

Easttown  *Township*

EASTTOWN MUNICIPAL AUTHORITY

CHESTER COUNTY, PENNSYLVANIA

RESOLUTION NO. 08-09-11

**A RESOLUTION OF THE EASTTOWN MUNICIPAL
AUTHORITY ESTABLISHING A POLICY FOR THE
ALLOCATION OF SEWER CAPACITY TO USERS WHO
DESIRE TO CONNECT TO THE PORTION OF THE
AUTHORITY'S WASTEWATER COLLECTION SYSTEM
WHICH FLOWS THROUGH THE BERWYN, SAYBROOK
AND DAYLESFORD DRAINAGE AREAS.**

WHEREAS, the Easttown Municipal Authority (the "Authority") is a municipal authority created and organized pursuant to the Municipality Authorities Act of 1945, as amended, 53 Pa.C.S. § 5601 *et seq.* (the "Act"); and

WHEREAS, the Authority owns a sanitary sewage collection system (the "Sanitary Sewer System") which provides public sewer service within Easttown Township (the "Township"); and

WHEREAS, the Sanitary Sewer System consists of various sewer collection lines, pump stations and sewer facilities which convey sewage effluent to various wastewater treatment plants for treatment (collectively the "Collection System"); and

WHEREAS, one portion of the Collection System includes sewer collection lines that transport sewer effluent through the Berwyn Pump Station to the Valley Creek Trunk Sewer (referred to as the "Berwyn Drainage Area"); and

WHEREAS, one portion of the Collection System includes sewer collection lines that transport sewer effluent through the Daylesford Pump Station to the Valley Creek Trunk Sewer (referred to as the "Daylesford Drainage Area"); and

WHEREAS, one portion of the Collection System includes sewer collection lines that transport effluent through the Saybrook Pump Station to the Valley Creek Trunk Sewer (referred to as the "Saybrook Drainage Area"); and

WHEREAS, the Berwyn Drainage Area, the Daylesford Drainage Area and the Saybrook Drainage Area shall collectively be referred to herein as the "Affected Drainage Areas"; and

WHEREAS, the Valley Forge Joint Sewer Authority performed an Act 537 Sewage Facilities Planning Study titled "Valley Creek Trunk Sewer Act 537 Plan" and that plan has been submitted to the Pennsylvania Department of Environmental Protection ("DEP") for approval, and the Authority believes it will be approved; and

WHEREAS, the Valley Creek Trunk Sewer System Act 537 Plan has identified several areas of the Valley Creek Trunk Sewer System that require remediation before additional effluent can pass through it without creating an overload condition; and

WHEREAS, as a result of the overload condition in various components of the Affected Drainage Areas, DEP advised the Authority that it must: (i) submit a formal written plan to DEP which outlined the measures that the Authority would take to prevent the Affected Drainage Areas from being overloaded; and (ii) limit new connections to the Affected Drainage Areas until such time as the actions identified in the written plan approved by DEP had been implemented; and

WHEREAS, consistent with DEP's directive, the Authority prepared and submitted to DEP the Easttown Municipal Authority Capacity Management Plan dated February 10, 2011, last revised May 12, 2011 (the "Plan"); and

WHEREAS, the Authority anticipates that DEP will approve the Plan in the near future; and

WHEREAS, pursuant to the Plan, the Authority is precluded from allowing any further connections to the Affected Drainage Areas and from approving any sewer planning modules where the effluent is proposed to flow through the Berwyn, Daylesford or Saybrook Pump Stations until such time as: (i) the Authority completes certain improvements and upgrades to the Affected Drainage Areas which are described in more detail in the Plan (the "System Improvements"); or (ii) the Authority demonstrates to DEP over a six month period that it has reduced inflow and infiltration into the Affected Drainage Areas, and as a result, DEP issues written notice to the Authority that it may permit limited connections to the Affected Drainage Areas; and

WHEREAS, the Authority would like to establish a policy which specifies what property owners have priority to connect to the Affected Drainage Areas once DEP approves such connection(s).

