

SMITHFIELD SEWER AUTHORITY

Monroe County, Pennsylvania

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RESOLUTION NO. 5-2008

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A RESOLUTION OF THE BOARD OF SMITHFIELD SEWER AUTHORITY ESTABLISHING RATES FOR THE USE OR AVAILABILITY OF USE OF THE SEWER SYSTEM AND ADOPTING APPROPRIATE REGULATIONS.

WHEREAS, Smithfield Sewer Authority owns and operates a system to provide public sewer service within portions of Smithfield Township, Monroe County; and

WHEREAS, the Authority incurs costs for the provision of public sewer service, and the Authority, in accordance with the Municipality Authorities Act, desires to establish rates, rules and charges for the provision of public sewer service; and

WHEREAS, the Authority desires to establish regulations which govern payment and collection of sewer rentals and charges.

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

Section 1. Short Title. This Resolution shall be known and may be cited as the Smithfield Sewer Authority Rate Resolution.

Section 2. Definitions and Word Usage.

A. In the interpretation of this Resolution, the present tense includes the future; the singular number includes the plural, and the plural includes the singular; and the masculine gender includes the feminine gender and the neuter.

B. 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 C.S. §5601, which repealed and reenacted the Municipality Authorities Act of 1945, as amended and supplemented.

AUTHORITY - the Smithfield Sewer Authority, a municipal authority organized and existing under the provisions of the Authorities Act.

CONSUMER - a person who, prior to, upon or after the effective date hereof, has contracted or contracts for and/or is receiving or shall receive sewer service from the sewer system or who the Township has required to, but who has failed to, connect to the sewer system under the applicable Township Ordinance.

DWELLING UNIT - an Improved Property or portion thereof containing one room, a group of rooms, apartment, 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. By way of example and not by way of limitation, a dwelling unit shall be considered as:

- A. Single family detached dwelling.
- B. Each side of a single family semi-detached dwelling.
- C. Each house in a row of houses.
- D. Each apartment, condominium or cooperative unit in any structure containing more than one dwelling unit.
- E. Each separate mobile home in a mobile home park.

Each Dwelling Unit shall be considered as 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 200 gallons per day within the Valhalla Sewer District and 218 gallons per day within the East Brown Street Sewer District and the Franklin Hill Sewer District. Nonresidential Units shall be assigned a number of EDUs based upon the estimated or actual wastewater discharged, and each 200 gallons or 218 gallons (depending on the Sewer Service District in which the subject property is located) per day 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 sewer service is or shall be connected to the sewer system.

NON-RESIDENTIAL UNIT - An Improved Property other than a Dwelling Unit connected, directly or indirectly, to the sewer system. Non-residential 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, in 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. Whenever the term "person" is used in connection with any provision imposing duties, ordering action to comply with the terms of this Resolution or providing for the imposition of a fine or penalty, the term "person" shall include the members of an association, partnership, or firm and the officers of any public or private corporation whether for profit or not for profit.

RESIDENTIAL UNIT - an Improved Property that is a Dwelling Unit connected, directly or indirectly, to the sewer system.

SEWER SYSTEM - wastewater collection and conveyance facilities within the Township and wastewater treatment and conveyance capacity through facilities owned by the Borough of East Stroudsburg (the "Sewer System") required for rendering sewer service in and for portions of the Township and owned, leased or in which rights of use and/or capacity have been obtained by this Authority, together with all additions, extensions, alterations, improvements and betterments thereof and thereto which may be made, installed or acquired from time to time by or for the Authority.

TOWNSHIP - the Township of Smithfield, Monroe County, Pennsylvania.

Section 3. Sewer Rates, Rents and Charges. The rates, rents and charges imposed upon each consumer served or to be served by the sewer system for use thereof shall be set from time to time by resolution of the Board of the Authority. Sewer rates and charges shall be collected from the owners of properties which shall be connected to the sewer system or which the Township has required to connect to the sewer system whether such use of benefit resulting therefrom or whether such connection shall be direct or indirect in accordance with the following regulations:

A. Sewer rates for each dwelling unit shall be a flat rate of \$650.00 per annum, payable in equal quarterly installments of \$162.50, effective January 1, 2006.

B. Sewer rates for nonresidential units shall be \$650.00 per annum for each EDU, payable in equal quarterly installments of \$162.50 per EDU, effective January 1, 2006.

