

ORIGINAL

ORDINANCE NO. 2020-05

**AN ORDINANCE ESTABLISHING REGIONAL SEWER
IMPROVEMENT CHARGES FOR NEW DEVELOPMENT IN THE
WHITESTOWN MUNICIPAL UTILITIES SERVICE TERRITORY AND
METHODS FOR CALCULATING EQUIVALENT DWELLING UNITS**

WHEREAS, the Town of Whitestown, Indiana (the "Town") has established, acquired, and financed its sewage works pursuant to Indiana Code Chapter 36-9-23, as amended, and other applicable provisions of Indiana law (collectively, the "Act"), for the purpose of providing for the collection, treatment, and disposal of sewage in and outside the Town; and

WHEREAS, the Town's sewer treatment plant, collection, and transmission facilities (the "System") has adequate capacity and infrastructure to serve current sewer users of the System; and

WHEREAS, the Town currently charges sewer and water capacity fees for new connections that reflects the cost of the capacity in the Town's current sewer and water systems that is allocated to real estate connecting to the sewer and water systems; and

WHEREAS, the Town is the fastest growing community in the State of Indiana, and continually receives requests for new developments in and around its sewer service territory that require a significant number of new connections to and usage of the System; and

WHEREAS, the System's current collection and transmission infrastructure is insufficient to serve all of the new connections and flows anticipated from future development; and

WHEREAS, the Town desires to lessen the burden on existing customers of paying for new infrastructure that is needed to make sewer service available for new development; and

WHEREAS, the Town desires to plan and prepare for new development in and around the Town; and

WHEREAS, MS Consultants Inc. ("MS"), engineers and advisors to the Town, has conducted an analysis of the costs of regional sewer infrastructure improvements that are anticipated to be necessary to be able to serve new development and users in and around the Town, and the areas or basis that are to be served by such infrastructure ("Analysis"); and

WHEREAS, the Analysis details the costs of regional sewer infrastructure improvements necessary to serve new development in the respective basins, and the estimated number of new equivalent dwelling units to be served by such new regional infrastructure; and

WHEREAS, the Analysis proposes certain modifications to the Town's current schedule of charges by adding a connection charge for new development to pay for regional infrastructure improvements within respective basins necessary to serve new users within that basin, and the

Town Council of the Town (the "Council") finds that the proposed modifications to the Town's existing charges should be enacted; and

WHEREAS, the Council finds that the rates and charges set forth herein are required to ensure that new development within the respective basins pays for a portion of the regional infrastructure improvements necessary to serve them, and will enable the Town to meet its legal revenue requirements for the sewage works; and

WHEREAS, absent implementing the charges set forth in this Ordinance to help offset the cost of constructing the new improvements, the Town would require the developers in the respective basins to pay the full up-front costs of the needed regional improvements; and

WHEREAS, the charges set forth in this Ordinance do not relieve developers of the responsibility to extend service to their respective developments in a manner consistent with the Town's utility master planning or to pay applicable tap and capacity fees; and

WHEREAS, the Council determines that the proceeds of the new regional improvement charges are to be used for the cost of improving the System in the future; and

WHEREAS, the Council desires to provide guidance on the method and authority for calculating equivalent dwelling units within the Town, both for fees established under this ordinances and other rates and charges of the Town, such as sewer and water capacity fees; and

WHEREAS, the Council has caused notice of a public hearing on the charges set forth herein to be duly advertised, posted and mailed, and has held a public hearing thereon, all pursuant to the Act.

NOW THEREFORE, be it ordained by the Town Council of the Town of Whitestown, Indiana that:

Section 1. There is hereby established a Regional Improvement Charge per equivalent dwelling unit ("EDU") for each new connection to or expansion of sewer usage (e.g., changes in uses of the property that will use more usage or capacity in the System) within the System or within the Town's sewer service territory, as follows:

Regional Sewer Basin	Sewer Regional Improvement Charge per EDU
Legacy Core Regional Sewer Basin	\$1,500
Main Street Regional Sewer Basin	\$1,500
Etter Ditch Regional Sewer Basin	\$1,500
S.R. 267 Regional Sewer Basin	\$1,500

A map depicting the boundaries of the regional sewer basins within the System is set forth in Exhibit A, attached hereto and incorporated herein by reference. The Regional Improvement Charge per EDU of \$1,500 shall further apply to any additional property that is subsequently served by the Town and is not currently located within an identified basin.

Section 2. The Regional Improvement Charge will be determined on the basis of total number of EDUs, with a residential unit considered one (1) EDU. In determining EDUs for all rates and charges of the Town where EDUs form the basis of an applicable charge, including but not limited to the Regional Improvement Charge and sewer and water capacity fees, all other parcels of land not used for single residential dwelling units shall be converted to EDUs on the basis of the anticipated sewage or water usage from such real estate as compared to the anticipated sewage or water usage for residential dwelling units. The Public Works Director of the Town (or his/her designee) may consider the flow calculation factors published by the Indiana Department of Environmental Management, 327 IAC 3-6-11, or any other factors he/she determines to be relevant, in determining EDU's for any new or expanded usage or capacity. For example, when actual usage for similar properties is utilized for anticipating usage of a new or expanded connection, the Town may use actual usage for an average single residential unit within the Town as the basis of an EDU. The Public Works Director may adopt additional guidance and policies concerning the calculation of EDUs consistent with this Ordinance. For no reason shall any structure connecting to the Town's sewer or water system (including, but not limited to, mobile homes, apartments, and condominiums) be treated as less than one (1) EDU for purposes of any of the Town's rates and charges. When calculations of EDUs result in a fraction, the result shall be rounded up to the next whole number. For example, an EDU calculation of 3.3 for a property will be rounded up to 4 EDUs for purposes of calculating the Regional Improvement Charge for such property.

Section 3. The Town shall not allow final and permanent connection or connections to the Town's sewage facilities of any real estate producing wastewater until a permit is obtained and payment has been made to the Town for the applicable Regional Improvement Charge and other applicable rates and charges. Any developer of real estate applying for service shall pay the applicable Regional Improvement Charge prior to connecting, or otherwise enter into an acceptable developer's agreement which shall provide for the future payment of the Regional Improvement Charge prior to final and permanent connection. Any developer expanding the use of service at any property shall pay the applicable fees prior to such expansion. Regional Improvement Charges shall be non-refundable.


Section 4. Any portion of other ordinances in conflict with a provision in this ordinance is hereby superseded to the extent inconsistent herewith.

Section 5. The provisions, rates, and charges of this Ordinance are severable. In the event any one or more of the provisions contained in this Ordinance should be invalid or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein, and/or the prior ordinances of the Town, shall not in any way be affected or impaired and shall remain in full force and effect. Furthermore, to the extent a rate or charge in this Ordinance is declared invalid, the higher of a valid charge or the original charge or fee previously established by the Town shall be effective and/or retroactive as though unaltered herein.


Section 6. This Ordinance shall be in full force and effect from and after its passage.

Passed and adopted by the Town Council of the Town of Whitestown, Indiana on this 11 day of March, 2020.

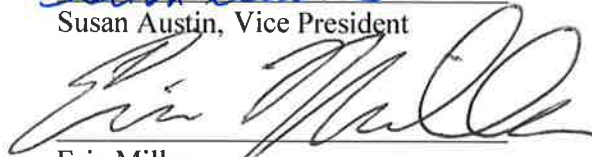
TOWN OF WHITESTOWN, INDIANA
TOWN COUNCIL



Clinton Bohm, President



Susan Austin, Vice President



Eric Miller

Jeffrey Wishek



Rob Worl

ATTEST:



Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

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