The Delaware County Health Department is asking for the Muncie Sanitary District to extend their sanitary sewer lines to County Rd 300 South along Burlington Drive which will prevent septic failures from polluting the White River.

If you need the owners names and addresses of the homes mentioned in this letter that are on orders to pump and haul or have been ordered unfit, I can provide those for you.

If I can be of any assistance, or if you have any questions or comments, please contact me at (765) 587-0665 or [jturner@co.delaware.in.us](mailto:jturner@co.delaware.in.us) . Thank you for your help in this matter.

Regards,



Jeffery Turner,  
Environmental Division  
Delaware County Health Department

**MUNCIE SANITARY DISTRICT  
RESOLUTION NO. 2016-10**

**A RESOLUTION AMENDING AND FIXING THE SCHEDULE OF SEWER RATES AND CHARGES TO BE COLLECTED BY THE MUNCIE SANITARY DISTRICT FROM THE OWNERS OF PROPERTY SERVED BY THE SEWAGE WORKS OF THE DISTRICT**

WHEREAS, the Board of Sanitary Commissioners (the “Board”) has heretofore fixed and established sewer charges and surcharges to be collected by the Muncie Sanitary District (the “District”) from the owners of property served by the District’s sewage works; and

WHEREAS, the existing rates and surcharges are set forth in the District’s Confirmatory Resolution adopted on September 28, 1993, as amended by Resolution No. 17-98 adopted on December 1, 1998, as amended by Resolution No. 09-00 adopted on June 13, 2000 as amended by Resolution No. 2008-15 on December 2, 2008, as amended by Resolution No. 2012-03 adopted on March 6, 2012; and

WHEREAS, the District has caused a financial study of District’s sewage works to be made by its financial advisor, H.J. Umbaugh & Associates, Certified Public Accountants, LLP; and

WHEREAS, based upon the advice of the financial advisor, the Board finds that it is necessary to increase the rates and charges of the sewage works to provide sufficient monies to pay operating expenses, replacements and improvements and debt service on outstanding bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SANITARY COMMISSIONERS OF THE MUNCIE SANITARY DISTRICT:

That the resolution of the Board of District, fixing a new schedule of rates and charges to be collected by the District, is hereby amended and confirmed and reads in its entirety as follows:

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

**EXHIBIT 3a**

- (a) "Operation and maintenance costs" shall mean the expenditures for day-to-day costs (which includes wages, supplies, fuel, insurance, services, etc.) plus the costs of normal repairs, routine maintenance, and replacements of plant and equipment.
- (b) "Replacement costs" shall mean the expenditures for obtaining and installing equipment, accessories for appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
- (c) "Useful or service life" shall mean a period of 15 years for equipment, 50 years for treatment plant structures, and 100 years for public sewers.
- (d) "Depreciation of real property" shall mean a system of expense accounting which aims to distribute the original cost of real property over the useful life of the property.
- (e) "Normal strength sewage" (for the purpose of determining industrial surcharges) shall mean wastewater or sewage having an average daily suspended solids concentration of not more than 250 mg/l and average daily BOD requirements of not more than 250 mg/l.
- (f) "BOD (denoting Biochemical Oxygen Demand) and suspended solids" shall have the same meaning as defined in the Sewer Use Ordinance.
- (g) "Sewer Use Ordinance" shall mean separate and companion enactment hereto, which regulates the connection to and use of public and private sewers.
- (h) "Classes of Users", for the purpose of "user charges" (as defined), shall mean the division of wastewater treatment customers by waste characteristics and process or discharge similarities.

Residential Class – shall be confined to those customers whose wastes originate from residential domestic activities and the strength of such wastes does not exceed normal strength limitation, as defined.

Commercial Class – shall be confined to those customers involved in a commercial enterprise, business or service whose wastes originate from sanitation activities and the strength of such wastes does not exceed normal strength limitations, as defined.

Institutional Class – shall be confined to those customers involved in social, charitable, religious, educational or other special purpose activities whose wastes originate from sanitation activities, and the strength of such wastes does not exceed normal strength limitations, as defined.



Governmental Class – shall be confined to those customers involved in federal, state, or local government activities whose wastes originate from sanitation activities, and the strength of such wastes does not exceed normal strength limitations, as defined. **Except that in the instance where such governmental unit is involved in providing services as a waste water district the District may enter into a separate User Agreement with that Governmental Unit which Agreement shall then establish the rates and charges that apply to that governmental unit without consideration to the rates and charges established herein.**

Industrial Class – shall include all customers involved in manufacturing or processing activities and all other customers whose wastes originate from activities other than sanitation activities.