NOW THEREFORE, IT IS HEREBY RESOLVED by the Board of the Easttown Municipal Authority, Chester County, Pennsylvania, as follows:

SECTION 1. Adoption of Sewage Capacity and Connection Policy. The Allocation of Sewage Capacity and Connection Plan for the Berwyn Drainage Area, Daylesford Drainage Area and Saybrook Drainage Area which is attached hereto and is incorporated herein is hereby adopted (the "Sewage Capacity and Connection Policy").

SECTION 2. Severability. The provisions of this Resolution are severable, and if any article, section, subsection, clause, sentence or part thereof shall be held or declared illegal, invalid or unconstitutional by any court of competent jurisdiction, the decision shall not affect or impair any of the remaining articles, sections, subsections, clauses, sentences or parts thereof of this Ordinance. It is hereby declared to be the intent of the Authority that this Resolution would have been adopted if such illegal, invalid or unconstitutional article, section, subsection, clause, sentence or parts thereof had not been included herein.

SECTION 3. Repealer. All Resolutions heretofore adopted by the Authority which are inconsistent herewith are hereby repealed to the extent of any such inconsistency.

SECTION 4. Effective Date. This Resolution and the Sewage Capacity and Connection Policy adopted herein shall take effect on August 10, 2011. The Authority reserves the right to make such changes from time to time in its opinion may be desirable or beneficial and to amend this Resolution or the Sewage Capacity and Connection Policy in such manner and at such times as in its opinion may be advisable.

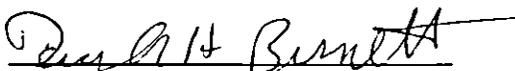
RESOLVED AND ADOPTED this 9th day of August, 2011.

ATTEST:



Kim Reynolds, Secretary

**EASTTOWN MUNICIPAL
AUTHORITY**



Doug Burnett, Chairman



**POLICY FOR ALLOCATION OF SEWER CAPACITY AND CONNECTION TO
BERWYN DRAINAGE AREA, SAYBROOK DRAINAGE AREA AND
DAYLESFORD DRAINAGE AREA
EASTTOWN MUNICIPAL AUTHORITY**

Method of Allocation of Capacity in the Affected Drainage Areas

- A. **Establishment of Policy.** The Easttown Municipal Authority (the "Authority") shall allocate capacity in the Affected Drainage Areas in accordance with the policy set forth herein. This policy shall be administered by the Authority's Administrator with assistance from the Authority's Engineer.
- B. **Adherence to Easttown Municipal Authority Capacity Management Plan.** The Authority shall adhere to the Easttown Municipal Authority Capacity Management Plan (the "Plan") as ultimately approved by the Pennsylvania Department of Environmental Protection ("DEP"). The Authority shall not permit any connections to the Affected Drainage Areas until one of the following occurs: (i) the improvements and upgrades effecting the Affected Drainage Areas which are described in detail in the Plan (the "System Improvements") have been completed, inspected and approved by DEP and DEP issues written notice to the Authority that it may permit connections to the Affected Drainage Areas; or (ii) the Authority demonstrates to DEP over a six month period that it has reduced inflow and infiltration into

the Affected Drainage Areas and as a result, DEP issues written notice to the Authority that it may permit limited connections to the Affected Drainage Areas.

C. **Establishment of Waiting List.** If either of the events described in paragraph B(i) or (ii) above occur, the Authority may allow connections to the Affected Drainage Areas in the following order of priority:

- 1) Property owners in the Township who utilize an existing on-lot septic system that is malfunctioning or has failed as confirmed in writing by the Township's Sewage Enforcement Officer (the "SEO");
- 2) Property owners in the Township who utilize an existing on-lot septic system that is in a condition which cannot be certified by the SEO or another licensed sewage inspector approved by the Authority;
- 3) Property owners who have previously received approval for connection and paid the required fees but have not exercised that approval as of the effective date of this policy, provided said owners notify the Township in writing of their desire to maintain the connection authority;
- 4) Property owners who own property in the Township which is improved with buildings or structures which are connected to the Affected Drainage Areas who desire additional sewage capacity in order to service improvements or a change of

use within the existing buildings or structures and which do not involve the construction of additional buildings or structures or the expansion of the footprint of existing buildings or structures (for example, if an existing dwelling is converted to a two family dwelling and as a result requires an additional EDU of sewage capacity);

- 5) Property owners who own property in the Township which is improved with buildings or structures which are connected to the Affected Drainage Areas who desire additional sewage capacity in order to construct additional buildings or structures or expand the footprint of existing buildings or structures (for example, if a property owner desires to expand the footprint of an existing single family dwelling by adding an accessory apartment dwelling and as a result requires an additional EDU of sewage capacity);
- 6) Property owners who desire to build new buildings or structures or completely demolish an existing structure or building and rebuild a new structure or building.

