

EXHIBIT A

MUNCIE SANITARY DISTRICT ORDINANCE NUMBER 2015-17

AN ORDINANCE OF 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

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 District believes 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 District believes that its 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 ORDERED BY THE MUNCIE SANITARY DISTRICT, as follows:

Section 1. The District, after investigation and consideration, has 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 finds that public convenience and necessity required the its 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 Muncie Sanitary District is directed to maintain such map for public inspection at the District 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.

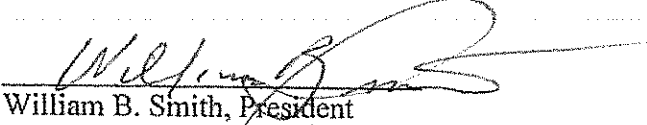
Section 6. The District's existing Rules and Regulations for sewer service, as amended from time to time, shall apply to and withing the Regulated Territory.

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 District; 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 acknowledged that this Ordinance will be submitted to the IURC which agency may require changes to this Ordinance before approval.

THIS ORDINANCE adopted by the Muncie Sanitary District on this 25th of June, 2015.

Muncie Sanitary District:



William B. Smith, President



Mike Cline, Vice President



Joseph Evans, Treasurer

