

BOARD OF SUPERVISORS
TOWNSHIP OF MIDDLE SMITHFIELD
MONROE COUNTY, PENNSYLVANIA

RESOLUTION 05-2014-1

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF MIDDLE SMITHFIELD AMENDING THE TOWNSHIP'S RULES AND REGULATIONS REGARDING USER CHARGES FOR THE TOWNSHIP SEWER SYSTEM, WHICH AMENDMENT SHALL CONSTITUTE AMENDMENT AND RESTATEMENT IN ITS ENTIRETY OF ARTICLE II, USER CHARGE, OF MIDDLE SMITHFIELD TOWNSHIP MUNICIPAL AUTHORITY RESOLUTION NO. 7-95-1, PREVIOUSLY ADOPTED BY THE BOARD OF SUPERVISORS BY RESOLUTION NO. 12-2009-02; AND PROVIDING FOR OTHER MISCELLANEOUS ITEMS

WHEREAS, the Township of Middle Smithfield (hereinafter the "Township") is a Township of the Second Class duly organized and situated in the County of Monroe, Commonwealth of Pennsylvania; and

WHEREAS, the Township previously established the Middle Smithfield Township Municipal Authority ("MSTMA") for the purpose of owning and operating, inter alia, the Middle Smithfield Township sanitary sewer system (the "Sewer System");

WHEREAS, on July 11, 1995, the MSTMA previously adopted Resolution No. 7-95-1, adopting rules and regulations governing use of the Sewer System, and imposing user charges, inter alia;

WHEREAS, on December 9, 2009, the Township Board of Supervisors adopted Resolution 12-2009-02, directing dissolution of the MSTMA, and assuming ownership and operation, inter alia, of the Sewer System;

WHEREAS, on the same date, the Township Board of Supervisors further adopted Resolution No. 12-2009-02, adopting the MSTMA's rules and regulations regarding the operation of the sewer system immediately in effect prior to dissolution of the MSTMA;

WHEREAS, pursuant to Section 2511 of the Pennsylvania Second Class Township Code, the Board of Supervisors by resolution may impose a charge against persons whose property is connected to the sewer system for use of the Sewer System;

WHEREAS, the Board of Supervisors desires to amend its rules and regulations regarding user charges for the Sewer System, which amendment shall constitute an amendment and restatement in its entirety of Article II, User Charge, of MSTMA Resolution No. 7-95-1.

NOW, THEREFORE, BE IT HEREBY RESOLVED AND ADOPTED by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, and it is hereby resolved as follows:

Section 1: The Board of Supervisors adopts the rules and regulations regarding user charges for the Sewer System as set forth in Exhibit "A" hereto, which shall constitute an amendment and restatement in its entirety of Article II, User Charge, of MSTMA Resolution No. 7-95-1. The remaining rules and regulations contained in MSTMA Resolution No. 7-95-1 shall continue in effect,

including any previous amendments by the MSTMA Board or Township Board of Supervisors. The user charge rules and regulations contained in Exhibit "A" shall be applied consistently with the Township's other sewer rules and regulations, including but not limited to those contained in MSTMA Resolution No. 7-95-1, as amended.


Section 2: Severability. The provisions of this Resolution shall be severable, and if any of the provisions hereof shall be found to be invalid or unenforceable, the remaining provisions shall remain in effect.

Section 3: Repeal. Any resolution conflicting or inconsistent with any of the provisions in this Resolution is hereby repealed, but only insofar as they are inconsistent. To the extent the rules and regulations adopted by this Resolution are the same as any provisions contained in rules and regulations in force immediately prior to adoption of this Resolution, the provisions of this Resolution are intended as a continuation of such prior provisions and not as new provisions. The provisions of this Resolution shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any Resolution in force prior to adoption of this Resolution.

Section 4: Effective Date. This Resolution shall become effective July 1, 2014 and shall remain in effect until modified, revoked or repealed by further Resolution of the Board of Supervisors.

