

**BOROUGH OF PORTLAND  
NORTHAMPTON COUNTY  
COMMONWEALTH OF PENNSYLVANIA**

**RESOLUTION #2012-5**

**RESOLUTION REQUIRING RESERVATION OF SEWER SYSTEM CAPACITY PRIOR  
TO THE ISSUANCE OF WILL SERVE LETTERS; CLARIFYING THE  
APPLICATION OF THE POLICY TO LAND DEVELOPEMENT AND OTHER  
MISCELLANEOUS MATTERS**

WHEREAS, Borough Ordinance # 2011-4, enacted November 7, 2011 (the "Ordinance"), adopted a Policy (the "Reservation Policy") Regarding Sewer System Capacity Reservation and Connection for New Development;

WHEREAS, the Borough Council (the "Council") has been requested to issue sewer system "Will Serve" letters, confirming the current availability of sewer system capacity for new development, but without actual reservation of capacity by the developer under the Reservation Policy;

WHEREAS, the Council finds that the issuance of "Will Serve" letters, without reservation of capacity under the Reservation Policy, creates uncertainty and confusion in the Borough's administration of the capacity of the sewer system, and could lead to unintended consequences, such as regulatory agencies determining that capacity identified in a "Will Serve" letter is unavailable for future use, even though the previously proposed development does not subsequently occur, or timely occur, and no reservation of capacity has been made;

WHEREAS, the Council further finds that reference to "land development" in the Reservation Policy should be clarified to include the development of any one or more commercial or residential buildings; and

WHEREAS, the Ordinance authorizes Council to make modifications to the Reservation Policy through Resolution of Council.

NOW, THEREFORE, BE IT RESOLVED:

1. The Council will not issue a "Will Serve" letter for sewer capacity until and unless a developer has reserved capacity under the Borough's Reservation Policy, including payment of all pertinent fees.

2. Any "Will Serve" letter for sewer capacity may be withdrawn by the Borough Council, without notice to a developer, in the event that the developer's reservation of sewer capacity is not properly maintained, including but not limited to payment of all required ongoing fees for reservation.

3. A section VII is hereby added to the Reservation Policy, as follows:

"VII. WILL SERVE LETTERS

The issuance of "Will Serve" letters, without reservation of capacity under the Reservation Policy, creates uncertainty and confusion in the Borough's administration of the capacity of the sewer system, and could lead to unintended consequences, such as regulatory agencies determining that capacity identified in a "Will Serve" letter is unavailable for future use, even though the previously proposed development does not subsequently occur, or timely occur, and no reservation of capacity has been made. As such, the Council will not issue a "Will Serve" letter for sewer capacity until and unless a developer has reserved capacity under the Borough's Reservation Policy, including payment of all pertinent fees. Any "Will Serve" letter for sewer capacity may be withdrawn by the Borough Council, without notice to a developer, in the event that the developer's reservation of sewer capacity is not properly maintained, including but not limited to payment of all required ongoing fees for reservation."

4. The following sentence shall be added to the first paragraph of Section I, BACKGROUND, of the Reservation Policy: "Land development" for purposes of this Policy shall include the development of any one or more commercial or residential buildings.

5. The approved amended and restated Reservation Policy is attached hereto as Exhibit "A".

6. The appropriate Borough officials are authorized to take such further incidental action in order to effectuate the purposes of this Resolution.

7. All Resolutions or parts of Resolutions inconsistent with this Resolution are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

8. If any section, subsection, sentence, clause or phrase of this Resolution is, for any reason, held to be illegal or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution.

9. This Resolution shall be immediately effective.

RESOLVED this 7<sup>th</sup> day of May 2012.