- (i) “User Charge” shall mean a charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works pursuant to Section 204(b) of Public Law 92-500.
- (j) “Debt service costs” shall mean the annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt.
- (k) “Excessive strength surcharges” shall mean an additional charge which is billed to users for treating sewage wastes with an average strength in excess of “normal strength sewage”.
- (l) “Other service charges” shall mean tap charges, connection charges, area charges, debt service charges, and excessive strength surcharges.
- (m) “Treatment, sewer and water quality charge” shall mean that portion of the user charge to recover operation and maintenance costs for treating influents received at the treatment plant and for sewer maintenance costs as a result of measured flow from all users of the sewage treatment works and allocated infiltration/inflow.
- (n) “Billing charge” shall mean that portion of the user charge to recover the operation and maintenance costs for customer billing and collecting cost which is apportioned to the various user classes on the basis of bills issued.
- (o) “Debt service charge” shall mean that portion of the rate charge to recover debt service costs which are apportioned to the various user classes.
- (p) “Sewage” shall mean the combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions (including polluted cooling water).

The three (3) most common types of sewage are:

Sanitary sewage shall mean the combination of liquid and water carried wastes discharged from toilet and other sanitary plumbing facilities.

Industrial sewage shall mean the combination of liquid and water carried wastes discharged from any industrial establishment and resulting from any trade or process carried on in that establishment. (This shall include the wastes from pretreatment facilities and polluted cooling water.)

Combined sewage shall mean wastes including sanitary sewage, industrial sewage, storm water, infiltration, and inflow carried to the wastewater treatment facilities by a combined sewer.

- (q) "NPDES (National Pollutant Discharge Elimination System) Permit" shall have the same meaning as defined in the Sewer Use Ordinance.
- (r) "District" shall mean the Sanitary District of the City of Muncie, Indiana.
- (s) "Shall" is mandatory; "May" is permissive.

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

- (a) User charges are subject to the rules and regulations adopted by the United States Environmental Protection Agency, published in the Federal Register August 21, 1978 (38 CFR 22523) and on February 11, 1974 (39 CFR 5252), subject to any and all amendments made thereto. Replacement costs, which are recovered through the system of user charges, shall be based upon the expected service life of the sewage works structures and equipment.
- (b) The various classes of users of the treatment works for the purpose of this Resolution shall be as follows:

Class I. Residential and commercial

Class II. Institution, governmental and industrial

Section 3. Except as provided in Section 4(f) herein, a sewage user charge is hereby levied against each improved lot, parcel of land, or premises which is connected with or served by the sewer system of the District or which may be connected with said sewer system, or which has such sewers available for connection (pursuant to I.C. 36-9-23-30), or which otherwise discharges sewage, industrial wastewater, or other liquids into the District's sewage system. Such user charges shall be calculated and billed to the owner of record of the premises or facility on a monthly or quarterly basis in an amount determinable as follows:

- (a) On all dwellings or other facilities served by a single water meter, a minimum charge as set forth below or on a basis of volume of water used, whichever is greater

	PHASE I	PHASE II	PHASE III	PHASE IV
Per Month	\$ 21.93	\$ 22.38	\$ 22.83	\$ 23.28

- (b) On all multiple dwellings or other multiple facilities with separate water meters and services, a minimum charge as set forth below or on a basis of volume of water used, whichever is greater:

	PHASE I	PHASE II	PHASE III	PHASE IV
Per Month	\$ 21.93	\$ 22.38	\$ 22.83	\$ 23.28

- (c) On all multiple dwellings or other multiple facilities served by a single water meter as set forth below, a minimum charge as set forth below for each unit served or on the basis of volume of water use, whichever is greater:

	PHASE I	PHASE II	PHASE III	PHASE IV
Per Month	\$ 21.93	\$ 22.38	\$ 22.83	\$ 23.28

- (d) The rate, per 100 cubic feet, based on volume of water used during a billing period:

Customer Class	PHASE			
PHASE	I	II	III	IV
Residential, Commercial and Institutional	\$7.31	\$7.46	\$7.61	\$7.76
Governmental and Industrial	\$6.07	\$6.19	\$6.31	\$6.44

(e) In order that the rates and charges may be justly and equitably adjusted to the service rendered to industrial users, the District shall base its charges not only on the volume, but also on the strength and character of industrial sewage and wastes which it is required to treat and dispose of. The owner or other industrial user shall furnish a central sampling point available to the District at all times. Normal domestic waste strength should not exceed a biochemical oxygen demand of 250 parts per million parts of fluid or suspended solids in excess of 250 parts per million parts of fluid. Additional charges for treating industrial waste that is stronger-than-normal strength waste shall be made on the following basis, effective on the date specified in Section 9 of this resolution.

