

ORDINANCE NO. 197-2009

AN ORDINANCE AMENDING THE CODE OF TILDEN TOWNSHIP, TILDEN, BERKS COUNTY, PENNSYLVANIA TO ALLOW FOR THE PAYMENT OF THE TAPPING FEE PURSUANT TO AN INSTALLMENT AGREEMENT BETWEEN THE TOWNSHIP AND THE PROPERTY OWNER.

WHEREAS, Tilden Township ("Township") requires residents to connect into the Tilden Sewage System ("System"); and

WHEREAS, Section 104, entitled "Tapping Fee", of Part 1, Subpart B, entitled "Fees, Charges and Connections", of Chapter XXII, entitled "Sewers and Sewage Disposal", of the Code of Ordinances of Tilden Township states that a tapping fee ("Tapping Fee") shall be imposed by the Township for the purpose of recovering a portion of the costs associated with the construction for the existing sewage facilities, planned facilities and to reimburse other residents for costs those residents incurred related to the System and for additional facilities which must be constructed to provide service to the property owner; and

WHEREAS, property owners connecting to the System are required by the Township to pay the Tapping Fee; and

WHEREAS, in accordance with the Second Class Township Code, 53 P.S. Section 67502 and the Code of Ordinances, the Board of Supervisors desires to authorize the payment of the Tapping Fee in a lump sum amount or in equal installment payment for a period as provided for.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Tilden Township, Berks County, Pennsylvania, and IT IS HEREBY ENACTED AND ORDAINED by the authority of the same, as follows:

SECTION 1. Section 104, entitled "Tapping Fee", of Part 1, Subpart B, entitled "Fees, Charges and Connections", of Chapter XXII, entitled "Sewers and Sewage Disposal", of the Code of Ordinances of Tilden Township, is hereby amended and restated in its entirety as follows:

"Section 104. There is hereby imposed a tapping fee for the purpose of recovering a portion of the cost for existing facilities, planned facilities, to reimburse others for facility construction previously paid for at their expense and for facilities which must be constructed to provide service to the property owner connecting to the sewage system. Such tapping fee will be determined pursuant to the duly adopted Fee Schedule in effect at the time of payment and shall be

payable either at the time of application for connection, at such other times as the property owner and the Township agree or in accordance to the installment payment plan as described by Section 115 or, in the case of project to serve existing development, such tapping fee shall be payable at a time to be determined by the Township. Tapping fees will be determined and charged in accordance with Act 203 of 1990, as amended. Such fees shall be established by resolution of the Township of the Board of Supervisors."

SECTION 2. Section 115, entitled "Tapping Fee", of Part 1, Subpart B, entitled "Fees, Charges and Connections", of Chapter XXII, entitled "Sewers and Sewage Disposal", of the Code of Ordinances of Tilden Township, is hereby amended and restated in its entirety as follows:

"Section 115. Time and Method of Payment.

- (a) Tapping fees imposed by this Part shall be payable:
 - 1) upon the application of the property owner connecting to the sewage system as a lump payment;
 - 2) as a lump payment at such other time as agreed upon by Township and property owner; or
 - 3) on a monthly basis for a total of twenty-four (24) monthly payments which payments shall include interest at the rate of six percent (6%) per annum, pursuant to an agreement between the property owner and the Township, such agreement being to the satisfaction of the Township Solicitor. Such agreement will include the property owner's consent to the placing of a lien against the property for the principal amount, interest and penalty, as allowed by law. Upon payment in full of the outstanding amount, said lien shall be released by the Township.
- i) Should property owner default in the payment of any installment and interest payment for a period of ninety (90) days after said payment becomes due, the entire principal amount and accrued interest shall become due and the Township Solicitor shall proceed to collect the balance, and all interest, penalties and costs, under the general laws relating to the collection of municipal claims.
- ii) Any property owner against whom an assessment is made may pay the assessment, in full, at any time, together with interest and costs owing thereon though the due date of the next installment and that payment shall discharge the lien.

- iii) Property owners not in default of a payment may make prepayments against the final payment due, without penalty for such prepayments.
 - iv) The Board of Supervisors of Tilden Township does hereby approve, adopt and authorize the execution of Agreements between the Township and property owners desiring to enter into a tapping fee payment plan arrangement, in accordance with the provisions of this Section, without further Board Action.
- (b) Sewer rentals or charges imposed by this Part, other than tapping fees, shall be payable quarterly. In the case of an owner of improved property whose quarterly bill for sewer rentals or charges, shall be computed in whole or in part upon the basis of water volume usage metered in connection with the operation of the water system, the quarterly billing date shall be the same date as shall be applicable for billing in connection with the water system. Such bill for sewer rentals or charges shall cover services furnished during the three (3) months immediately preceding the billing date.

In the case of an owner of improved property whose quarterly bill for sewer rentals or charges shall be computed on any basis completely independent of water volume usage metered in connection with the operation of the water system, the quarterly billing date shall be the first days of January, April, July and October, respectively, in each year and, to the extent practicable, shall cover services furnished during the three (3) calendar months immediately preceding the billing date.

