

EAST BERLIN AREA JOINT AUTHORITY
ADAMS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2-2010

AN ORDINANCE TOGETHER WITH THE RULES AND REGULATIONS AMENDED BY RESOLUTION FROM TIME TO TIME BY THE EAST BERLIN AREA JOINT AUTHORITY PURSUANT TO THIS ORDINANCE, SHALL FORM AND BECOME PART OF THE CONTRACT WITH EVERY CONSUMER WITHIN THE SERVICE AREA WHO UTILIZES THE **WASTEWATER SYSTEM**, AND EVERY SUCH CONSUMER, BY UTILIZING THE WASTEWATER SYSTEM, AGREES TO BE BOUND THEREBY.

BE IT ENACTED AND ORDAINED by the Board of the East Berlin Area Joint Authority in and for Adams County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

[HISTORY: Adopted by the EAST BERLIN AREA JOINT AUTHORITY, Ordinance 2-2008, dated March 6, 2008; Resolution 2007-8, dated December 6, 2007; Resolution 2008-3, dated August 7, 2008; Resolution 2009-12, dated December 3, 2009]

GENERAL REFERENCES

Municipal Authorities Act: 53 Pa CS §§ 5601-5623
International Building Code 2009 edition as amended
International Plumbing Code 2009 edition as amended

Section 1: Declaration of Purpose

This ordinance is enacted to put forth the General provisions and Rules and Regulations applicable to: Application for Service, Connection to the Wastewater System, Adoption of Connection Charges and Rates, Collection of Rent, Discharges Restricted, Severability and Violations and Penalties.

Section 2: Definitions

The following words and/or phrases, as used in this ordinance and the Rules and Regulations, shall have the following meanings:

AUTHORITY - The East Berlin Area Joint Authority, a municipal authority organized under the Municipality Authorities Act, as amended, 53 Pa. C.S. §§5601-5623, acting through its properly authorized officers, agents and employees.

APARTMENTS-shall mean structures containing domestic establishments, not classified as a single family detached or attached structure.

BUILDING OR HOUSE DRAIN - That part of the main horizontal drain and its branches inside the walls of the building, vault or area extending to and connecting with the house sewer.

COMMERCIAL ESTABLISHMENT- shall mean any improved property use, in whole or in part, for sale, storage and/or distribution of any product, commodity, article or service.

CONSUMER - The party contracting for service to a property as hereinafter classified,

A. A building under one (1) roof and occupied by one (1) family or business. For the purpose of this ordinance, a motel or hotel shall qualify as a single business, provided that no guest, customer or user shall remain upon the premises any one (1) period in excess of six (6) months.

B. A combination of buildings in one (1) common enclosure, occupied by one (1) family or business.

C. One (1) side of a double house occupied by one (1) family or business having a solid vertical partition wall.

D. One (1) side or part of a house occupied by one (1) family or business, even though the water closet and/or other fixtures may be used in common.

E. Each apartment in a building having more than one (1) apartment.

F. Each apartment, office or business in a building having a number of apartments and/or offices and/or businesses.

DEVELOPER- shall mean any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to make a subdivision of land or a land development. The words "sub divider" or "builder" are construed to mean the same as Developer when used herein

DEVELOPMENT

A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

(a) A group of two or more buildings, or

(b) The division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, and/or other features;

B. A subdivision of land into lots for the purpose of conveying such lots singly or in groups to any person, partnership or corporation for the purpose of the erection of buildings by such persons, partnership or corporation;

C. Any man-made change to improved or unimproved real estate, including but not limited to, buildings, mobile homes, or other structures, mining, dredging filling, grading, paving excavation, or drilling operations.

DOMESTIC ESTABLISHMENT-shall mean any room, group of rooms, house trailer or other enclosure occupied or intended for occupancy as separate living quarters with separate cooking facilities by a family or other group of persons living together or by a person living alone.

HOUSE SEWER – that part of the main house drain or sewer extending from a point five (5) feet outside of the inner face of the outer walls of a building, vault or area to its connection with the lateral.

IMPROVED PROPERTY- shall mean any property on which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human being or animals and/or from which structure sanitary sewage and/or industrial wastes are or may be discharged.