RESOLVED THIS 22ND DAY OF MAY, 2014, BY THE BOARD OF SUPERVISORS OF MIDDLE SMITHFIELD TOWNSHIP AT A LAWFUL SESSION DULY ASSEMBLED.


Chairperson


Vice Chairperson


Supervisor

ATTEST:

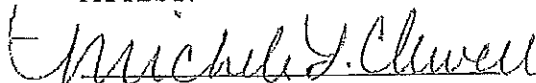

Secretary

EXHIBIT "A" TO RESOLUTION

ARTICLE II, USER CHARGE

[attached hereto]

ARTICLE II

USER CHARGE

SECTION 2.01. A User Charge is hereby imposed upon the Owner of each Improved Property which shall be connected to the Sewer System, for use of the Sewer System, whether such use is direct or indirect, and for services rendered by the Township in connection therewith, and shall be payable as provided herein. At the discretion of the Township, such User Charge may be imposed upon the Owner of an Improved Property who refuses improperly to connect such Improved Property to the Sewer System, as compensation for the availability of services by Township in connection with the Sewer System.

SECTION 2.02. The User Charge shall be payable by the Owner of each Improved Property commencing the earlier of: (1) the date of actual, physical connection of an Improved Property to the Sewer System, or (2) sixty (60) days from the date indicated on the Notice to Connect.

SECTION 2.03. The User Charge applicable to any Improved Property constituting a Dwelling Unit or Large Consumer shall be calculated, imposed and collected on the basis provided in this Section, in the sole discretion of the Township.

Equivalent Dwelling Unit Rate Basis

Each Improved Property shall be charged a User Charge as a specific amount per Equivalent Dwelling Unit applicable to such Improved Property, as determined by the Township, from time to time. The number of Equivalent Dwelling Units applicable to each Improved Property shall be determined as follows:

DESCRIPTION OF IMPROVED PROPERTY	UNIT OF MEASUREMENT	NUMBER OF EQUIVALENT DWELLING UNITS PER UNIT OF MEASUREMENT
Residential Dwelling (year round or seasonal)	Each Single Family Dwelling Unit	1
Apartments or other Multi-Family Dwelling	Each Apartment or Dwelling	1
Retail Store, Professional Office or other commercial Enterprise	1-10 full time employees 2 part time employees = 1 full time	1
	Each additional 10 employees or fraction thereof	1
Supermarkets	1-10 full time employees 2 part time employees = 1 full time	1
	Each additional 10 employees or fraction thereof	1
Hotel, Motel, or boarding house (not including restaurant facilities)	1-4 rental rooms	1
	Each additional 4 rooms or fraction thereof	1

Beauty parlor or Barber shop (whether or not attached to or part of a dwelling unit)	2 chairs Each additional 2 chairs or fraction thereof	1 1
Restaurant, Club, Tavern, or other retail food establishment	1 to 15 customer seats Each additional 15 seats or fraction thereof	1 1
Automobile service station or commercial repair shop	1-3 bays Each additional 2 bays or fraction thereof	1 1
Car Wash	Each bay	1
Laundries	Each 2 machines or fraction thereof	1
Movie Theaters	1 to 50 seats Each additional 50 seats or fraction thereof	1 1
Fire Company	Each property	1
Educational/Education-related Institutional Establishment (including But not limited to, day care Centers, church schools and Health care facilities)		
a. Without cafeteria Gyms or showers	Per each 30 persons or fraction thereof	1
b. With cafeteria, but No gym or showers	Per each 26 persons or fraction thereof	1
c. With cafeteria, gym and showers	Per each 22 persons or fraction thereof	1
Caterer	Off site service On-site service (1 to 20 customer seats) Each additional 20 seats or fraction thereof	2 1 1
Bowling Alley (restaurant facilities, if included, shall add EDUs per restaurant category)	1 to 4 lanes Each additional 4 lanes or fraction thereof	1 1
Golf Course/Country Club	1-10 showers	1