D. **Applications for Capacity.** All applications to the Authority for capacity in the Affected Drainage Areas shall be made in writing on forms provided by the Authority and shall include payment of the tapping fee currently in effect at the time of application, to be credited against the tapping fee in effect at the time of actual connection as determined by resolution of the Authority. The application for allocation of capacity shall supply such information as requested by the

Authority including but not limited to: location of the property to be served; the size of the tract; description of the existing improvements on the tract; description of the existing sewer system on the tract, if any; the proposed use; status of subdivision and/or land development application, if any; the estimated flows in gallons per day for the maximum monthly flow; and the EDUs for which capacity is being requested. Applications shall be logged in by the Authority in the order that complete written applications are received from applicants.

E. **Procedures for Allocation of Capacity.** Upon receipt of a written application for capacity in the Affected Drainage Areas the Authority shall determine if the applicant is eligible to be placed on a waiting list that shall be prepared by the Authority's Administrator (the "Waiting List"). The Administrator shall prepare the Waiting List using the order of priority set forth in paragraph C above. Within each category, applicants shall be given priority based on a first-come, first served basis. In order to reserve the allocation of capacity, an applicant must accept the terms of the Authority's standard letter of contingent approval of sewer capacity, an example of which is attached hereto as an Exhibit (the "Reservation Agreement"). Once the applicant and Authority have executed a Reservation Agreement, the capacity reserved in such Agreement shall be considered allocated to the applicant.

F. **Reservation for failing on lot systems.** The Authority Administrator is hereby directed to maintain at least three (3) EDU's in reserve for the applicants who meet the criteria of Paragraph C(1) above at all times.

EASTTOWN MUNICIPAL AUTHORITY
566 Beaumont Road, PO Box 79, Devon PA 19333
Telephone: 610-687-3000
Fax: 610-687-9666

<mmmm dd, yyyy>

<<Name>>

<<Address 1>>

<<Address 2>>

<<Address 3>>

RE: Request for Sewer Capacity
<<Location>>

Dear <<Name>>:

The Easttown Municipal Authority (the "Authority") has considered your request for approval to discharge sanitary sewage into the Easttown Township Sanitary Sewer System from the above referenced location, representing ____ Equivalent Dwelling Unit(s) (EDU).

The Authority hereby conditionally approves your request for the designated sanitary sewage capacity, contingent upon the following:

1. The Authority's receipt of the attached letter of contingent approval, fully executed by you or a duly authorized representative of your organization acknowledging your acceptance of the specified terms and conditions;
2. Receipt by the Authority of payment of the required Tapping and Connection Fees;
3. Resolution to the satisfaction of the Authority of all outstanding items specified in the attached Agreement.

The Authority must receive the fully executed Agreement within fifteen (15) days of the date of the attached letter of contingent approval; otherwise, the contingent commitment shall lapse and be automatically withdrawn.

Sincerely yours,

Gary Bernhard
Administrator
Easttown Municipal Authority

Cc: Brady L. Flaharty
Robert McClarnon

EASTTOWN MUNICIPAL AUTHORITY
566 Beaumont Road, PO Box 79, Devon PA 19333
Telephone: 610-687-3000
Fax: 610-687-9666

<mmmm dd, yyyy>

<<Name>>

<<Address 1>>

<<Address 2>>

<<Address 3>>

RE: Request for Sewer Capacity
<<Location>>

Dear <<Name>>:

The Easttown Municipal Authority (the "Authority") has determined that the Easttown Township Sanitary Sewer System is approaching design capacity in relation to planned and projected development of remaining Easttown land areas.