Carol A. Hummel  
Secretary  
Portland Borough

Mark C. [Signature]  
President  
Portland Borough Council

[Signature]  
Mayor  
Portland Borough

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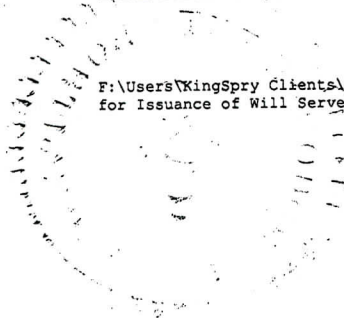


EXHIBIT "A" TO RESOLUTION

[attached hereto]



BOROUGH OF PORTLAND  
AMENDED AND RESTATED POLICY REGARDING SEWER SYSTEM CAPACITY  
RESERVATION AND CONNECTION FOR NEW DEVELOPMENT

I. BACKGROUND

In 2009, the Borough of Portland completed construction, and began operation, of its new wastewater treatment plant and public sewer system. The permitted capacity for the WWTP is 105,000 gallons per day. Owners of real property in the Borough's DRBC Service Area ("Borough Service Area") have requested the right to reserve sewer capacity, or to connect to the sewer system, in regards to new development. For purposes of this policy, "new development" includes the subdivision, land development or alteration of existing improved property for the purpose of creating additional dwelling units to be served by the Borough's Sewer System. "Land development" for purposes of this Policy shall include the development of any one or more commercial or residential buildings.

In the past, the Borough Council has refused to release, or allow the reservation of, any sewer capacity for new development, until the sewage flows for existing development could be measured. After monitoring sewage flows to the WWTP for the last two years, the Borough Council is now prepared to make available additional sewer capacity for new development in the Borough Service Area. This Policy is intended to implement

the Borough's rules concerning the reservation or use of this additional available sewer capacity.

## II. COMPUTATION OF AVAILABLE EQUIVALENT DWELLING UNITS OF SEWER CAPACITY

For purposes of this Policy, the additional available EDU's (equivalent dwelling units) of sewer capacity shall be based on an assumption of 200 gallons sewage flow per day for each EDU. The calculation of gallons per EDU may be later changed by modification of this Policy by Borough Council.

## III. RESERVATION OF SEWER CAPACITY

A property owner in the Borough Service Area may request reservation of sewer treatment plant capacity from the Borough for proposed future new development projects. A reservation of capacity ensures that the Borough will accept sewage from the planned project.

The Reservation shall be for a period of one year and shall be renewable annually thereafter at the discretion of the Borough. A request for sewer capacity reservation shall be made to the Borough on an application substantially in the form attached hereto. Reservation Applications will be acted upon by the Borough Council at a regular scheduled meeting. The Borough Council will indicate its decision on the bottom of the application and return a copy to the applicant. Issuance of a

Reservation shall not be construed as assurance that the EDU's reserved will satisfy the need of proposed development.

An annual Reservation Fee, to be determined by the Borough, must accompany the Application, along with the administrative processing fee, to be determined by the Borough. If the Reservation application is not renewed by payment of the associated annual fee by the expiration date, the Reservation will lapse. In the event that a Reservation lapses, the property owner shall be placed at the bottom of any waiting list for capacity, in the event that the property owner reapplies for reservation of capacity. Borough Council may grant an exception to the lapse rule in the event that: (1) the Borough Council finds that the new development project has made satisfactory progress, (2) the property owner demonstrates to the Council that the failure to pay the annual reservation fee was excusable and (3) the property owner makes prompt arrangements for payment of the fee.

The Reservation is made for the specific project only and assumes flows indicated thereon. It is not transferable and but shall run with the land. The Reservation Fee is independent of any Plan Review Fees, Tapping Fees, and Processing Fees, or other fees which may be required. If connection of the proposed project to the Public Sewer System is made before the expiration of the term, the actual user charges will be levied and a

prorated credit of the Reservation Fee will be applied to them. No refund will be made.

Reservation of sewer capacity for new developments shall only be available on a first come-first served basis to the owner of lands within the Borough Service Area.

#### IV. CONNECTION TO THE BOROUGH SEWER SYSTEM

1. Connection to the Borough Sewer System shall be in accordance with the Borough Sewer Rules and Regulations. No connection shall be made prior to the property owner applying for and receiving Sewer Connection and Sewer Construction Permits. Applications for the permits shall be substantially in the forms attached hereto, and shall be submitted together with the required fees.