(with showers)	Each additional 10 showers or fraction thereof	1
Golf Course/Country Club (with Pool & Showers)	Does not include restaurant or banquet Facilities which would be extra 1-10 showers	10
	Each additional 10 showers or fraction thereof	1
	Does not include restaurant or banquet Facilities which would be extra	
Pool	With Locker Room and showers	10
Banquet, Ballroom, or Community Hall	up to 150 seating capacity or fraction thereof	2
	Each additional 150 seating	1
Fitness Center (with showers)	Per shower	1
House of Worship	Not including school or banquet Facilities	1
Convenience Store	see footnote 3	4
Post Office	Each property	1
Funeral Home	Each property	2
Library	Each property	1
Dentist Office	Each chair	1
Doctor Office	Each exam room	1
Time Share	Each Unit	0.61 EDU
Bed-and-breakfast	Per rental room	0.20 EDU
Nursing Home	Per bed	0.33 EDU
Hospitals	Per bed	1

Foot Notes:

1. With regard to Retail Stores, Professional Offices and other Commercial Enterprises, if the number of projected employees is not readily available, the EDU calculation shall be based upon an estimation of employees in accordance with the following formula:

$$\# \text{ employees} = (\text{gross building square footage}) \times (0.8) / (150 \text{ sq. ft./employee})$$

2. In multi-tenant retail structures, the number of EDU's shall be calculated separately for each tenant space, with each tenant space being assessed a minimum of one (1) EDU.
3. If available, metered water consumption and/or sewage generation records from comparable facilities will be considered in the calculation of EDU's for a proposed establishment provided that the EDU calculation is based upon the highest quarterly measurement during the immediately prior four (4) calendar quarters. In such calculations, 200 gallons per day shall be equivalent to one (1) EDU.

The number of Equivalent Dwelling Units applicable to Commercial Establishments and Industrial Establishments shall be computed on the basis of the average daily number of full and part-time employees (including the owner(s) or employer(s)) for the calendar quarter preceding the date of the quarterly billing. The Owners of such facilities shall be responsible for advising the Township in writing of the number of employees upon connection to the Sewer System and upon request of the Township. The number of Equivalent Dwelling Units applicable to Educational/Education-related Institutional Establishment shall be computed on the highest monthly average daily attendance of pupils (plus faculty, administrators and staff) during the twelve (12) months preceding the date of quarterly billing.

To the extent that the use of any Improved Property is not adequately described above, the Township may use appropriate guidelines for determining Domestic Sanitary Sewage flows as promulgated by the Pennsylvania Department of Environmental Protection from time-to-time or from other generally acceptable sources.

If the use or classification of any Improved Property is proposed to be changed by any Owner, the Owner shall notify the Township thirty (30) days before such change is to take place and Owner shall demonstrate to the Township that it owns sufficient EDU's to service the Improved Property after the proposed change. No change of use or classification shall be allowed by the Township unless, in the sole discretion of the Township, adequate EDU's are purchased by Owner and allocated to the Improved Property.

Where use or classification change results in the Owner of the Improved Property requiring less EDU's than the Owner may request that the Township repurchase any such excess EDU's. However, the Township shall be under no obligation to repurchase any EDU's, and shall do so only where demand for sewer capacity exceeds the then-current supply. The repurchase price shall be equal to 90% of the lowest price paid by the Owner for any EDU without discount or premium.

If the use or classification of any Improved Property changes within a billing period, the User Charge shall be prorated by the Township. The Owner of the Improved Property shall be responsible for advising the Township in writing of any such change affecting the User Charge payable hereunder. The appropriate credit or additional charge shall appear on the statement for the next succeeding billing period.

The annual flat rate User Charge payable per Equivalent Dwelling Unit shall be as established by Resolution from time to time. The minimum number of Equivalent Dwelling Units assigned to any Improved Property shall be one (1).

SECTION 2.04. In the case of a Multiple Use Improved Property sharing a common connection to the Sewer System or a common structure, each such classification of Improved Property shall pay a separate User Charge, as though it was housed in a separate structure and had a direct and separate connection to the Sewer System, computed in accordance with Section 2.03 of this Resolution.

