

ELIZABETHTOWN REGIONAL SEWER AUTHORITY
Lancaster County, Pennsylvania

RESOLUTION NO. 3 -2021

A RESOLUTION OF THE BOARD OF ELIZABETHTOWN REGIONAL SEWER AUTHORITY TO REVISE THE TAPPING FEE TO BE CHARGED AGAINST THE OWNER OF EACH IMPROVED PROPERTY WHO OR WHICH CONNECTS SUCH PROPERTY TO THE SEWER SYSTEM OR EXPANDS THE USE OF THE SEWER SYSTEM CONSTRUCTED AND OWNED BY THIS AUTHORITY AND TO REVISE AND RESTATE REGULATIONS RELATING TO THE PAYMENT OF TAPPING FEES, CONNECTION FEES, CUSTOMER FACILITY FEES, AND SPECIAL PURPOSE FEES.

WHEREAS, this Authority, an authority combining the sewer facilities of West Donegal Township Authority and Mount Joy Township Authority ("ERSA"), pursuant to powers vested in it has constructed and acquired certain wastewater collection and conveyance facilities and has acquired treatment and conveyance capacity through its facilities and the Borough of Elizabethtown required for rendering sewer service in and for portions of West Donegal Township and Mount Joy Township (the "Sewer System"); and

WHEREAS, this Authority has directed its Engineer to undertake a study in accordance with the requirements of the Municipality Authorities Act, as amended by Act 57 of 2003, to determine the permissible limits for each component of the tapping fee which it may impose, and the Authority's Engineer has performed such a study; and

WHEREAS, this Authority desires to amend its tapping fee to implement the study required by the Municipality Authorities Act; and

WHEREAS, this Authority desires to revise and restate regulations governing the collection of tapping fees and the imposition and collection of other fees and to restate all regulations in a single resolution.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Board of this Authority as follows:

Section 1. For the purpose of this Resolution, certain terms, phrases and words are defined as follows:

AUTHORITIES ACT – the Municipality Authorities Act, 53 Pa. C.S. {5601 et seq., as amended and supplemented.

CONNECTION FEE - a fee based upon the actual cost of the connection of the Improved Property extending from the Authority's main to the property line or curb stop of the Improved Property so connected, including reasonable costs for inspection and restoration. A Connection Fee shall be considered the fee referred to as a "connection fee" in the Authorities Act.

CUSTOMER FACILITIES FEE – a fee imposed under the authority of the Authorities Act to reimburse the Authority for its costs relating to the provision of a sewage flow meter, remote reader, and other necessary metering and inspection of owner-installed service lateral.

DEP – the Pennsylvania Department of Environmental Protection or any agency successor thereto.

DWELLING UNIT – any room, group of rooms, mobile home, building or other enclosure connected; directly or indirectly, to the Sewer System and occupied or intended for occupancy as a separate living quarters by a family or any other group of Persons living together or by a Person or Persons living alone. Each Dwelling Unit shall be considered one EDU.

EDU - an equivalent dwelling unit; the amount of wastewater discharged into the Sewer System by an average dwelling in a day which is estimated to be 235 gallons per quarter. Nonresidential Units shall be assigned a number of EDUs based upon the estimated or actual wastewater discharged, and each 235 gallons per quarter of wastewater discharged or estimated to be discharged, together with the factor for inflow and infiltration, shall be considered one EDU, with such wastewater discharge being calculated using the consecutive 90-day period with the highest discharge.

IMPROVED PROPERTY – any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and at which structure wastewater shall be discharged.

NONRESIDENTIAL UNIT - an Improved Property other than a Dwelling Unit. Nonresidential Units shall include but not be limited to all Improved Properties used for commercial, industrial or institutional purposes.

OWNER – any Person vested with the ownership, legal or equitable, sole or partial, of any Improved Property.

PERSON – any individual, partnership, estate, trust, firm, association, corporation, limited liability company, municipality, municipality authority, school district or any other group or legally recognized entity.

RATE RESOLUTION – any resolution adopted by this Authority to impose rates for the usage of the Sewer System and ancillary fees and charges.

SEWER SYSTEM – wastewater collection and conveyance facilities owned by ERSA including those within West Donegal Township, Mount Joy Township, and wastewater treatment and conveyance capacity through facilities owned by Elizabethtown Regional Sewer Authority and the Borough of Elizabethtown required for rendering sewer service in and for portions of the Township and owned, leased or in which rights of use and/or capacity has been obtained by this Authority.