RATE SURCHARGE BASED UPON SUSPENDED SOLIDS

There shall be an additional charge (listed below) per pound for treating effluents containing suspended solids with a strength in excess of 250 milligrams per liter of fluid.

Charge Per Pound	Date Effective
\$0.63	Phase I
\$0.64	Phase II
\$0.65	Phase III
\$0.66	Phase IV

RATE SURCHARGE BASED UPON BOD

There shall be an additional charge (listed below) per pound for treating effluents having a BOD strength of 250 milligrams per liter of fluid.

Charge Per Pound	Date Effective
\$0.63	Phase I
\$0.64	Phase II
\$0.65	Phase III
\$0.66	Phase IV

(f) For the services rendered to the City of Muncie, said City shall be subject to the rates and charges hereinabove provided or rates and charges established in harmony therewith.

(g) **The flat rate for non-metered residential customers in whose residence is three or more people will be based on an equivalent of 2,000 cubic feet and shall be per quarter as listed below:**

	PHASE I	PHASE II	PHASE III	PHASE IV
Monthly	\$48.74	\$49.74	\$50.74	\$51.74

**The flat rate for non-metered residential customers in whose residence is one and two people will be based on an equivalent of 1,200 cubic feet and shall be per quarter as listed below:**

	PHASE I	PHASE II	PHASE III	PHASE IV
Monthly	\$29.24	\$29.84	\$30.44	\$31.04

Section 4. The quantity of water discharged into the sanitary sewerage system and obtained from sources other than the utility that serves the District shall be determined by the District in such manner as the District shall reasonably elect, and the sewage service shall be billed at the above appropriate rates. Further, as is hereinafter provided in this section, the District 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 District that such quantities do not enter the sanitary sewerage system.

- (a) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the District sanitary sewerage system, either directly or indirectly, is not a user of water supplied by the water utility serving the District 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 District, then the amount of water used shall be otherwise measured or determined by the District. In order to ascertain the amount of water used, the owner or other interested party may, at his expense, install and maintain manholes, meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the District for determining of sewage discharge.
- (b) In the event a lot, parcel of real estate or building discharging sewage, industrial wastes, water or other liquids in the District's sanitary sewerage system, either directly or indirectly, is a user of water supplied by the water utility serving the District 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 District, then the amount of water used shall be otherwise measured or determined by the District. In order to ascertain the amount of water used, the owner or other interested party may, at his expense, install and maintain manholes, meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the District for the determination of sewage discharge.

- (c) In the event two or more residential lots, parcels or real estate, or buildings discharging sanitary sewage, water or other liquids into the District's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user, and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels or real estate or buildings served through the single water meter.
- (d) In the event two or more dwelling units such as mobile homes, apartments or housekeeping rooms discharging sanitary sewage, water or other liquids into the District's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then, in such case, billing shall be for a single service in the manner set out elsewhere herein, except that the minimum bill shall not be less than the number of such dwelling units times the monthly minimum charge per month. In the case of mobile home courts, the number of dwelling units shall be computed and interpreted as the total number of mobile home spaces available for rent plus any other dwelling units served through the meter. A dwelling unit shall be interpreted as a room or rooms or any other space or spaces in which cooking facilities are provided.
- (e) In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids in the District's sanitary sewerage system, either directly or indirectly, and it can be shown to the satisfaction of the District that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewerage 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 District for the determination of sewage discharge.

Section 5. Such rates and charges shall be prepared, billed and collected by the District in the manner provided by law and resolution.

- (a) The rates and charges for all users shall be prepared and billed on either a monthly or quarterly basis.
- (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 District for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

Section 6. 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 or user classes, the District shall cause a study to be made within a reasonable period of time following the date on which the confirming resolution goes into effect. Such study shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the waste treatment systems.

Thereafter, periodically, the District shall cause a similar study to be made for the purpose of reviewing and maintaining proportionate rates and charges for sewage services on a continuing basis. Said studies shall be conducted by officers or employees of the District, 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 District shall determine to be best under the circumstances.