INDUSTRIAL ESTABLISHMENT- shall mean any improved property or premises used or intended for use wholly or in part for the manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article, or from which wastes, in addition to and other than sanitary sewage, shall be discharged.

LANDOWNER- shall mean the legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the Landowner, or other persons having a proprietary interest in land. The word "Owner" means the same as Landowner and may be used interchangeably.

LATERAL – that part of the sewer system extending from a public or private main sewer to curblin or property line if there is no curb.

NON-DOMESTIC ESTABLISHMENT- shall mean any improved property or portions thereof not classified as a domestic establishment.

OWNER- shall mean any person vested with ownership, legal or equitable, sole or partial, of any improved property.

PERSON- shall mean any Individual, Partnership, Company, Association, Society, Trust, Corporation, Municipality, Municipal Authority or other group or entity.

SANITARY SEWAGE- shall mean normal water-carried household and toilet wastes from any improved property

WASTEWATER SYSTEM-(System) shall mean any pipe or conduit constituting a part of the system used or usable for collection purposes.

WASTEWATER SYSTEM SERVICE shall mean all facilities, as of any particular time, for collecting, pumping, transmitting, treating and disposing of sanitary sewage and/or industrial wastes, situated in the service, and owned by the East Berlin Area Joint Authority.

Section 3: Application for Service

A. Before service is initiated, the property owner desiring such service shall make written application for service on a form to be provided by the East Berlin Area Joint Authority (Authority); and upon approval of such application by the Authority, such application, together with the Rules and Regulations, shall become the service contract; and the applicant and the Authority shall thus become the contracting parties.

B. A new application shall be executed in any instance involving a change in the contracting parties, location of service or in the class or scope of service to be taken.

C. All applications to use the Authority's Wastewater System must be signed by the property owner as guarantor for the payment of all bills rendered. Neglect of a tenant to make payments shall make the property owner liable for such payments.

D. No property owner or tenant of any premises connected to the Wastewater System of the Authority will be allowed to permit another person or premises to use or connect with his service line, except upon written permit from the Authority.

E. Any violation of the Rules and Regulations of the Authority shall render the contract between the consumer and the Authority void. After due notice, fine and penalties may be imposed pursuant to Authority's Rules and Regulations.

F. The Authority reserves the right to refuse connection to the Wastewater System of deleterious industrial wastes, or to compel discontinuance of the use of the system for such wastes, or to require pretreatment and/or equalization of flow thereof in order to prevent harmful or adverse effects upon the system, or for any reason as set forth in this ordinance.

Section 4: Connections to the Wastewater System

- A. No connection or disconnection shall be made to or from the Wastewater System except under the supervision, control and approval of the Authority's authorized representative.
- B. No repairs, alterations or additions to any main line or lateral connected to the Wastewater System shall be made until an application is on file and a permit is issued by the Authority.

Section 5: Extension of Street Main; Deposit

- A. When application has been received for Wastewater system service requiring improvements of the Wastewater System, a bond or other approved financial security shall be required by the Authority from the applicant, covering the entire estimated cost of installing the necessary pipelines and appurtenances other than service connection, or part thereof as the Authority deems proper, as determined by the Authority.
- B. Such bond or financial security may bear interest.
- C. The provisions stated herein requiring a deposit shall not be affected by any rules, regulations or requirements adopted by a local Planning Commission or adopted by ordinance by a Municipal governing body designed to implement any recommendation of the Planning Commission.
- D. Upon completion of the improvements, release of bond shall be made to the applicant in amounts calculated as set forth in any agreement executed between parties.

Section 6: Time Limit: Work to be performed by Authority

Within three (3) months from the date upon which the Wastewater System has been completed and service is available, any owner of improved property within the service area abutting on or adjoining any street, avenue, lane or other public highway in which the Wastewater System is available shall connect therewith. Should such person fail to connect therewith, the Authority shall give such owner forty-five (45) days written notice of this ordinance, either by personal service or by registered mail sent to the last known address of such owner, and upon the failure of such owner to make the required connection within said forty-five-day period, the Authority may make such connection and collect the cost thereof from such owner by a municipal claim or in an action in assumpsit's. The amount collected shall be as set forth in the Rules and Regulations.