TAPPING FEE – fee imposed under the authority of the Authorities Act to enable the recovery of the Authority's equity in the ~~water~~^{sewer} system which shall be composed of a capacity part and a distribution part and may, in the future, if warranted, include for some customers a special purpose part and/or a reimbursement part. A Tapping Fee shall be considered the fee referred to as a "tapping fee" in the Authorities Act.

Section 2. No Person shall connect any Improved Property with any part of the Sewer System without first making application for and securing a permit, in writing, from the Authority and complying with all of the requirements of this Resolution.

A. An application for a permit shall be made on a form to be provided by the Authority. All tapping, connection and customer facilities fees imposed by Resolution of the Authority, together with any permit processing fee imposed by the Authority, shall be paid at the time application is made for a permit to connect to the Sewer System.

B. A permit for connection to the Sewer System shall be valid for a period of one (1) year from the date of the permit.

C. If a Person who has obtained a permit authorizing the connection of a proposed Improved Property with the Sewer System elects to abandon development, such person may return the permit to the Authority and request a refund of the tapping, connection and customer facilities fees paid to the Authority. No refund of the permit processing fee shall be made. The Authority may return the tapping, connection and customer facilities fees, less a 5% administrative charge and less any costs the Authority has incurred to make improvements or modifications to the Sewer System to provide sewer service to such Improved Property, if such Person presents evidence that such Person has returned or has had the Township revoke any construction, building or zoning permit issued to authorize the proposed construction, building or zoning permit issued to authorize connection to the Sewer System to the Authority. If such Person elects to proceed with construction in the future, such Person shall make a new application for a permit to connect to the Sewer System and shall pay all tapping, connection and customer facilities fees imposed by the Authority and all permit fees imposed by the Authority in effect at the time such Person makes reapplication for a permit.

D. A Person who is required by the Township under its Mandatory Connection Ordinance, codified as Article IV, Chapter 100 of the Code of

Ordinances, to connect an Improved Property to the Sewer System and who has obtained a permit authorizing such connection but who has failed or refused to connect such Improved Property to the Sewer System shall not be entitled to a refund of any tapping, connection or customer facilities fees paid to the Authority or any permit processing fee paid to the Authority if such permit expires. If such Person desires to connect the Improved Property to the Sewer System after the expiration of the permit, such Person shall be required to obtain a new permit and to pay (i) the difference between the tapping, connection and customer facilities fees paid at the time the original permit was issued and the tapping, connection and customer facilities fees payable at the time reapplication is made to the Authority and (ii) then in effect permit fee.

Section 3. A Connection Fee as set forth in Section 4 of this Resolution is imposed upon and shall be collected by the Authority from the Owner of each Improved Property who or which shall physically connect such Improved Property to the Sewer System, for the costs of making such connection to the Sewer System, such charge being authorized under Section 5601 (d) (24) of the Authorities Act.

Section 4. The amount of the Connection Fee for each individual connection to the Sewer System shall be the actual cost incurred by the Authority, including the cost of inspection and restoration of the property. The Owner of the Improved Property shall deposit with the Authority the sum of One Thousand Five Hundred (\$1,500.00) Dollars to be placed in escrow in order to ensure reimbursement of the Authority's actual costs in connecting Owner's Improved Property to the Sewer System. In the event the actual expenses incurred by the Authority in connecting the Owner's Improved Property to the Sewer System exceed One Thousand Five Hundred (\$1,500.00) Dollars, the Owner shall pay such excess amount in accordance with the provisions of Section 9 within thirty (30) days of receipt of the Authority's invoice for such expenses. In the event that the actual expense incurred by the Authority in connecting the Owner's Improved Property to the Sewer System is less than One Thousand Five Hundred (\$1,500.00) Dollars, the Authority shall refund such excess amount, without interest, to the Owner.

Section 5. A Tapping Fee as set forth in Section 6 of this Resolution is imposed upon and shall be collected by the Authority from the Owner of each Improved Property who or which shall connect such Improved Property, directly or indirectly, to the Sewer System, for the use of the Sewer System, whether such use shall be direct or indirect, such charge being authorized under Section 5601 (d) (24) of the Authorities Act. Such Tapping Fee is charged for connection of each Improved Property as set forth in Section 6.

