

## **IC 36-9-9**

### **Chapter 9. Municipal Street Lights**

#### **IC 36-9-9-1**

##### **Application of chapter**

Sec. 1. This chapter applies to all municipalities.

*As added by Acts 1981, P.L.309, SEC.82.*

#### **IC 36-9-9-2**

##### **"City block" defined**

Sec. 2. As used in this chapter, "city block" means both sides of the part of a public street that lies between two (2) intersecting public streets.

*As added by Acts 1981, P.L.309, SEC.82.*

#### **IC 36-9-9-3**

##### **Petitions for construction of street lights; declaratory resolutions; notice and hearing**

Sec. 3. (a) The owner or owners of real property that fronts or abuts upon a public street or thoroughfare may sign and file with the municipal works board their petition requesting that there be constructed, erected, installed, maintained, and operated:

(1) an electric system of street lights and posts, designating the number of lumens per post and the number of posts along the street curb;

(2) a system of ornamental street lights and posts with underground wiring; or

(3) additional lights where a system has already been installed; in front or on either side of the city block or blocks described in the petition.

(b) When the petition has been filed and signed by the owner or owners of at least sixty percent (60%) of the real property in the city block or blocks described in the petition, the works board shall adopt a declaratory resolution for the making of the improvement as described in the petition and shall then:

(1) prepare and place on file in its office, or with the municipal clerk if it has no office, a complete set of drawings, plans, and specifications for the lighting system and an estimate of the annual cost of the street lighting, which shall be kept open for inspection by the public and all prospective bidders; and

(2) publish in accordance with IC 5-3-1 a notice stating that on a day named after the last publication a public hearing shall be held, that interested persons may file remonstrances against the lighting system at the hearing, and that, at the hearing, the works board may sustain or overrule the remonstrances or may modify its original resolution, plans, or proceedings.

*As added by Acts 1981, P.L.309, SEC.82. Amended by Acts 1981, P.L.45, SEC.41.*

#### **IC 36-9-9-4**

## **Repealed**

*(Repealed by Acts 1982, P.L.6, SEC.27.)*

### **IC 36-9-9-4.1**

#### **Hearing on remonstrance; rescission or modification of resolution and plans**

Sec. 4.1. At the time specified in the notice under section 3 of this chapter, the municipal works board shall conduct a hearing of any remonstrance on file. If, at the hearing, the works board finds that:

- (1) the lighting system will not be of public benefit; or
- (2) the annual benefits from the lighting system that will accrue to the property liable to be assessed will not equal or exceed the estimated annual cost of the improvement, after deducting the amount of the annual cost to be paid by the municipality;

the works board shall rescind the declaratory resolution for the lighting system and dismiss the petition, or modify the resolution, petition, drawings, plans, specifications, and estimated cost so that the lighting system will be of public benefit and the annual benefits that will accrue to the property liable to be assessed for the lighting system will equal or exceed its estimated annual cost, after deducting the amount of the annual cost to be paid by the municipality. However, the number of lumens per post and the number of posts designated in the petition may not be changed without the written consent of the petitioners.

*As added by Acts 1982, P.L.6, SEC.26.*

### **IC 36-9-9-5**

#### **Construction of street lights; contracts; commission orders**

Sec. 5. (a) When the declaratory resolution, as originally adopted or as modified, has been confirmed, the municipal works board shall notify and negotiate with any utility that operates and supplies electrical current within the municipality. The works board shall attempt to enter into a contract with the utility for the lighting described in the plans and specifications, and may cause the municipality to enter into such a contract, in strict accordance with the plans, drawings and specifications on file.

(b) If more than one (1) utility supplies electricity in the municipality and has the right to serve the electric system petitioned for, the municipal works board shall publish a notice in accordance with IC 5-3-1. The notice must state the nature of the work, state that drawings, plans, and specifications are on file in the office of the works board or the municipal clerk, call for sealed bids for the lighting and the maintenance of the system, and state that the bids must be filed not less than ten (10) days after the last publication and must comply with the manner and form in which bids for public improvements are filed in municipalities. If a satisfactory bid is received by the time fixed in the notice, the works board shall attempt to enter into a contract with the utility that is the lowest responsible bidder for the furnishing of that lighting.

(c) If the municipality owns and operates an electric utility and no

other electric utility is authorized to render the service petitioned for, then the electrical lighting system petitioned for may be installed, maintained, and operated by the municipality. An electrical system established under this section shall be maintained, operated, and paid for in the same manner as an electrical system that is established under this chapter by a public utility.

(d) The annual cost of lighting as fixed by the contract may not exceed the estimated cost of lighting on file with the plans and specifications. The contract must require lighting service for a period of not less than five (5) years and not more than fifteen (15) years, and must describe in detail the service to be rendered and the prices to be paid to the utility.