In the event that Wastewater System service becomes available to additional properties and the owner of any such property shall fail to connect his or her premises to the Wastewater system within three (3) months, the Authority shall likewise give such owner forty-five (45) days written notice of this ordinance, either by personal service or by registered mail sent to the last known address of such owner, and upon failure of such owner to make the required connection within the forty-five (45) days, the Authority may make such connection and collect the cost thereof from such owner by a municipal claim or an action in assumpsit's. The amount collected shall be as set forth in the Rules and Regulations.

Section 7: Septic Tanks or Privy are Prohibited

After the expiration of time within which each owner is required to connect with the Wastewater system under Section (6) of this ordinance, it shall be unlawful for any person, firm or corporation to own, maintain, operate or use within the service area a privy, cesspool, vault, septic tank or similar receptacle for sanitary sewage upon any property now or hereafter improved which abuts on or adjoins any street, avenue, lane or public highway in which the Wastewater System is constructed, to connect any such privy, cesspool, vault, septic tank or similar receptacle to the Wastewater System or to discharge sewage into any storm sewer or other outlets other than the Wastewater System.

Section 8: Rates and Fees

Wastewater System's rates and connection fees shall be according to the Rules and Regulations pursuant to this ordinance.

The payment of the Wastewater System rents and fees shall be according to the Rules and Regulations.

Section 9: Adjustments for properties

The Authority shall have the right, in its discretion, to authorize adjustments for owners of the properties for water received from the Authority water system which is not discharged into the Wastewater system. The Authority may require the installation, at the sole cost of the owner, of a meter or other measuring device approved by the Authority or, if such installation shall be impractical, may authorize the amount of such water to be estimated in such manner as it shall deem fair and proper. Such adjustments shall be made only to reduce the excess water consumption on which additional Wastewater System rents are based under the Rules and

Regulations promulgated. However, in accordance with the Rules and Regulations, such adjustments shall not affect the Wastewater System rents imposed by said Rules and Regulations.

Section 10: Miscellaneous Provisions

Discharges restricted: No owner of property shall be permitted to discharge into the Wastewater System any storm water drainage, sump pump discharge, ground water, subsurface drainage or roof runoff

Severability: The provisions of this ordinance and the Rules and Regulations adopted from time to time by the Authority are severable, and if any of its provisions shall be held to be illegal, such illegality shall not affect or impair any of the remaining provisions of the ordinance. It is hereby declared to be the legislative intent of the Authority that this ordinance would have been adopted had any such illegal provision not been included herein.

Violations and Penalties: Any person violating the provisions of this ordinance shall, upon conviction before a District Justices for every such violation, be sentenced to pay a fine not less than Two Hundred and Fifty Dollars (\$250) or more than Seven Hundred and Fifty Dollars (\$750) plus costs of prosecution.

Section 11: Reservation of Wastewater System Service Capacity

The East Berlin Area Joint Authority (Authority), pursuant to the authority vested in it by law, is constructing and operating sanitary Wastewater collection and treatment systems for rendering Wastewater service for the Service Area, Adams County, Pennsylvania, all of which facilities, together with all additions, extensions, alterations and improvements which may be made or acquired from time to time, are referred to as the "Wastewater System" (System)

The Authority recognizes that its system has a limited capacity for additional system loads. It further recognizes that Landowners and Developers desiring to develop land, and use the remaining unused system capacity, need some reasonable assurance that system capacity for their proposed development or land use will be reserved for their needs before they make major long term capital investments in their proposed development or use. It recognizes that reserving system service capacity for a particular Landowner or Developer will take that capacity out of immediate available use, and being held out of immediate available use, such lack of system use will result in a loss of income for the Authority. This loss of income should be replaced by System Reservation Charges imposed upon those Landowners and Developers holding the reserved capacity. So that the customers using the system will not experience higher user rates as a result of any such reservation, approval for reservation of capacity should be granted on the basis of uniform and fair allocation policy especially when requests for capacity may exceed available capacity.

