

**TOWNSHIP OF EAST HANOVER
DAUPHIN COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2009-02

**AN ORDINANCE PURSUANT TO SECTION 2502 OF THE
SECOND CLASS TOWNSHIP CODE, AS AMENDED,
PROVIDING FOR THE ESTABLISHMENT OF
PROCEDURES AND CHARGES FOR THE RESERVATION
OF SANITARY SEWER SYSTEM AND TREATMENT
PLANT CAPACITY WITHIN EAST HANOVER
TOWNSHIP, EFFECTIVE FIVE DAYS FROM
ENACTMENT.**

AND NOW, this _____ day of _____, 2009, the Board of Supervisors of East Hanover Township (Township) hereby enacts and ordains as follows:

Section 1. Title. This Ordinance shall be cited to as the “East Hanover Township Sewer Capacity Reservation Ordinance.”

Section 2. Statement of Findings. The Township has determined that it has limited available capacity in its wastewater treatment plant, and expects demand for sewer connection permits that potentially will be in excess of its available treatment capacity. The Township has further determined that allocation and reservation of sanitary sewer system capacity for future use creates an unreasonable and inequitable economic burden upon the Township and the existing users connected to the sanitary sewer system for the following reasons:

- a. Until such time as a developer or landowner who has been granted capacity in the Township’s sanitary sewer system chooses to make use of such capacity, the Township and the existing users of the sewer system are required to amortize the costs of the reserved facilities; and
- b. Such reserved capacity remains unavailable to other persons who may have an immediate need for capacity.

Section 3. Purpose. It is in the best interest of the Township, the existing users of the sanitary sewer system, and potential users without reserve capacity, that developers and landowners desiring or required to reserve sanitary sewer system capacity pay a charge designed and calculated to amortize the cost of the current debt service and fixed operating costs in proportion to the amount of sewer system capacity that is reserved. The purpose of this Ordinance is to establish procedures for the imposition and collection of such charges, which shall be known as Sewer Reservation Fees, pursuant to Pennsylvania law.

Section 4. Applicability. This Ordinance shall apply to all areas of the Township.

Section 5. Reservation of Sewer Capacity. Upon Township approval of its Department of Environmental Protection (DEP) Planning Module, a developer or landowner shall be entitled to reservation of a specific amount of capacity in the East Hanover Township sanitary sewer collection system and treatment facilities (hereinafter called Allocated Capacity). If a land development plan is required for the proposed project to be completed, Allocated Capacity shall be reserved only after the developer or landowner submits the land development plan to the Township for review.

For purposes of billing and administration, the Allocated Capacity is converted to Equivalent Dwelling Units (EDUs).

Section 6. Sewer Reservation Fee. Upon reservation of Allocated Capacity, the developer or landowner shall be assessed a quarterly Sewer Reservation Fee. This fee shall be payable to the Township and shall begin on the date the developer or landowner receives DEP approval of its Planning Module. The initial quarterly Sewer Reservation Fee shall be prorated based on the days remaining in the quarter during which DEP approval occurs. The Sewer Reservation Fee shall be applied to all non-connected EDUs in accordance with the “Powers and Authorities Act of December 30, 2003, No. 57” (Act 57).

The Sewer Reservation Fee shall be applicable and shall continue in effect until the first of the following events occurs:

- a. The total Allocated Capacity has been utilized by the developer or landowner, or its successors in title; or
- b. Any unused Allocated Capacity has been cancelled by the developer or landowner, or by the Township as hereinafter provided.

Section 7. Calculation of Sewer Reservation Fee. The Sewer Reservation Fee is comprised of those debt service and fixed operating costs associated with the sewer collection and treatment capacity reserved for each developer or landowner. These costs will not exceed sixty percent (60%) of the average quarterly standard sewer customer bill. The Township will provide a list or summary of the items included in and/or a breakdown of the amount of the Sewer Reservation Fee to the developer or landowner prior to its execution of the Allocated Capacity Agreement.

Section 8. Property Subject to Allocated Capacity; Additional Connections. The developer or landowner’s Allocated Capacity shall be reserved for and used only in connection with the property identified in the Allocated Capacity Agreement or DEP Planning Module, as the Township shall elect. Allocated Capacity is not transferable to other properties, even if such other properties are owned, in whole or in part, by the same developer or landowner.