Section 7. The District shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the District's sewerage system, pumping stations and sewage treatment works, for the construction and use of house sewers and connections to the sewerage system, and for the regulation, collection, rebating and refunding of such rates and charges. The District is hereby authorized to prohibit dumping of wastes into the District's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of said District, or to require methods affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollution Discharge Elimination System (NPDES) Permit issued to the sewage works.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence, or provision of this resolution shall not affect the validity of any other part of this resolution.

Section 9. The rates and charges as herein set forth shall become effective in 2016 on the first full billing period occurring after the effective date of this Resolution and thereafter on the dates as set forth below:


Date	PHASE I 2016	PHASE II January 1, 2017	PHASE III January 1, 2018	PHASE IV January 1, 2019

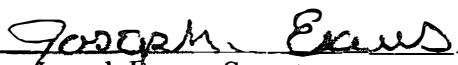
THIS RESOLUTION PASSED AND ADOPTED by the Board of Sanitary Commissioners of the Muncie Sanitary District, Muncie, Indiana this 7<sup>th</sup> day of July, 2016.

**MUNCIE SANITARY DISTRICT**

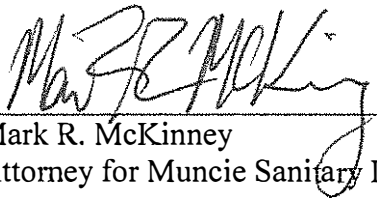
**BOARD OF SANITARY COMMISSIONERS**

By:   
William Smith, President

By:   
Michael Cline, P.E., Vice President

By:   
Joseph Evans, Secretary

ATTEST:

  
Mark R. McKinney  
Attorney for Muncie Sanitary District



**MUNCIE SANITARY DISTRICT  
RESOLUTION NO. 2017- 1**

**A RESOLUTION AMENDING RESOLUTION NO. 2016-10**

WHEREAS, the Board of Sanitary Commissioners (the “Board”) has heretofore fixed and established sewer charges and surcharges to be collected by the Muncie Sanitary District (the “District”) from the owners of property served by the District’s sewage works; and

WHEREAS, the existing rates and surcharges are set forth in Resolution 2016-10, adopted on the 7<sup>th</sup> day of July, 2016; and

WHEREAS, the financial study of District’s sewage works completed by its financial advisor, H.J. Umbaugh & Associates, Certified Public Accountants, LLP, included a third customer class that was not included in Resolution 2016-10; and

WHEREAS, the Board finds that it is necessary to amend the existing Rate Resolution to conform to the rate study.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SANITARY COMMISSIONERS OF THE MUNCIE SANITARY DISTRICT:

That the resolution of the Board, fixing a new schedule of rates and charges to be collected by the District, is hereby amended and confirmed as follows:

Two new definitions are added to Section 1:

- (t) “Residence of 1 or 2 people” shall be defined as a residence with one bedroom or less.**
- (u) “Residence of 3 or more people” shall be defined as a residence with two or more bedrooms.**

**EXHIBIT 3b**

Section 3(d) is amended adding a third customer class titled "Regional Wastewater Districts (RWD)":

Customer Class	PHASE			
	I	II	III	IV
Regional Wastewater Districts	\$5.26	\$5.37	\$5.48	\$5.59

All other Sections of Resolution 2016-10 shall remain unchanged and in full effect.

THIS RESOLUTION PASSED AND ADOPTED by the Board of Sanitary Commissioners of the Muncie Sanitary District, Muncie, Indiana this 4<sup>th</sup> day of January, 2017.

**MUNCIE SANITARY DISTRICT**

**BOARD OF SANITARY COMMISSIONERS**

By: \_\_\_\_\_

*William Smith*  
William Smith, President

By: \_\_\_\_\_

*Michael Cline*  
Michael Cline, P.E., Vice President

By: \_\_\_\_\_

*Joseph Evans*  
Joseph Evans, Secretary

ATTEST:

*Mark R. McKinley*  
\_\_\_\_\_  
Mark R. McKinley  
Attorney for Muncie Sanitary District

**MUNCIE SANITARY DISTRICT  
RESOLUTION NO. 2016-11**

**A RESOLUTION OF THE MUNCIE SANITARY DISTRICT TO AMEND RESOLUTION  
2012-02 FOR THE PURPOSE OF ESTABLISHING NEW RATES AND CHARGES FOR THE  
USERS OF THE STORMWATER SYSTEM OF THE MUNCIE SANITARY DISTRICT**