Requests for Reservation of Capacity

Any Landowner or Developer in the Service Area, who expects to need public wastewater system service for the development of his/her/its land, may request the Authority to reserve capacity into its wastewater system for the proposed development. The request should be in writing to the Authority and it should provide the following data:

- A. Location of the land proposed for development
- B. Proposed type of development.
- C. For development involving domestic establishments, the estimated number of dwelling units (EDU's) proposed for construction.
- D. For development involving non-domestic establishments, the estimated gallons per day of wastewater flows expected from the proposed development.
- E. For development involving Industrial Establishments, the estimated gallons per day of wastewater flows expected from the proposed development, and the expected biological and chemical properties of the wastewater flows expected from the proposed development.
- F. The proposed timetable for use of the Wastewater System Service.

The request for reservation described above can be submitted any time. The review, approval and/or rejection of these requests shall be made at public meetings of the Authority, in general conformity to the guidelines provided in this Ordinance. Since each request will have individual characteristics, the guidelines provided in this Ordinance for the reviews, approvals and/or rejection of these requests for reservation shall not be mandatory.

The Landowner or Developer is encouraged to present the request for reservation, prior to preliminary plans submitted for subdivision or development with the local municipality or County.

If the Authority anticipates that capacity can be reserved for a particular Landowner or Developer, this person or entity will be required to enter into a Reservation Agreement with the Authority prior to approval. The contents of this Reservation Agreement are described in this Ordinance.

The reservation of capacity by the Authority with individual Landowners or Developers is not any form of guarantee or approval of the proposed development, or even of the proposed wastewater system service. Approvals for subdivisions and developments are regulated by the local municipality by way of various Zoning and Subdivision and Land Development Ordinances, and approval for wastewater system service is regulated by the Authority by way of various Wastewater System Service Ordinances, and by way of planning approval powers granted to the Borough by way of State Laws and Regulations, (e.g. State Act 537 and Regulation Chapter 71).

The Authority shall attempt to respond to request for reservations of capacity within ninety (90) days of their receipt, but lack of action in a timely manner shall not automatically mean request approval or denial.

Reservation Agreement

Prior to approval of the reservation of wastewater system capacity for a Landowner or Developer, the Landowner or Developer must enter into a Reservation Agreement with the Authority. This Reservation Agreement shall detail the rights, responsibilities, conditions and limits placed upon the Landowner and/or Developer and the Authority with regard to the proposed allocation or reservation of capacity. The Agreement shall provide at least the following conditions and stipulations:

- A. The specifics of the capacity being reserved by the Authority, and specifics as to the land parcel, or portion thereof, and land use proposed to be served.
- B. The limit of five (5) years on the reservation of the capacity.
- C. Provisions for the payment of Reservation Charges to the Authority in accordance with this Ordinance and any Amendment to this Ordinance.
- D. The provision for payment to the Authority by the Landowner or Developer, a one time charge for the reimbursement of Authority actual expenses incurred in the engineering review of the request for reservation, and the engineering and legal review and preparation of the Reservation Agreement.
- E. The provision for acknowledgement by all parties that reservation approval does not constitute or guarantee subdivision or development approval as regulated by the local municipality.
- F. The provision that if any Federal or State Governmental Unit or Agency imposes a restriction on the Authority that would prohibit the Authority from fulfilling, its obligation to Landowner or Developer under the Agreement, then, in that event, the Landowner or Developer would be entitled to a 100% rebate for all Reservation Charges paid under the terms of the Agreement on a pro rata basis for the units or gallons of service that the Authority cannot provide. Such rebate to be allowed only for Reservation Charges due and payable after the date of Receipt of Notice of such restriction by the Authority; in addition, the provision that this rebate is the only liability the Authority shall bear as a result.
- G. The provision that the rights and responsibilities of the Agreement could be transferred to another individual, if such individual's proposed capacity, land parcel and land use are the same as those of the original Landowner or Developer.
- H. The provision that indicates all parties recognize that the reimbursement of Authority expenses and reservation charges required by this Ordinance are not tapping fees, connecting fees or Wastewater System rental charges, as may be required under other Authority Regulations, but are separate contractual payments made by a landowner and/or developer to the Authority.

