

COMMON COUNCIL OF THE CITY OF AUSTIN, INDIANA

ORDINANCE NO. 2021- 10

AN ORDINANCE ESTABLISHING THE CITY OF AUSTIN SANITARY SEWAGE SERVICE AREA REGULATING THE FURNISHING OF SANITARY SEWAGE SERVICE THEREIN

WHEREAS, the City of Austin (the “City”) owns and operates a plant and equipment for the collection and treatment of sanitary sewage pursuant to Indiana Code § 36-9-23 (the “Austin Sewer Utility”); and

WHEREAS, Indiana Code § 36-9-2-16 permits a municipality to regulate the furnishing of sanitary sewage service to the public; and

WHEREAS, Indiana Code § 36-9-2-18 permits a municipality to regulate the furnishing of sanitary sewage service in areas within four (4) miles outside its corporate boundary; and

WHEREAS, this Council wishes to establish the territory in which it will regulate the furnishing of sanitary sewage service including all territory within the corporate boundaries of the City and certain territory outside the City but within four (4) miles outside the corporate boundaries of the City as show on Exhibit “A” hereto (such territory collectively the “Austin Sanitary Sewage Service Area” or the “Area”); and

WHEREAS, this Council wishes to enact certain regulations pursuant to Indiana Code § 36-9-2-16 on the furnishing of the service of collecting, processing, and disposing of waste substances and domestic or sanitary sewage within the Austin Sanitary Sewage Service Area.

NOW, THEREFORE, be it ordained by the Common Council of the City of Austin, Indiana that:

1. Subject to paragraph (9) of this Ordinance, the Austin Sanitary Sewage Service Area is hereby declared as an exclusive service territory of the Austin Sewer Utility unless the Council shall permit a sewer utility other than Austin Sewer Utility to provide domestic or sanitary sewer services within the Area.
2. Upon the effective date of this Ordinance and subject to paragraph (9) of this Ordinance, no sewer utility other than the Austin Sewer Utility shall commence or continue the collection, processing, or disposition of waste substances and domestic or sanitary sewage within the Austin Sanitary Sewage Service Area without first obtaining a permit from the City authorizing the sewer utility to provide such services within the Area.
3. Subject to paragraph (9) of this Ordinance, no end service user shall permit a connection to sanitary sewer service within the Austin Sanitary Sewage Service Area by any sewer utility except the Austin Sewer Utility or a sewer utility permitted by the City to operate domestic or sanitary sewer services in the Area.
4. If a sewer utility providing services within the Austin Sanitary Sewage Service Area is a Regional Sewer District organized pursuant to Indiana Code 13-26, such a Regional Sewer District shall be duly constituted with a Board of Trustees properly appointed or elected pursuant to Indiana Code 13-26 and shall provide to this Council evidence that its Board of Trustees has been duly appointed or elected. If the sewer utility is unable to demonstrate that its Board of Trustees has been duly appointed or elected, a duly elected or appointed Board of Trustees shall be established within sixty (60) days of notice by the City.
5. A sewer utility providing services within the Austin Sanitary Sewage Service Area shall operate in compliance with such regulations as the City may from time to time adopt on

the furnishing of the service of collecting, processing, and disposing of waste substances and domestic or sanitary sewage within the Area.

6. A sewer utility providing services within the Austin Sanitary Sewage Service Area shall provide all support, maintenance, and other services required for and incident to the reasonably adequate provision of sewage services and shall provide for the maintenance of any and all sewer lines and mains within the Area which are used in the provision of such services to customers of such sewer utility.
7. A sewer utility providing services within the Austin Sanitary Sewage Service Area shall provide all support, maintenance, and other services required for and incident to avoiding inflow and infiltration of groundwater and storm water into the sewer system of the sewer utility or the Austin Sewer Utility in excess of inflow and infiltration which is the reasonable and natural result of the normal operation of a well maintained sewer system.
8. The City reserves the right to revoke the right to service, including any sewer service permit which it may grant, in whole or in part, for any of the following grounds as determined by the Council in its legislative capacity at any regular meeting of the Council:
 - a. Failure of the sewer utility holding such sewer service permit to furnish reasonably adequate sewer service within the area defined in the permit.
 - b. Failure of the sewer utility holding the sewer service permit to comply with such regulations as City has or may from time to time enact for the regulation of domestic and sanitary sewer service within the Austin Sanitary Sewage Service Area.

- c. Any act or undertaking by the Indiana Department of Environmental Management or the Indiana Utility Regulatory Commission which in any way limits or restricts the ability of the sewer utility to act upon the authority of said state bodies.

9. Exceptions:

- a. Upon compliance with Paragraph 4 of this Ordinance, a sewer utility providing services within the Area as of the effective date of this Ordinance may continue to provide service to its existing customers and to future customers located where it makes service available. For purposes of this paragraph, an existing sewer utility makes service available to those parcels where the sewer utility has facilities existing as of the effective date of this Ordinance that are located within or adjacent to the parcels to be served.
- b. The City of Scottsburg, Indiana operates its own separate sewer utility, and its exclusive territory is exempt from the enforcement and requirements of this Ordinance. In any area that the Austin Sanitary Sewage Service Area and the City of Scottsburg's exclusive territory overlap, the City of Austin will enter into a separate agreement for service with the overlapping area.

10. Throughout the Area, private sewer mains are prohibited. For purposes of this paragraph, a private sewer main is a sewer main (including associated pumps, stations and other facilities) that serves multiple customers but which the sewer utility contends it does not own or maintain. A sewer lateral serving one customer is not a private sewer main. Ownership and maintenance responsibilities for any private sewer mains existing as of the effective date of this Ordinance shall become the responsibility of the sewer utility using the private sewer main serving the affected customers.

11. This Ordinance shall be in full force and effect upon approval by the Indiana Utility Regulatory Commission.

12. If any one or more of the terms or provisions of this Ordinance, or portions of the Austin Sanitary Sewage Service Area shall be deemed by a court of competent jurisdiction to be contrary to law, then such term or provision shall be deemed severable from the remaining terms and shall in no way affect the validity of the other provisions of this Ordinance.

INTRODUCED, FILED AND APPROVED on the first reading on the 10 day of August, 2021 by a vote of 5 ayes and 0 nays.

PASSED AND ADOPTED by the Common Council of the City of Austin, Indiana, this 10 day of August, 2021 by a vote of 5 ayes and 0 nays.



ROGER HAWKINS, Mayor
Presiding Officer

Attest:



Chris Fugate, Clerk-Treasurer

Presented by me to the Mayor of the City of Austin for his approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, this 10 day of August, 2021 at 6:25 p.m.



Chris Fugate, Clerk-Treasurer

This Ordinance having been passed by the legislative body and presented to me is approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1), this 10 day of August, 2021 at 6:20 p.m.



Roger Hawkins, Mayor

Attest:



Chris Fugate, Clerk-Treasurer

Exhibit “A”