WHEREAS, the Board of Sanitary Commissioners of the Muncie Sanitary District, of Muncie, Indiana (the "Board") has heretofore enacted Resolution 2006-10 on December 19, 2006, which established a Stormwater Management Department within the Muncie Sanitary District (the "MSD") for the purpose of managing the stormwater collection and conveyance systems within the MSD and to manage the activities required to maintain and improve those systems and established the rates and the charges for the users of the stormwater systems within the MSD, and

WHEREAS, the original rates and charges were awarded by Resolution 2012-02, and

WHEREAS, the MSD has caused a financial study to be done by its financial advisors, H.J. Umbaugh & Associates, Certified Public Accountants, LLP, to determine rates that would provide sufficient funding to operate, manage, maintain, replace, improve and provide debt service for the stormwater collection and conveyance systems as is required under Indiana Code 36-9-25, and

WHEREAS, based upon the advice of the MSD's financial advisors, the Board finds that it is necessary to increase the rates and charges for the operation, management, maintenance, replacement, improvement and debt service of the stormwater collection and conveyance systems within the MSD.

WHEREAS the Board, at their regular meeting on June 23<sup>rd</sup>, 2016, publicly discussed the proposed rate increase and advised of the scheduled public meeting regarding the same.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SANITARY COMMISSIONERS OF THE MUNCIE SANITARY DISTRICT:

Section 1. Resolution 2012-02 is amended to read as follows:

**EXHIBIT 3c**

“(A) Stormwater Service Charge Per ERU: The Stormwater Service Charge shall be \$9.00 per ERU per month. For the purpose of this chapter, a month shall be considered 25 through 35 days. Any billings for stormwater service outside this time shall be on a per diem basis.”


Section 2. Resolution 2006-10, **SECTION 1.6: SERVICE CHARGE STRUCTURE AND CALCULATION** is amended by replacing the Exhibit A referred to in Section (C) (1) and (C) (2) of **SECTION 1.6** WITH A NEW “Exhibit A Stormwater Management Rate Schedule”, which shall read as the Exhibit A which is attached to this Resolution and incorporated as a part hereof as though set forth at length herein.

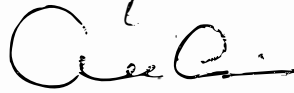
Section 3. This Resolution may be passed and adopted after public hearing in accordance with Indiana Code 36-9-25-11(c) and Indiana Code 5-3-1 as it is introduced or as it is amended. Upon being passed and adopted this Resolution shall become effective and shall remain in effect until changed or repealed by the Board.

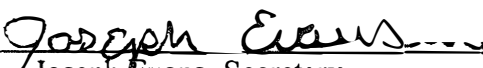
THIS RESOLUTION PASSED AND ADOPTED by the Board of Sanitary Commissioners of the Muncie Sanitary District, Muncie, Indiana this 7th day of July, 2016.

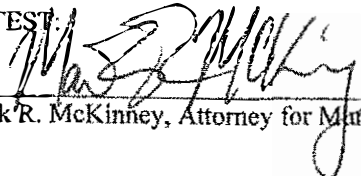
**MUNCIE SANITARY DISTRICT**

**BOARD OF SANITARY COMMISSIONERS**

By:   
William Smith, President

By:   
Michael Cline, P.E., Vice President

By:   
Joseph Evans, Secretary

ATTEST  
  
Mark R. McKinney, Attorney for Muncie Sanitary District

## EXHIBIT A

### STORMWATER MANAGEMENT RATE

CLASSIFICATION	DESCRIPTION	MULTIPLIER	RATE PER MONTH	SEMIANNUAL RATE	ANNUAL RATE
R	Residential	1	\$9.00	\$54.00	\$108.00
1	Other ≤ 5,000 SF	1	\$9.00	\$54.00	\$108.00
2	Other 5,001 – 11,000 SF	3	\$27.00	\$162.00	\$324.00
3	Other 11,001 – 22,000 SF	6	\$54.00	\$324.00	\$648.00
4	Other 22,001 – 34,000 SF	11	\$99.00	\$594.00	\$1,188.00
5	Other 34,001 – 56,000 SF	17	\$153.00	\$918.00	\$1,836.00
6	Other 56,001 – 94,000 SF	28	\$252.00	\$1,512.00	\$3,024.00
7	Other 94,001 – 147,000 SF	47	\$423.00	\$2,538.00	\$5,076.00
8	Other 147,001 – 235,000 SF	75	\$675.00	\$4,050.00	\$8,100.00
9	Other 235,001 – 500,000 SF	133	\$1,197.00	\$7,182.00	\$14,364.00
10	Other > 500,000 SF	200	\$1,800.00	\$10,800.00	\$21,600.00