C. Sewer rates shall be payable on a quarterly basis and shall cover a quarterly billing period consisting of the immediately preceding calendar quarter.

D. The owner of any improved property which is required to connect to the sewer system shall pay the applicable quarterly charge for each residential unit or for each non-residential unit in the event such owner fails or refuses to connect the property to the sewer system. Charges shall accrue from the date the owner of the improved property has been required by Township Ordinance to connect to the sewer system.

E. Each residential unit and each non-residential unit shall be subject to charges at the quarterly rate for all time that such residential unit or non-residential is connected to the sewer system. The Authority shall not discontinue billing for any residential unit or non-residential unit until such unit has been disconnected from the sewer system in accordance with all applicable rules and regulations of the Authority. Provided, the Board of the Authority may, upon application of the owner of any improved property, grant partial or complete relief from charges when any such property remains vacant, and the Board of the Authority may establish conditions upon the granting of any such partial or complete relief from charges.

F. Absent any such grant of partial or complete relief from charges, the owner of any improved property shall pay the applicable quarterly charge for each residential or non-residential unit regardless of whether such residential unit or non-residential unit is occupied or vacant. Minimum quarterly charges will continue to accrue until such residential or non-residential unit is disconnected from the sewer system in accordance with Authority rules and regulations.

Section 4. Other Charges. The Authority hereby establishes the following fees and charges for items relating to the sewer system, other than the use of the sewer system:

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|----|---|---------------------------------------|
| A. | For the return of a check unpaid from a financial institution   | \$50.00                               |
| B. | For resumption of service after service has been terminated to a residential or non-residential unit for any reason | \$325.00                              |
| C. | Work associated with collection of delinquent account   | Actual cost incurred by the Authority |
| D. | For issuance of an Industrial Waste Permit pursuant to Resolution No. 4-2008  | Actual cost incurred by the Authority |

Section 5. Billings, Payments and Penalties.

A. Payments of sewer rates or other charges shall be due and payable upon the applicable billing date, at the office of the Secretary of the Authority, in the appropriate amount, computed in accordance with this Resolution, which shall constitute the net bill. If any user charge is not paid within thirty (30) calendar days after the applicable billing date, an additional sum of ten (10%) shall be added to such net bill, which net bill, plus such additional sum, shall constitute the gross bill. Payment made or mailed and postmarked on or before the last day of such thirty (30) calendar day period shall constitute payment within such period. If the end of such thirty (30) calendar day period shall fall on a legal holiday

or a Sunday, then payment made on or mailed and postmarked on the next succeeding business day or Saturday shall constitute payment within such period.

B. It shall be the responsibility of each owner of an improved property and/or reserved capacity EDU to provide the Authority with, and thereafter keep the Authority continuously advised of, the correct mailing address of such owner and, if applicable, the name and address of any other person (including tenants, etc.) who will be paying the user charges. Bills will be sent to persons other than owners (such as tenants) only as a convenience to owners; owners shall in all cases remain responsible to the Authority for payment of all fees and charges. Failure of any owner or other person to receive a bill for charges due and payable shall not be considered an excuse for nonpayment, nor shall such failure result in an extension of the period of time during which the net bill shall be payable.

C. Any consumer who or which has reason to doubt the accuracy of a bill shall notify the Authority in writing within ten (10) days of the date of the bill as to the fact the consumer believes the bill to be inaccurate and the factors which support the consumer's position.

D. Bills for new connections to the sewer system shall begin at the earliest occurrence of:

1. At the time of occupancy of the property or at the time authorization is given to occupy the improved property pursuant to the issuance of a valid use and occupancy permit issued by the Township.

2. At the time of billing occurring not less than six (6) months after the lateral serving the improved property has been connected to the sewer system, and has passed inspection by an authorized representative from the Authority, whether or not the improved property has been occupied at that time.

3. At the expiration of the permit, which is valid for one year after issuance, authorizing connection to the sewer system, if the lateral serving the improved property has been connected to the sewer system and has passed inspection by an authorized representative from the Authority, whether or not the improved property has been occupied at that time.

4. At the expiration of the time period established in any notice by the Township to connect an improved property to the sewer system pursuant to the Township's mandatory connection ordinance.