Section 6. A Tapping Fee for the use of the Sewer System, which shall be applicable in all areas served by ERSA (West Donegal and Mount Joy Townships), shall be calculated and imposed as follows:

A. Capacity Part. The fee imposed to recover the cost of capacity-related facilities which provide service to Improved Properties shall be Two Thousand One Hundred Ninety-Nine Dollars and Zero Cents (\$2,199.00) per EDU.

B. Collection Part. The fee imposed to recover the cost of collection facilities required to provide service to Improved Properties shall be One Thousand Four Hundred Twenty-Five Dollars and Zero Cents (\$1,425.00) per EDU. Total of Capacity and Collection Parts is \$3,624.00. A detailed calculation of the fees is attached and made a part of this Resolution at Exhibit "A". The Tapping Fee imposed is calculated at 90% of the allowable tapping fee.

C. In case of a combination of one or more Dwelling Units and each thereof having use of the Sewer System through one water connection, then each such Dwelling Unit shall be charged the fee herein provided as though each Dwelling Unit had a direct and separate connection to the Sewer System. Each Dwelling Unit in a double house, row or connecting houses, and in a trailer park or mobile home park shall be considered as a separate entity for the purpose of calculating the Tapping Fee. In the case of apartment buildings, each apartment shall be considered a Dwelling Unit, and one Tapping Fee shall be paid for each Dwelling Unit within the apartment building.

D. The amount of the Tapping Fee for each Improved Property for the use of the Sewer System shall be based upon the number of EDU's attributable to the use based upon estimated wastewater discharge. If necessary, the wastewater discharge shall be estimated by the Authority or the Authority's consulting engineer using standard engineering data and procedures. Within one (1) year following the date of connection, the Authority shall make an analysis of actual wastewater discharge or, if discharge is not separately metered, actual water consumption, and the Authority shall thereafter adjust the Tapping Fee previously collected, either upward or downward, based on the actual wastewater discharge or water consumption. In no event shall the Tapping Fee for an Improved Property be less than the Tapping Fee for one EDU.

E. If an applicant for capacity in the Sewer System or an Owner of Improved Property which will expand its use of the Sewer System has submitted or shall submit a planning module for land development to the DEP which sets forth the capacity in the sewer system owned by the Authority required by the applicant or the Owner for the Improved Property, the amount of the Tapping Fee shall be based upon the number of EDU's attributable to the use or expansion of the use calculated used the capacity requirement set forth in the planning module for land development. The Tapping Fee shall not be reduced, regardless of actual consumption, unless and until a revision to the planning module for land development is filed with, and approved by, the DEP reducing the projected capacity required.

F. The Tapping Fee shall not be charged for the re-occupancy of vacant buildings where flows have temporarily been reduced or eliminated.

Section 7. Should any Owner of any Improved Property heretofore connected to the Sewer System or hereinafter connected to the Sewer System expand the use of said Improved Property, a Tapping Fee, calculated in the manner set forth herein, is hereby imposed upon the expanded portion of such Improved Property. An expansion of the use of an Improved Property shall include, but not be limited to, the installation of an additional Dwelling Unit or units in an existing dwelling; the commencement of a home occupation which requires the use of the Sewer System such as beauticians or barbers; or the adding of a third work shift to an industrial processing operation. A change in wastewater discharge or water consumption by an Improved Property of more than five hundred thirty (530) gallons per day on the basis of average daily wastewater discharged, or if not separately metered, water consumption over the prior twelve (12) months shall be considered an expansion of the use of the Sewer System regardless of whether the Improved Property has been enlarged or any new use has been instituted. The Authority may compare current wastewater discharge or water consumption with wastewater discharge or water consumption previously approved by means of the payment of tapping fees or the approval of a planning module for land development or with the last calendar year average daily wastewater discharge or water consumption based on water meter readings for the entire year to determine whether there has been a change in wastewater discharge or water consumption exceeding five hundred thirty (530) gallons per day regardless of whether the Improved Property has been expanded or any new use has been instituted.

Section 8. All Owners of Improved Properties shall pay to the Authority a Customer Facilities Fee. The Customer Facilities Fee shall reimburse the Authority for its costs relating to the provision of a meter and the installation of a remote reader and other necessary metering facilities. The Owner shall install the meter provided by the Authority (if the Authority requires installation of a meter), and such installation shall comply with all of the Authority's rules and regulations for installation of meters. After installation of the meter, the Authority shall inspect the installation and shall install a remote reader and any other necessary metering facilities. The Customer Facilities Fee shall be the actual cost of the meter and associated facilities paid by the Authority, plus the cost for the Authority to inspect the installation of the meter and install the remote reader.

