

SCOTT TOWNSHIP AUTHORITY

RESOLUTION # 9-20-2010 - 2010

ALLOCATION AND RESERVATION OF CAPACITY

1. Method of allocation of capacity.

The Scott Township Authority (“Authority”) shall allocate capacity of the system in terms of equivalent dwelling units (“EDUs”). One (1) EDU shall be allocated for each equivalent dwelling unit. Applicants for allocation of capacity for a particular tract of land shall determine the estimated number of equivalent dwelling units in accordance with the applicable provisions of the Authority’s Rules and Regulations and its resolutions concerning tapping and connection fees, which estimate shall be subject to the review and approval of the Authority.

2. Nontransferability of allocated capacity.

The Authority shall reserve the allocated capacity for a particular tract of land within the Authority’s service area, and such capacity cannot be transferred to any other tract. The reserved capacity shall belong to the owner of the tract of land until the owner of the tract provides notice to the Authority of the transfer of ownership of the tract of land for which capacity has been reserved.

3. Requests for allocations and reservation of capacity.

All requests for allocation and reservation of capacity in the system shall be made in writing on a form supplied by the Authority, and shall include such information as requested by the Authority and its Engineer concerning the location of the property to be served, the size of the tract, the proposed use, status of subdivision and/or land development application, if any, the estimated flows and the number of EDUs.

4. Allocation of capacity.

A. Capacity remaining in the system shall be allocated on a first-come-first-served basis. Allocation shall be made only after the Authority approves the request, and only after the applicant pays, in full, the Reservation Fee set forth in Section 7. herein multiplied by the number of EDUs, calculated by the Authority based on the information submitted by the applicant and the Authority’s Rules and Regulations.

B. The order in which capacity shall be allocated to owners shall be determined by the order in which requests are received and logged in by the Authority's designated representative. The entire request for capacity of an owner shall be allocated before any remaining capacity is allocated to a subsequent owner.

5. Reservation of capacity.

A. After capacity has been allocated to an owner, it shall be reserved for the tract of land set forth in the application. All reservations of capacity shall be made in accordance with the provisions of these Rules and Regulations.

B. All reservations of capacity for a tract of land shall remain valid indefinitely from the date the Authority approves the initial allocation and the reservation of the capacity for the tract of land, provided the owner timely pays the required fee per year per EDU on or before the annual anniversary dates of the Authority's approval of such reservation. This fee shall be payable for the year in advance. If the owner fails to pay the required annual fee by the reservation anniversary date for the next year in advance, then the reservation shall automatically expire on the day after the anniversary date of the Authority's approval of such reservations.

C. If, after allocation and reservation of capacity, the owner received subdivision and/or land development approval for his proposed use that would permit less intensive development than that for which capacity was requested, any EDUs that are not required by the development as approved through the subdivision and land development process shall be available to the Authority for reallocation. For example, if an owner requests allocation and reservation of capacity for a 100 EDU development, but the land development plan as approved permits the erection of only 75 EDUs, then 25 EDUs shall become available to the Authority for reallocation by the Authority. In such case, the reservation fees paid for the unneeded EDUs (25 EDUs in this example) shall be refunded to the owner for the year in which the land development plan was approved.

6. Transfer of ownership of tract of land.

If an owner transfers ownership of the tract of land to which an allocation and reservation of capacity has been made, the Authority may permit the allocation and reservation to be transferred with the tract to the new owner, provided that the required number of EDUs for the transferee's proposed use remains constant. The transferee of the tract of land shall not allocate any additional EDUs as a result of the transfer or any proposed change in the use of the tract. As a condition of approval, the Authority must receive and approve an application for such transfer submitted by the transferee, which shall include (but not be limited to) documentation such as the names of the old and new owner of the tract and any information related to the capacity requirements and use of the tract by the transferee. Under no circumstances may an owner transfer reserved capacity from one tract of land to another.

7. Reservation fees.

A. Fees for the reservation of capacity shall be equal to the amount established by this Resolution per EDU which shall reserve capacity for one year. For the first seven (7) years of the reservation for a tract of land, this fee shall be twenty (20%) percent of the then current minimum sewer rental rate per year (minimum monthly sewer rental rate per EDU multiplied by 12 months) established under the Authority's Rules and Regulations and shall in all respects be consistent with PA Act 57 (Authorities Act, 53 Pa. C.S.A. §5601 et seq.). Beginning with the eighth (8th) year of the reservation, and for all subsequent years, the reservation fee shall be sixty (60%) percent of the then current minimum sewer rental rate per year established under the Authority's Rules and Regulations and shall in all respects be consistent with PA Act 57 (Authorities Act, 53 Pa. C.S.A. §5601 et seq.). The eighth (8th) year of the reservation need not immediately follow the expiration of the seventh (7th) year. For example, on January 1, 2010, owner of Tract A reserves 25 EDUs for Tract A. No development occurs and owner pays the reservation fee for seven (7) years. On July 1, 2018, owner reserves 25 EDUs for Tract A. Owner shall pay for the eighth (8th) year of the reservation even though there was a lapse of six (6) months between the end of the seventh (7th) year and the beginning of the eighth (8th) year.

B. Prepayment of reservation fees is allowed without discount.

C. Reservation fees shall be nonrefundable unless as described under these Rules and Regulations. Reservation fees payable hereunder shall not act as a credit towards the then current tapping fees imposed by the Authority.