Section 6. The Authority may take all actions necessary or desirable to collect delinquent accounts when a consumer fails or refuses to pay bills for sewer rates and other charges. The consumer shall be responsible for the payment of all fees the Authority must pay and costs which the Authority incurs in the collection of delinquent accounts including, but not limited to, postage fees for mailing of notices of delinquency (including costs of certified mail); filing fees for collection

actions filed with a magisterial district judge; costs to serve a complaint filed with a magisterial district judge; filing fees to file a magisterial district judge judgment with the Prothonotary of Monroe County; and all costs associated with the preparation and filing of a municipal lien. Any such fee or costs shall be added and become part of the consumer's account.

Section 7. Collection of Unpaid Charges.

A. Whenever any bill for sewer service furnished to a consumer shall remain unpaid for a period in excess of two quarters after the due date thereof or delinquent in an amount of in excess of Five Hundred (\$500.00) Dollars, the Authority may and the proper officers of the Authority are hereby authorized and directed to do all things and take all legal action necessary to enforce collection of the sewer rates, rents and charges established and imposed and otherwise carry out provisions of this Resolution.

B. Sewer rates, rents and other charges imposed by this Resolution, to the extent permitted by law, shall be a lien on the property connected to and served by the sewer system. Any such sewer rates, rents or other charges which shall be delinquent, to the extent permitted by law, shall be filed as a lien against the property so connected and served by the sewer system, which lien shall be filed in the office of the Prothonotary of Monroe County, Pennsylvania, and shall be collected in the manner provided by law for the filing and collecting of municipal claims.

Section 8. Change in Ownership of Property. When the ownership of a property changes from one person to another, the previous owner shall notify the Authority in writing and in advance of the date of discontinuance of service under his ownership. Should the owner fail to give such notice, he shall be responsible for all charges up to and including the date the new owner makes application for service. The new owner shall make application for service in the same manner as for a new service in accordance with the rules and regulations of the Authority.

Section 9. Responsibility of Property Owners.

A. The owner of any improved property connected to the sewer system shall be responsible for all tenants or other occupants of such property insofar as such acts shall be governed by provisions of this Resolution.

B. All connections, service lines and fixtures furnished or owned by the owner shall be maintained by him in good order, and all valves, meters and appliances furnished and owned by the Authority on the improved property of the owner shall be protected properly and cared for by said owner. All leaks in the service line or any other pipe or fixture in or on the premises supplied must be repaired immediately by the owner.

C. The Authority shall not be responsible for maintaining any portion of the building sewer connection owned by the owner or for damage done by sewer escaping therefrom or from lines or fixtures on the owner's improved property, and the owner shall at all time comply with all ordinances and regulations with reference thereto and make all changes

therein required on account of change of grade, relocation of mains or otherwise.

D. Consumers shall not tamper with or permit tampering with or in any other way cause or permit injury to any meter or any other property of the Authority.

Section 10. Rules and Regulations.

A. The Authority, from time to time, in accordance with law, by appropriate resolution, may adopt such additional rules and regulations as, in the opinion of the Board of the Authority, shall be desirable, beneficial or necessary for or in connection with the use and operation of the sewer system.

B. Any such rules and regulations so adopted by the Board shall be construed in conjunction with the provisions of this Resolution and shall become effective on the date fixed by the Authority upon adoption thereof.

Section 11. Rights Reserved by Authority. The Authority reserves the right to repeal, amend, supplement or modify this Resolution or any part thereof or to change the sewer rates, rents and other charges established and imposed by this Resolution in such manner and at such time as, in the opinion of the Board of the Authority shall be necessary or desirable, all after due legal procedure.

Section 12. Severability. The provisions of this Resolution are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Resolution. It is hereby declared to be the intent of the Board that this Resolution would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 13. Repeals. All resolutions or parts of resolutions establishing sewer rates inconsistent herewith expressly are repealed.

Section 14. Effective Date. This Resolution shall become effective and be in force immediately.

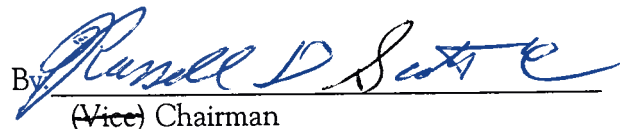
DULY ADOPTED this 8<sup>th</sup> day of September, 2008, by the Board of Smithfield Sewer Authority, in lawful session duly assembled.

SMITHFIELD SEWER AUTHORITY

Attest:

  
(Assistant) Secretary

By

  
(Vice) Chairman

[AUTHORITY SEAL]