The reservation of Allocated Capacity for one or more connections within a planned subdivision or land development area does not entitle the developer or landowner to connections for the entire project. Allocated Capacity shall be reserved only for individual eligible connections, and the Township expressly disclaims any obligation to provide sanitary sewer

capacity or connections for an entire project upon the reservation of Allocated Capacity for a part of a project proposed by a developer or landowner.

Section 9. **Tapping Fee.** At such time as the developer or landowner applies for a Township Building Permit, a “Tapping Fee” shall be payable to the Township, which Tapping Fee shall include all applicable fees and charges defined and permitted under Act 57.

Section 10. **Issuance of Permits.** The Township shall not issue a Building Permit, a Sewer Connection Permit, or an Occupancy Permit to any developer or landowner until full payment is made of all applicable fees, as they may be set from time to time by the Township’s Board of Supervisors in accordance with applicable law.

Section 11. **Connection to Sanitary Sewer System; Conversion to Customer Bill.** Once the developer or landowner connects a lot for which Allocated Capacity has been reserved to the Township’s sanitary sewer system, and a Sewer Connection or Occupancy Permit has been issued, the Sewer Reservation Fee for that lot will automatically convert to a standard sewer customer bill. Such bill shall be subject to the Township rate for sewage service in effect at the time of connection, as such rate may be amended from time to time.

Section 12. **Adjustment of Sewer Reservation Fee.** The developer or landowner may apply to the Township to have the Sewer Reservation Fee adjusted to reflect the Allocated Capacity the developer or landowner has connected to the Township’s sanitary sewer system during the preceding quarter. Such adjustment shall be made by removing from the calculation of the Sewer Reservation Fee all lots that have been connected to the sewer system following all applicable Township procedures, rules and regulations.

Section 13. **Adjustment of Allocated Capacity.** In the event the Township, in its sole discretion, shall determine that the Allocated Capacity reserved for a developer or landowner is insufficient, the developer or landowner shall request (or shall be deemed to have requested) additional Allocated Capacity. In such event, the Township may adjust the developer or landowner’s Allocated Capacity and Sewer Reservation Fee. The developer or landowner shall begin to pay the adjusted Sewer Reservation Fee commencing with the next calendar quarter after such adjustment is made.

Section 14. **Cancellation of Allocated Capacity.** If DEP notifies the developer or landowner that its Planning Module has been denied or cancelled, the developer or landowner shall provide written notice to the Township of such denial or cancellation within twenty (20) days of DEP’s notification, and the Allocated Capacity assigned to the developer or landowner that remains at the time of such notice shall be cancelled. Such cancellation shall be effective as of the start of the next quarter, provided that notice of denial or cancellation of the DEP Planning Module shall have been given to the Township at least fifteen (15) days prior thereto.

The Township may cancel all or any part of the Allocated Capacity assigned to a developer or landowner if DEP shall cancel, revoke or stay the effectiveness of any permit issued to the Township, the developer and/or the landowner for any reason, or if DEP shall impose a ban on connections to or extensions of the Township’s sanitary sewer system, or if the Township

is unable to allow the developer or landowner to connect to the Township's sanitary sewer system for any reason whatsoever.

Section 15. **Applicability of Other Fees.** The Sewer Reservation Fee is not a substitute for, and specifically does not eliminate or modify in any way, the developer or landowner's obligation to pay any other fee imposed by the Township and/or Pennsylvania law in connection with the Township's provision of sanitary sewage collection and treatment services; including, but not limited to, a Building Permit Fee, Sewer Connection Permit Fee, Customer Facilities Fee, or Tapping Fee, as such fees may be defined in other Township ordinances, or in the Municipality Authorities Act, 53 Pa.C.S. §§5601, *et seq.*, as amended by Act 57.

Section 16. **Repealer.** Any other Township ordinances or resolutions, or any part thereof, that is inconsistent or conflicting with any part of this Ordinance is hereby repealed to the extent of such inconsistency or conflict.

Section 17. **Severability.** If any provision, paragraph, sentence, clause, word or section of this Ordinance is invalidated by any court of competent jurisdiction for any reason whatsoever, the remaining provisions, paragraphs, sentences, clauses, words or sections shall not be effected or impaired by such invalidation and shall continue in full force and effect.

Section 18. **Effective Date.** This Ordinance shall become effective five (5) days from the date of its enactment by the Board of Supervisors of East Hanover Township.

ENACTED and **ORDAINED** this _____ day of _____, 2009.

ATTEST:

BOARD OF SUPERVISORS OF
EAST HANOVER TOWNSHIP

Secretary