(e) If the municipality is unable to make an agreement with a utility, the municipality may file its petition with the utility regulatory commission. The commission shall conduct a hearing on the petition, in accordance with law and the rules of the commission. The commission may then require a utility supplying electrical current within the municipality to enter into a contract to construct the electric system of lighting in accordance with the plans and specifications on file with the municipality, and to maintain and operate the system at the prices, on the terms, for the period of time, and upon the conditions that the commission requires. Such an order of the commission is binding upon the municipality and utility:

- (1) in the same manner as other orders of the commission; and
- (2) as if a contract had been entered into between the municipality and the utility covering the same subject matter; subject to all rights of appeal from the commission.

(f) After a contract has been entered into between the municipality and utility and has been approved by the utility regulatory commission, or if the construction, maintenance, and operation of the lighting system has been ordered by the commission, the utility which is a party to the contract or order shall, within a reasonable time, construct the system at its own expense. The utility shall maintain and operate the system in strict accordance with the agreement and order, and at the annual rates, tolls, or charges fixed by contract or by the order of the commission. The commission may investigate the rates, tolls, and charges in the same manner and to the same extent that it may investigate and revise the rates, tolls, and charges for electric current supplied by a public utility under IC 8-1-2.

*As added by Acts 1981, P.L.309, SEC.82. Amended by Acts 1981, P.L.45, SEC.42; P.L.23-1988, SEC.123.*

### **IC 36-9-9-6**

#### **Construction of street lights; uniformity of style; supervisory personnel; completion report**

Sec. 6. (a) All street lamps or systems of lighting constructed, erected, or installed must be uniform in style and shall be installed under the supervision of:

- (1) the municipal civil engineer; or

(2) some other competent person;  
as determined by the municipal works board. If the person supervising the work is not already under bond, he shall file a bond for the faithful performance of his duties in the sum and the manner directed by the works board.

(b) At the completion of the work, the person supervising the work shall file with the municipality his verified report that the work has been completed and complies in all respects with the drawings, plans, and specifications on file. If the report is found to be correct, the works board shall accept it on behalf of the municipality.

*As added by Acts 1981, P.L.309, SEC.82.*

### **IC 36-9-9-7**

#### **Payments to utility for service**

Sec. 7. The municipality shall make to the utility operating the lighting system all payments required to be made to the utility for its service, in strict accordance with the terms of the contract or order under which the utility is operating. The municipality shall make the payments from its general fund or from a fund set aside for street lighting purposes, and shall be reimbursed for payments made in behalf of property owners by the collection of the assessments as provided in this chapter.

*As added by Acts 1981, P.L.309, SEC.82.*

### **IC 36-9-9-8**

#### **Street lights at intersections**

Sec. 8. (a) For purposes of this section, all light posts that are:

- (1) located on the street upon which a lighting system is installed; and
- (2) within fifty (50) feet of the nearest part of another street intersecting that street;

are considered to be at a street intersection.

(b) A municipality shall install, maintain, and operate at each street intersection lighting facilities that are at least equal to those in other parts of the lighting system.

*As added by Acts 1981, P.L.309, SEC.82.*

### **IC 36-9-9-9**

#### **Payment of costs of lighting**

Sec. 9. (a) The municipality shall pay from its general fund or from a fund set aside for street lighting purposes:

- (1) the entire annual cost of lighting at street intersections under section 8 of this chapter; and
- (2) not less than thirty-five percent (35%) of the annual cost of lighting of the entire other part of the lighting system, with the exact percentage paid to be fixed by the municipal works board.

The municipal legislative body may, by ordinance, divide the municipality for lighting purposes into business zones, residence zones, or other classes of zones. The percentage of annual cost of the lighting system to be paid by the municipality must be uniform

throughout each class of the zones.

(b) The remaining annual cost of the lighting system shall be assessed against each lot or parcel of real property in the city block or blocks in front of which the lighting system is located, in the manner prescribed by section 10 of this chapter.

*As added by Acts 1981, P.L.309, SEC.82.*

### **IC 36-9-9-10**

#### **Assessments; liens**

Sec. 10. (a) After an electrical lighting system has been completed and is ready for operation, the municipal works board shall assess the real property in the city block or blocks affected for the proportionate part of the annual lighting cost and, in the case of a system of ornamental lighting, the installation costs, that the property owners are required to pay annually. The works board shall assess each lot or parcel of the property equally per front foot.

(b) The works board shall prepare and file an assessment roll, setting forth the assessments against each lot and parcel of real property to be assessed, based upon:

(1) the cost of the lighting for the full period of one (1) year and for that part of a year the system may be operated between the time of its completion and the beginning of the next calendar year; and

(2) in the case of a system of ornamental lighting, the costs of installing the system.