- (c) Sewer rental or charges shall be due and payable upon the applicable billing date as provided for in this Part, and the appropriate amount computed in accordance with this Part shall constitute the net bill. If sewer rentals or charges or tapping fees are not paid within thirty (30) calendar days after each billing date, an additional sum of ten percent (10%) for every month that said charge remains unpaid 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, payment made or mailed and postmarked on the next succeeding weekday, which is not a legal holiday shall constitute payment within such period.

- (d) Whenever service to any billing unit shall begin after the first day or shall terminate before the last day of any quarterly billing period, sewer rentals or charge for such period shall be prorated equitably, if appropriate, for that portion of the quarterly billing period, during which such billing unit was served by the sewer system.
- (e) Every owner of improved property which is connected to the sewer system initially shall provide the Township with and thereafter shall keep the Township advised of their correct mailing address. Failure for any person to receive quarterly bills for sewer rentals or charges shall not be considered an excuse for nonpayment nor shall such failure result in an extension of the period of time during which such bill shall be payable without penalty."

SECTION 3. Section 116, entitled "Liens for Fees, Charges, Rentals and Connections", of Part 1, Subpart B, entitled "Fees, Charges and Connections", of Chapter XXII, entitled "Sewers and Sewage Disposal", of the Code of Ordinances of Tilden Township, is hereby amended and restated in its entirety as follows:

"Section 116. Liens for Fees, Charges, Rentals and Connections. The fees and assessments for connection, extraordinary maintenance charge, tapping fee and any associated interest, penalties and costs, rental or any other charges adopted pursuant to this Part shall be liens on the improved property connected to and served by the POTW from the date such fee, rental amount or charge becomes due and payable and all sewer rentals, charges, assessments or fees imposed which shall not be paid within sixty (60) days after the same becomes due and payable shall be entered as liens against the improved property so connection to and served by the POTW, which lien(s) shall be filed in the office of the Prothonotary of Berks County, Pennsylvania, in a manner provided by law for the filing of Municipal claims. All delinquent bills shall be collected by the Township in any manner permitted and authorized by law."

SECTION 4. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Board of Supervisors of Tilden Township, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 5. Any and all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 6. This Ordinance shall become effective in accordance with the law.

SECTION 7. The Code of Ordinances of Tilden Township, as amended, shall be and remain unchanged and in full force and effect except as amended, supplemented and modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances of Tilden Township, as amended, upon adoption.

DULY ENACTED AND ORDAINED this 3rd day of October, 2009.

TILDEN TOWNSHIP
BOARD OF SUPERVISORS

Russell H. H. H.

Judy E. Romig

Troy R. Watt

Attest:

Cheryl A. Haus
Secretary

SEWAGE TAPPING FEE PAYMENT AGREEMENT

THIS AGREEMENT is made this _____ day of _____, _____, by and between _____ and _____, with an address of _____, Tilden Township, Berks County, Pennsylvania (hereinafter called the "Owner"); and the TOWNSHIP OF TILDEN, 874 Hex Highway, Hamburg, Berks County, Pennsylvania, (hereinafter called the "Township").

WHEREAS, the Township of Tilden passed Ordinance No. _____ ("Ordinance") allowing for payment options for sewage tapping fees; and

WHEREAS, Owner owns property at _____ ("Property") against which Township has assessed the amount of \$_____ for the tapping fees associated with the Property's connection to the Township sewage system ("Sewage System"); and

WHEREAS, the Owner is desirous of complying with the payment plan option as described in the Ordinance.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and INTENDING TO BE LEGALLY BOUND HEREBY the parties hereto, agree as follows:

1. The parties hereto acknowledge and agree upon the accuracy of the foregoing recital paragraphs.
2. The Owner and the Township hereby agree that the Owner's assessment for a tapping fee connecting the Property to the sewage system is \$_____ for the Property.
3. The Owner desires to pay the assessment as follows:
 - a. The entire assessment shall be paid in twenty-four (24) equal monthly payments commencing _____, 2009. Payments are due on the 15th day of each month of the 23 months thereafter. Owner shall pay such installments without further notice.
 - b. Interest rate will be equal to 6.00%.
 - c. Owner agrees to pay the total of \$_____ in twenty-four (24) equal monthly payments of \$_____.

d. A lien claim in the total amount of \$_____ may and shall be filed by the Township against the Owner in the Prothonotary's Office of Berks County. Owner agrees to pay for the costs of filing a lien with the Berks County Prothonotary's Office. Said lien shall be satisfied upon payment in full under this Agreement.

4. If there is any default in the payment of any installment and interest for a period of sixty (60) days after it becomes due, the entire assessment and accrued interest shall become due, and the Township Solicitor shall proceed to collect the assessment under the general laws relating to the collection of municipal claims.

5. Any owner of property against whom any assessment is made may pay the assessment in full, at any time, with interest and costs thereon to the due date of the next installment, and that payment shall discharge the lien.

6. Owner may, but is not obligated, to make prepayments against the amount owed, with such prepayments being in the full amount of a monthly payment and being assessed against the final installment payment. Owner shall not incur a penalty for such prepayment.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above first written.

Attest:

Secretary

TOWNSHIP OF TILDEN

By: _____
Chairman

Owner (SEAL)

Owner (SEAL)