That reservation charges paid pursuant to the agreement are strictly for use in conjunction with connections and are not to be considered a tapping fee or other special purpose fee for future plant expansion.

- I. Provisions for method of payment of charges, termination of charges upon connection, stipulations and conditions of late charges and defaults.
- J. Provisions that the Landowner or Developer shall hold the Authority harmless for any liability or costs incurred by the landowner or developer.
- K. Other provisions deemed proper and necessary by the Authority.

Reservation Charges

The Authority hereby sets the uniform charge for the reservation of Wastewater System Service capacity in their wastewater system. The reservation charge set in any Reservation Agreement shall be set at the following percent of the rates set for actual connected users of the wastewater system. These charges are listed below.

<u>PERIOD (As applicable)</u>	<u>RESERVATION CHARGE</u>
A. At signing of agreement	50% of actual connection costs
B. Final	50% due upon actual request for connection to system

Assignment of Reserved Capacity

The Authority may assign reserved capacity as it sees fit in the best interest of the health, safety and welfare of the Service Area and current Service Area customers. The Authority, in assigning reserve capacity, shall be guided typically by the following guidelines. It is recognized that each assignment of reservation must be reviewed on a case by case basis. It is also recognized that changing conditions of the wastewater system or wastewater flows, or wastewater system financing over a period of time may result in the Authority not following these guidelines. In recognition of these factors, it is stated that the allocation guidelines in this section are advisory, and not mandatory.

- A. The Authority should maintain a current tabulation of available estimate of wastewater system hydraulic and solids handling capacity and a current tabulation of approximate existing loads and estimated allocated loads.

Existing loads should be found by field measurements and/or lab tests where possible. Estimated allocated loads should be found by adding expected loads from:

1. Number of customers accessible to the existing wastewater collection system lines, but not connected.
2. Provisions for fill-in growth along existing lines.
3. Capacities reserved by existing Reservation Agreements.

The net capacity available for future allocation should be calculated by subtracting the existing loads and allocated loads from the wastewater system capacity.

- B. Upon a tentative assignment of allocation, the Authority should attempt to enter into a Reservation Agreement with the person or entities requesting the allocations. If the person or entities are not able to enter into such an Agreement within a reasonable period of time; the assigned allocation to that individual could be equitably redistributed to other requestors that may not have received an allocation filled at their request.
- C. The Authority should review the status of requests for reservation and available capacity at least annually.

Procedures Subsequent to Reservation of Capacity.

- A. The Landowner or Developer, upon determining that capacity is available for immediate construction or is reserved for future construction, can then prepare and file with the Amendments or Supplements to the Municipality's Official Sewer Plan, (Act 537 Plan), as required by the Borough Subdivision and Land Development or Sewage Facilities Ordinances.
- B. The Landowner or Developer is directed to the Rates, Rules and Regulations Resolution of the Authority for additional direction on the requirements for actual extension of the wastewater Collection System.
- C. Should the Landowner or Developer fail to connect to the Authority wastewater Collection System at the end of five years from the initial reservation, all fees will be forfeited and Landowner or Developer will not be entitled to any reimbursement of same.

Section: 12 Additional Provisions of this Ordinance

- A. This Authority reserves the right to adopt, from time to time, such additional Rules and Regulations as it shall deem necessary and proper, which Rules and Regulations shall become and shall be construed as part of this Ordinance.
- B. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this Authority that such remainder shall be and shall remain in full force and effect.
- C.

ENACTED AND ORDAINED this 2nd day of September, 2010.

BY: _____

Gerald L. Mummert, Chairman
East Berlin Area Joint Authority

ATTEST:

Hannelore B. Furst, Secretary
East Berlin Area Joint Authority

EAST BERLIN AREA JOINT AUTHORITY
P.O. BOX 37
EAST BERLIN, PA 17316

RESOLUTION NO. 2010-5

BE IT RESOLVED, that the East Berlin Area Joint Authority, Adams County, Pennsylvania, adopt the following Rules and Regulations pertaining to the ***Wastewater Treatment Service*** provided by the East Berlin Area Joint Authority (Authority), pursuant to Ordinance No.2-2010 of the East Berlin Area Joint Authority.