2. The purpose of the Sewer Connection Permit is to obtain the right to introduce sewerage into the Borough's sewer system. There is a Tapping Fee, as provided in the Borough's Sewer System Rules and Regulations, which must be concurrently paid. The Borough will accept the Tapping Fee only after the property owner has provided written proof, satisfactory to the Borough, that the proper owner has satisfied all final municipal eligibility requirements, other than issuance of a Sewer Permit, for issuance of a Building Permit for the property in question. If an applicant is applying for a Sewer Connection Permit and does not have a Reservation, the application must be approved by



the Borough Council at a regular scheduled meeting. The Sewer Connection Application must be accompanied by a Sewer Construction Permit Application.

3. In conjunction with the Sewer Construction permit, construction plans (as prescribed by the Borough) must be submitted to the Borough before the commencement of any construction. Depending on the project plans, inspections, in addition to those already set forth herein, may be required by the Borough inspectors, including follow-up inspections after failed inspection. The applicant must have Borough's approval of all inspections. A Certificate of Completion shall be required before any flow enters the Borough Sewer System, and shall be issued only after payment of all required fees and compliance with all requirements of the Borough's rules and regulations.

4. The Borough may also require the property owner to execute a Tariff/Fee Agreement substantially in the form attached hereto in regards to the review of any proposed connection. The purpose of this document is to define the applicant's responsibilities with regard to any cost incurred by the Borough to have any submission from the applicant reviewed by the Borough Engineer (and, if necessary, the Borough attorney). The property owner shall be responsible for all engineering and legal fees associated with the review, and shall

make a monetary deposit, to be determined by the Borough, at the time of signing. With regard to residential structures, this form may be required if review of Sewer Construction Permit and associated plan indicates non-standard tap-in circumstances as determined by the Borough. Higher deposits may be required for any proposed extension of the Borough's sewer system.

5. Upon paying a tapping fee and securing a Sewer Connection permit, the property owner is thereafter required to pay a stand by fee, in an amount to be determined by the Borough, until the property owner has received a certificate of occupancy for the new development, at which time the property owner shall commence paying the regular Borough user rate.

#### V. MODIFICATION TO POLICY

The Borough may rescind, modify, or add to this Policy at any time, in its absolute discretion, and without notice to any individual or entity, except that no modification shall apply to permits already issued.

#### VI. FEES

The fees or deposits established by this Policy are as follows, the amount of such fees or deposits to be set by further resolution of Council:

1. Reservation fee
2. Stand-by fee
3. Administrative processing fees

4. Deposit for Tariff/Fee Agreement

5. Sewer Construction inspector fee

VII. WILL SERVE LETTERS

The issuance of "Will Serve" letters, without reservation of capacity under the Reservation Policy, creates uncertainty and confusion in the Borough's administration of the capacity of the sewer system, and could lead to unintended consequences, such as regulatory agencies determining that capacity identified in a "Will Serve" letter is unavailable for future use, even though the previously proposed development does not subsequently occur, or timely occur, and no reservation of capacity has been made. As such, the Council will not issue a "Will Serve" letter for sewer capacity until and unless a developer has reserved capacity under the Borough's Reservation Policy, including payment of all pertinent fees. Any "Will Serve" letter for sewer capacity may be withdrawn by the Borough Council, without notice to a developer, in the event that the developer's reservation of sewer capacity is not properly maintained, including but not limited to payment of all required ongoing fees for reservation.

**BOROUGH OF PORTLAND  
RESERVATION OF CAPACITY APPLICATION**

PIN: \_\_\_\_\_ DATE: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_

OWNER NAME: \_\_\_\_\_ APPLICANT NAME: \_\_\_\_\_  
(if not owner)

ADDRESS: \_\_\_\_\_ ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE #: \_\_\_\_\_ TELEPHONE#: \_\_\_\_\_

Brief Description of Project: \_\_\_\_\_

The applicant(s) indicated below hereby requests the Borough of Portland (BOP) to reserve the EDU's of capacity designated below in the Borough's Wastewater Treatment Plant for the above describe property for one year from date of approval by the BOP.

Applicant(s) acknowledges receipt of a copy of the BOP Policy which sets forth the rules concerning this application.

Attached is a check payable to the BOP in the amount required representing the applicable Reservation Fee. If this application is not approved, said check will be returned.