D. Payment of reservation fees does not freeze the tapping fee and connection fee amount that is payable at the time of connection. The final tapping fee and connection fee amount due and payable shall equal the then current tapping fee and connection fee amount at the time a sewer connection permit is obtained.

8. Applicability of rules and regulations.

Extensions of and connections to the sewer system shall be made in accordance with the Authority's then current policies and regulations. Nothing contained herein shall be considered to modify or abrogate the requirements of such policies, resolutions, regulations and/or statutes. Nothing in this Resolution shall prevent the Authority from enforcing any of its other rules and regulations, including those that would limit and/or prevent certain types of wastes from being discharged into the Authority's sewer system.

9. Preexisting allocations and reservations of capacity.

Prior to the adoption of this Resolution, certain property owners possessed capacity letters from the Authority indicating, in effect, that the Authority had sufficient capacity for a particular property. If such properties are not connected to the sewer system within twelve (12)

months of the date of this Resolution and all tapping and connection fees paid, any reservation of capacity reflected in said capacity letters shall expire and such owners shall be subject to the provisions of this Resolution.

10. Adequate sewer capacity required.

A. All owners and developers who desire to connect to the Authority's sewer system shall either apply for and obtain reserve sewer capacity (and thereafter pay all tapping and connection fees) or purchase sewer capacity by paying the then current tapping fee, with certain exemptions as described in Section 9 herein.

B. Adequate sewage capacity is a mandatory prerequisite for a municipality to approve certain plans. In addition, there is a need to assure that adequate sewer capacity is retained even after municipal plan approval, up to the time that all lots are issued a sewer connection permit. As a condition of the Authority's approval of a land development or subdivision plan and as a condition to the Authority's approval and signing of a sewer module after the effective date of this Resolution, the developer shall certify that adequate reserved sewer capacity shall be maintained within the Authority sewer system for all lots within the subdivision or the land development through prompt and adequate payment of any required reservation fees.

11. Applicability.

This Resolution related to reservation of capacity shall apply to all owners and developers who apply for sewer capacity in the sewer system for any project. Depending on the progress of an owner's or developer's project, the owner or developer will be required to either purchase sewer reservation or to pay the sewer tapping fees. Owners or developers who possess special agreements with the Authority that pre-date this Resolution, may be exempt from this Resolution related to reservation of capacity, and those owners or developers who have received final approval of a DEP sewer module from the Authority or who previously paid for tap-ins shall be exempt from this Resolution related to reservation of capacity.

12. Reduction in capacity.

A. In the event any governmental or regulatory body or court having competent jurisdiction to do so ever reduces the Authority's capacity in its sewer system and such reduction makes it impossible for the Authority to honor the reservations of capacity previously approved by the Authority, the Authority shall take the following steps:

1. Reallocate its remaining capacity (after such reduction) among all owners who have received approved capacity reservations from the Authority. Such reallocation shall be made on a proportionate basis among all holders of capacity reservations in the same proportion as such owners' reservations bear to the total reservations then in effect. Any localized capacity

reduction will be reallocated on a proportionate basis among holders of capacity reservations within the affected area of localized capacity reduction.

2. Refund any reservation fees paid for the current year for capacity lost to each owner.

B. The Authority shall, in the event of a reduction of capacity, give written notice to all parties holding capacity reservations, informing them of the cause of the reduction in capacity, providing a calculation of the reduction in capacity and the amount of capacity reallocated to such owner. The notice shall also contain a calculation of the reservation fees that will be refundable in connection with the reallocated capacity. This can be illustrated by the following hypothetical situation:

1. The Authority previously approved 1,000 EDUs of reserve capacity for the following developers in the following amounts:

- a. Developer A: 500 EDUs = 50% of total capacity committed.
- b. Developer B: 300 EDUs = 30% of total capacity committed.
- c. Developer C: 200 EDUs = 20% of total capacity committed.

2. If the Authority's available capacity in the sewer system is reduced from 1,000 EDUs to 500 EDUs, the 500 EDUs of capacity shall be reallocated to Developers A, B and C in proportion to their previously reserved capacity as follows:

- a. Developer A shall receive 250 EDUs (equal to 50% of available capacity);
- b. Developer B shall receive 150 EDUs of capacity (equal to 30% of available capacity); and
- c. Developer C shall receive 100 EDUs of capacity (equal to 20% of available capacity).

3. The reservation fees paid by Developer A in connection with the 250 EDUs of capacity which have been lost as a result of the reduction in capacity, will be refunded to Developer A in connection with the 250 EDUs of reallocated capacity. Likewise, the reservation fees paid by Developer B and Developer C shall be refunded to Developer B and Developer C.

13. Miscellaneous.

- A. This Resolution shall become effective immediately.
- B. All Resolutions or parts of Resolutions of this Authority which are inconsistent herewith expressly shall be and are repealed.
- C. In the event any provision, section, sentence, clause or part of this Resolution shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Resolution, it being the intent of this Authority that the remainder shall be and shall remain in full force and effect.
- D. The Authority shall adopt, from time to time, such additional Rules and Regulations as it shall deem necessary and proper in connection with the use and operation of the Sewer System including the reservation of capacity, which Rules and Regulations shall be, shall become and shall be construed as part of this Resolution.

DULY ADOPTED, this 20th day of September, 2010,

by the Board of the Scott Township Authority, in lawful session duly assembled.

SCOTT TOWNSHIP AUTHORITY

BY: Douglas F. Sittler
Chairman

ATTEST:

Richard P. Duda
Secretary