Section 9. The Customer Facilities Fee, Connection Fee and the Tapping Fee, as applicable, shall be due and payable at the time application is made to the Authority to make any such connection to the Sewer System as provided in Section 2; or at the time application is made to the Township for a construction, building zoning permit; or on the date when the Authority and/or the Township shall connect any such Improved Property to the Sewer System at the cost and expense of the Owner when the Owner shall have failed to make such connection as required by the Township pursuant to the provisions of any applicable connection ordinance; or whenever the Authority furnishes and/or installs a meter, remote reader, and other necessary metering facilities; or when the use of an

Improved Property connected to the Sewer System is expanded, whichever shall occur earliest.

Section 10. All Customer Facilities Fees, Connection Fees and Tapping Fees shall be payable to the Treasurer of this Authority or to such other officer or representative of this Authority as shall be authorized, from time to time to accept payment thereof

Section 11. Payment of Customer Facilities Fees, Connection Fees and Tapping Fees charged by this Authority pursuant to this Resolution shall be enforced by this Authority in any manner appropriate under the laws at the time in effect. Customer Facilities Fees, Connection Fees and Tapping Fees which are not paid in full when due shall bear interest at the rate of twelve (12%) percent per annum or at the rate of any outstanding debt incurred by the Authority, whichever is greater. The Authority may commence actions to collect fees which are due and payable under this Resolution and/or may file a municipal claim for the unpaid fees, plus costs of collection including the reasonable attorneys' fees incurred by the Authority, against the Improved Property. Any violations of this Resolution may be abated by proceeding against the violator in a court of equity for relief.

Section 12. The Customer Facilities Fees, Connection Fees and Tapping Fees imposed hereunder shall be in addition to any fees or charges imposed by the Rate Resolution or any other fees or charges fixed or imposed by the Authority by reason of the reservation of capacity in the Sewer System or the use, or availability for use, of the Sewer System.

Section 13. This Authority reserves the right, from time to time, to adopt modifications of, supplements to, or amendments of this Resolution. The Authority reserves the right to establish, by Resolution, separate service areas which may have a special purpose part and/or reimbursement part of the Tapping Fee in addition to the capacity part and distribution part imposed throughout the Sewer System. Where an extension of the Sewer System has been made at the expense of a private person, the Authority reserves the right to require payment of a reimbursement part of the Tapping Fee.

Section 14. In accordance with the requirements of Act 57 of 2003, a report showing the calculations of the fees imposed herein is attached hereto as Exhibit "A" and incorporated herein.

Section 15. In the event any provision, section, sentence, clause or part of this Resolution shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Resolution, it being the intent of the Authority that the remainder of the Resolution shall be and shall remain in full force and effect.

Section 16. All resolutions or parts of resolutions inconsistent herewith expressly are repealed. Provided, however, this Resolution shall not repeal or modify any of the provisions of the Rate Resolution or any resolution or agreement relating to the reservation of capacity in the Sewer System.

Section 17. This Resolution shall take effect and be in force immediately.

DULY ADOPTED this 11th day of May, 2021 by the Board of Elizabethtown Regional Sewer Authority, in lawful session duly assembled.

ELIZABETHTOWN REGIONAL SEWER AUTHORITY

By: Richard A. Eb
(Vice) Chairman

ATTEST:

William
(Asst) Secretary

CERTIFICATE

I, the undersigned, Secretary of Elizabethtown Regional Sewer Authority (the "Authority"), certify: that the foregoing is a true and correct copy of a Resolution which duly was adopted by affirmative vote of a majority of all members of the Board of the Authority at a meeting of said Board duly convened and held according to law on May 11, 2021, at which meeting a quorum was present; that said Resolution duly has been recorded in the minutes of the Board of the Authority; and that said Resolution is in full force and effect, without amendment, alteration or repeal, as of the date of this Certificate.

I further certify that the Board of the Authority met the advance notice and public comment requirements of the Sunshine Act, 65 Pa.C.S. Ch. 7, by advertising said meeting, by posting prominently a notice of said meeting at the principal office of the Authority or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting, all in accordance with such Act.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Authority, this 11th day of May, 2021.

William
(Asst) Secretary

Exhibit A is Attached and made a part hereof