APPENDIX A

Rules and Regulations

1. Connection Fee:

The initial fee to connect to the East Berlin Area Joint Authority's wastewater system is payable with the application for service pursuant to Ordinance 2-2010 dated September 2, 2010. The fee is set by Resolution.

2. Sewer Rents:

Quarterly sewer rents are hereby fixed, imposed and collected from each owner of improved property, Residential or Commercial, which shall be connected with the Wastewater system. The fee is set and amended by Resolution.

3. Collection Wastewater Rents.

- A. Wastewater rents shall be billed within the first five days of January, April, July and October each year service is supplied, for the three (3) month period preceding the date of such bill. A penalty of ten (10%) percent will be added after fifteen (15) working days from the due date of the bill. If not paid within thirty (30) working days thereafter, the bill, plus the penalty, shall bear interest at the rate of one (1%) percent per month or fraction hereof until paid. Payment must be in the Authority's office by the close of business on the due date; otherwise a penalty will be assessed.
- B. **Procedures for handling Delinquent Accounts:** Any wastewater service account in the arrears by one quarter (90 days) shall be considered delinquent and will receive a written notice.
 1. The notice will contain the full amount due for sewer service plus penalties and interest. The customer has twenty (20) working days from the date on the letter to settle the account.
 2. After ten working days if no contact is made by the customer another notice will be sent stating that if the account is not paid in full within ten (10) working days from the date of this notice, the water may be

shut off and the overdue account will be turned over to the District Justice for collection. If the water is turned off, there is a Fifty (50) dollar fee to have it turned back on.

3. Final Notice: If no contact was made by the customer within five (5) working days of the written notice mentioned in section two above, a final notice will be given stating the month, day and time payment for the past due account must be received in the Authorities office.
 4. If the delinquent account is a rental property, the owner of the property shall be responsible to the Authority for payment, copies of the written notices mentioned in sections two and three above will be sent the tenant. Tenant(s) may suspend shut-off by paying all billing in arrears. Tenant(s) will also be advised to seek legal opinion on whether they can withhold this amount from rent.
 5. The Authority may terminate service Monday through Thursday, as long as the Authority can accept payment and restore service the following day. The Authority must be made aware of any negative circumstance occurring in the home.
- C. All bills for sewer service rent will be rendered to the property owner applying for sewer service, but failure to receive a bill is not excusing any consumer from payment thereof or from any of the penalties herein above provided. The presentation of a bill is a matter of accommodation only and not a waiver of the Authority right to payment thereof or to penalties.

4. Meter Reading

Cards will be mailed to each property owner, during the first five days of March, June, September and December for the purpose of documenting the meter reading. In the event the property owner does not return his meter-reading card on or before the 23rd day of the aforementioned months, the Authority shall computer estimate the account and shall further impose a penalty of twenty (20) dollars to be paid by the property owner at the time payment is rendered on the original bill.

5. Service Connections

All sewer connection, disconnection, repairs, alterations or additions to any sewer lateral or sewer connection to the public sewer system shall be made in accordance with the International Plumbing Code, 2009 edition, as amended.

6. Sewer connection charges

The sewer connection charge for the services mention in Section 5; shall be the cost of such services to the Authority plus ten percent (10%). Payment is due within three months from receipt of charges.

7. Miscellaneous Regulations

- A. Separate connections are required for each improved property.

- B. Owner shall bear the cost of construction and maintenance of a house sewer.
- C. Every house sewer shall be maintained in a safe operating condition free from any storm water or groundwater flows.
- D. Inspection of any new or modified house sewer by an Authority representative is required.
- E. CONSTRUCTION SPECIFICATIONS; All construction shall be in accordance with the most recently adopted construction specification of the Authority.

ENACTED AND ADOPTED this 2nd day of September, 2010.

BY: _____

Gerald L. Mummert, Chairman
East Berlin Area Joint Authority

ATTEST:

Hannelore B. Furst, Secretary
East Berlin Area Joint Authority