The Authority has resolved and determined that approval of all new applications for sewage capacity in the Easttown Township Sanitary Sewer System, either by owners of individual lots or by developers of tracts or parcels of land (hereinafter referred to as the "Applicant") shall be expressly contingent upon the following requirements:

1. Approval of the final plan of Subdivision or Land Development and any other requisite zoning approvals by Easttown Township (the "Township") and the Authority.
2. Payment of the required Tapping Fee as it may exist from time to time, currently in the sum of \$_____ per Equivalent Dwelling Unit (EDU) to the Easttown Municipal Authority, and payment of the required Connection Fee in the sum of \$_____ per project connection to Easttown Township. All payments are received subject to due collection, which is made a further condition of this conditional offer of sewage capacity.
3. Compliance with all applicable federal, state and local statutory enactments, including but not limited to all regulations of the Pennsylvania Department of Environmental Protection (PADEP), the Uniform Construction Code, the International Plumbing Code, the Chester County Health Department, the Easttown Township and the Easttown Municipal Authority.
4. Written confirmation from all downstream municipalities and authorities having jurisdiction that sufficient capacity exists in the entire system for conveyance and treatment of sewage from this project.

5. Preparation by the Applicant of PADEP Planning Module(s), if required, and approval of any PADEP Planning Module(s) by the Easttown Municipal Authority, PADEP, and all other federal, state and local governmental authorities having jurisdiction. If PADEP Planning Module(s) are not required, the applicant shall provide written confirmation to that effect from PADEP to the Easttown Municipal Authority.
6. Acknowledgement that the Authority will bill the Applicant for the costs incurred for reviews and inspections made by the Authority's consulting engineer, ARRO Consulting, Inc., and agreement by the Applicant to remit these fees to the Authority within fifteen (15) days of receipt of invoice.
7. The Applicant shall contact the Authority's consulting engineer, ARRO Consulting, to coordinate the required plan reviews prior to commencing any excavation or construction related to the sanitary sewer connection (see item number 5). The Applicant shall comply with all review comments and requirements regarding the proposed connections.
8. The Applicant shall contact the Authority's consulting engineer, ARRO Consulting, to coordinate the required inspections prior to making connection to the sanitary sewer system (see item number 5). All work must be performed to the satisfaction of the Authority and the Authority's engineer prior to acceptance. Physical connection to the Easttown Township Sanitary Sewer System shall be completed within one (1) year of the date of this letter.
9. This contingent and conditional offer to provide sanitary sewage capacity is valid for a period of one (1) year from the date of this letter, provided:
 - a. This letter is fully executed and received by the Authority within fifteen (15) days of the date of this letter;
 - b. Payment or arrangement for payment of the required Tapping Fee and Connection Fee is received by the Authority and Township within fifteen (15) days of the date of this letter; and,
 - c. The other conditions specified herein, up to and including final connection, are satisfied within one (1) year from the date of this letter.
10. This offer to provide sewage treatment capacity is not final until such time that all Tapping Fees and Connection Fees are received and the conditions set forth above are satisfied. Prior to the receipt of these fees by the Authority and the Township, remaining capacity will be allocated to approved projects in the Township as and when the Tapping Fees and Connection Fees for each such project are received by the Authority and the Township. Should the applicant choose not to pay these fees within fifteen (15) days of the date of this letter and not move forward with the project immediately, the Applicant acknowledges that there is a risk that no capacity will be available for these connections at a future date.

11. The Authority neither approves nor guarantees capacity for the connection(s) in any facilities not owned or operated by the Easttown Municipal Authority (i.e. facilities owned by the Tredyffrin Township Municipal Authority and/or Valley Forge Sewer Authority). Accordingly, until all of the foregoing conditions are satisfied, there is a risk that capacity will not be available in those facilities when the developers elect to proceed with the project. In the event capacity is not available for any reason, by signing this letter the Applicant acknowledges that the sole remedy is the return of any Tapping Fees and Connection Fees paid by the Applicant.

12. In the event that the Tapping Fees and Connection Fees are returnable to the Applicant for any of the conditions specified in this letter of contingent approval, the Applicant shall submit a written request to the Authority and Township. The request shall indicate the date of this letter, the date of initial payment of said fees and the reason(s) for the request. The request will be processed at the next meeting of the Authority (for Tapping Fees) and of the Township (for Connection Fees).

Gary Bernhard, Administrator
Easttown Municipal Authority

Date

Applicant

Printed Name

Date