The preparation and filing of the assessment roll and all proceedings for its adoption and confirmation, notices to property owners, certifying the roll to the county treasurer, and all other proceedings in connection with the roll must be according to the statutes regarding public improvements in municipalities.

(c) The first assessment made against each lot or parcel of real property is a lien on that lot or parcel, from the time of the final acceptance of the electrical system by the municipality. The lien covers the cost of lighting for the part of the calendar year following acceptance of the system, the cost of lighting for the next full calendar year, and, in the case of a system of ornamental lighting, the cost of installing the system.

(d) After the first assessment is made, a lien attaches upon March 1 of each year without further certification to the county treasurer, for the amount of the lighting cost for the succeeding calendar year and in the same proportions per front foot as fixed by the original assessment roll.

(e) Assessments made under this section shall be paid in the same manner as taxes are paid, at the regular tax paying periods following the adoption of the assessment roll. An assessment not paid at the time fixed by statute is subject to and may be collected according to the statutes regarding delinquent taxes, and all property upon which an assessment is a lien is subject to proceedings for the collection of taxes.

(f) The lien of an assessment under this section has equal priority

with all other assessment liens and is superior to all other liens except liens for taxes.

*As added by Acts 1981, P.L.309, SEC.82.*

### **IC 36-9-9-11**

#### **Expiration of contracts; transfers to new utilities**

Sec. 11. (a) Six (6) months before the expiration of a contract or order entered into or made under section 5 of this chapter, the municipal works board may:

- (1) negotiate and enter into a new contract;
- (2) extend the current contract;
- (3) procure an order of the commission; or
- (4) advertise for bids.

The works board shall then proceed in the manner provided by the preceding sections of this chapter.

(b) If a contract or order made under this section provides that an electrical system is to be operated by a utility other than the former utility and owner of the system, the new utility shall pay in cash to the former utility the full value at that time of the system, as determined by the utility regulatory commission. After payment, the former utility shall transfer title in the system to the new utility, which is then fully vested with ownership of the system. The new utility shall maintain and serve the system in accordance with this chapter.

*As added by Acts 1981, P.L.309, SEC.82. Amended by P.L.23-1988, SEC.124.*

### **IC 36-9-9-12**

#### **Additional lighting facilities; petition; construction; assessment of costs**

Sec. 12. (a) Whenever a lighting system has been established in accordance with this chapter, and an owner of property within any city block or blocks included in the system wants lighting facilities in front of or near his property that:

- (1) are additional to those described in the plans and specifications on file; and
- (2) consist of either lighting posts or lamps of greater candlepower, or both;

the property owner may file his petition with the municipal works board. The petition must fully describe the additional lighting facilities that are wanted.

(b) The works board shall grant the petition and refer it to the person who supervises the system, who shall prepare and file:

- (1) plans and specifications for the additional lighting; and
- (2) the estimated annual cost of the additional lighting.

(c) When the plans, specifications, and annual cost are approved by the works board and by the property owner, the works board shall notify the utility operating the lighting system. The utility shall immediately proceed to erect, install, construct, and connect the additional lighting at its own expense. The utility shall then operate

and maintain the additional lighting facilities as a part of the original system in return for additional compensation that is:

- (1) agreed upon by all the interested parties and approved by the utility regulatory commission; or
- (2) fixed by the commission.

(d) The property owner who petitioned for the additional lighting facilities shall pay to the municipality the additional annual cost of those facilities. The additional annual cost, which shall be added to the original amount assessable against the petitioner's property, is a lien upon the property and is payable in accordance with this chapter. *As added by Acts 1981, P.L.309, SEC.82. Amended by P.L.23-1988, SEC.125.*

### **IC 36-9-9-13**

#### **Additional hours of lighting; petitions; assessment of costs**

Sec. 13. (a) Whenever:

- (1) a lighting service has been established in accordance with this chapter or under another contract or arrangement; and
- (2) at least sixty percent (60%) of the property owners upon one (1) side of the street on a city block or blocks lighted by the service file with the municipal works board their petition requesting that the lighting service be maintained on that side of the street in the block or blocks each night for a designated number of hours in addition to the number of hours of service prescribed by the current contract, arrangement, or plans and specifications;

the works board shall grant the petition. The cost of the additional lighting shall be charged to and assessed against all of the lots or parcels of real property on the side of the street and on the city block or blocks on which additional lighting service is maintained.

(b) All proceedings for the establishment of additional service, the payments to the utility for additional service, and the making and collection of assessments and liens for additional service are governed by this chapter in the same manner as other proceedings, payments, assessments and liens.

*As added by Acts 1981, P.L.309, SEC.82.*