SECTION 2.05. The Owner of any Improved Property which shall discharge Domestic Sanitary Sewage and/or Industrial Wastes into the Sewer System in excess of a total flow of 350 gallons per day (gpd) per Equivalent Dwelling Unit with a peak flow rate in excess of 700 gallons per day for any 10-minute period, per Equivalent Dwelling Unit, as determined or reasonably estimated by the Township, shall pay a volume surcharge. The Owner of any Improved Property which shall discharge Domestic Sanitary Sewage and/or

Industrial Wastes to the Sewer System having a B.O.D. greater than 350 ppm, or a Suspended Solids content greater than 300 ppm, or a Dissolved Solids content greater than 500 ppm, or a Total Solids content greater than 800 ppm, or a Total Phosphorus as P content greater than 20 ppm or an Ammonia Nitrogen as N content greater than 50 ppm, shall pay a strength of waste surcharge, in addition to applicable volume surcharges.

Surcharges shall be paid in addition to all User Charges computed in accordance with provisions of this Article II and shall be computed on such basis as the Township may from time to time adopt. The strength of Domestic Sanitary Sewage and/or Industrial Wastes to be used for establishing the amount of surcharge shall be determined periodically at the discretion of the Township either: (1) by suitable sampling and analysis of such wastes for a consecutive three-day period during a time of normal plant operation; or (2) from estimates made by the Township; or (3) from known relationships of products produced to strengths of such wastes for those industries where such factors have been established. In establishing such waste strengths for surcharge purposes by analysis, analyses shall be made in accordance with procedures outlined in the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association, Inc.

SECTION 2.06. The Owner of any Improved Property discharging Domestic Sanitary Sewage and/or Industrial Wastes into the Sewer System shall furnish to the Township by way of the application, information deemed essential or appropriate by the Township for the determination of all applicable User Charges and surcharges. The costs of obtaining such information shall be borne by such Owner of the Improved Property.

In the event of failure of the Owner to provide adequate information, the Township shall estimate the applicable User Charge and surcharges based upon available information, until such time as adequate information is received. There shall be no rebate of past payments if the Owner's refusal to provide or delay in providing such information results in overpayment.

SECTION 2.07. Nothing herein contained shall be deemed to prohibit this Township from entering into separate or special agreements with Owners of Improved Property with respect to the User Charge to be imposed in those cases where, due to special or unusual circumstances, the User charge set forth herein shall be deemed by this Township, in its sole discretion, to be inequitable, or where it is in the best interests of this Township to do so.

SECTION 2.08. User Charges and surcharges, as applicable, shall be payable on a quarterly basis, on the first day of January, April, July and October and of each year and shall cover a billing period consisting of the immediately preceding three months. Owners of Improved Property that shall be required to connect to the Sewer System during any quarterly period shall pay a pro-rated User Charge for service for the balance of the quarterly period, plus any applicable surcharges.

SECTION 2.09 It shall be the responsibility of each Owner of an Improved Property to provide the Township with, and therefore keep the Township continuously advised of, the correct mailing address of such Owner. Failure of any Owner to receive a bill for the 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.

SECTION 2.10. Billing and collection of current and delinquent accounts of sewer user charges and sur-charges shall be in accordance with Resolution 06-2012-01 and 2012-07-03.

SECTION 2.11. No officer or employee of the Township is authorized to reduce, vary or exempt charges imposed herein or other provisions of this Resolution without official action by the Board of Supervisors.

Every Owner of Improved Property shall remain liable for the payment of User Charges and surcharges until the later of: (1) the receipt by the Township of written notice by such Owner that the property has been sold,

containing the correct name and mailing address of the new Owner; or (2) the date on which title to the Improved Property is transferred to a new Owner. Failure to provide notice renders an Owner continuously liable for any charges that may accrue until such time as the Township has been properly notified of any change in ownership as described above.