Print Name \_\_\_\_\_  
Signature \_\_\_\_\_  
Applicant (s)

If Corporation, Name & Title of Signatory  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Corporate Seal

If not previously paid, a non-refundable Administrative Processing Fee of \$\_\_\_\_\_ is enclosed.

\*\*\*\*\*  
For BOP Use Only

No. of EDUs to be reserved	x	Reservation Rate*	=	Amount Required
_____		_____		_____

Application: (Approved) (Disapproved) by BOP Board on \_\_\_\_\_  
Borough of Portland  
By: \_\_\_\_\_

\* [Annual Rate]



**BOROUGH OF PORTLAND  
SEWER CONNECTION PERMIT APPLICATION**

**PIN:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**PROPERTY ADDRESS:** \_\_\_\_\_

**OWNER NAME:** \_\_\_\_\_ **APPLICANT NAME:** \_\_\_\_\_  
(If not owner)

**ADDRESS:** \_\_\_\_\_ **ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TELEPHONE #:** \_\_\_\_\_ **TELEPHONE#:** \_\_\_\_\_

**Brief Description of Project:** \_\_\_\_\_

The applicant hereby requests that the Borough of Portland (BOP) issue a sewer connection permit for \_\_\_\_\_ EDUs regarding the above property.

Enclosed is a check in the amount of \_\_\_\_\_ to cover the cost of the EDUs.

The application must be accompanied by a Sewer Construction Permit Application and supporting materials.

If a Reservation of Capacity is not in place for the proposed project, this application must be approved by the BOP Council at a regular meeting. If this application is not approved, the check will be returned to the applicant. Otherwise, the tap-in fee is non-refundable.

The applicant understands that the BOP approval is solely for the EDU's and does not imply approval of subsequent use of sufficiency of the EDUs for any development.

If not previously paid, a non-refundable administrative processing fee of \$\_\_\_\_\_ is enclosed.

Print Name \_\_\_\_\_  
Signature \_\_\_\_\_  
Applicant (s)

If Corporation, Name & Title of Signatory

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title  
\*\*\*\*\*

Corporate Seal

Application: (approved) (Disapproved) by the BOP Board on \_\_\_\_\_

Borough of Portland

By: \_\_\_\_\_

Approval of this application by the BOP shall constitute a Sewer Connection Permit issued to the property owner/applicant. The permit will run with the land and is not transferable.

TARIFF / FEE AGREEMENT

THIS AGREEMENT MADE THE \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by and between the BOROUGH OF PORTLAND, hereinafter called the "BOP", and \_\_\_\_\_ of \_\_\_\_\_, hereinafter called the "APPLICANT(s)."

WHEREAS, the BOP has adopted a "Policy Regarding Sewer System Capacity Reservation and Connection for New Development" approved \_\_\_\_\_, and,

WHEREAS, said Policy provides that the APPLICANT(s), upon the submission of Plans for a review by the BOP Engineer (and/or BOP Solicitor, if necessary), shall place certain funds on deposit to pay for said review.

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth hereunder the parties hereto agree as follows:

1. Under any submission for review by the BOP, the APPLICANT(s) shall simultaneously herewith remit the required deposit funds of \$\_\_\_\_\_. Failure of the APPLICANT(s) to submit said funds shall be deemed as an incomplete plan submission and will not be accepted by the BOP for review.

2. It is mutually agreed and expressly understood between the parties that all professional review fee costs incurred by the BOP in reviewing the APPLICANT(s) submission and for field inspections shall be the sole responsibility of the APPLICANT(s). This responsibility shall not be affected in any way by the BOP's approval/disapproval of said submission. Additionally, the APPLICANT(s) shall pay all additional costs, as required prior to the BOP's decision on said submission. Failure of the APPLICANT(s) to pay said costs shall be deemed the granting of a waiver by the APPLICANT(s) to the BOP, of any statutory time limitation that would mandate a decision by the BOP.

The parties hereto intend to be legally bound hereby.

IN WITNESS WHEREOF the parties have set their hands the date first mentioned above.

ATTEST

\_\_\_\_\_  
BOP

ATTEST

\_\_\_\_\_  
OWNER/APPLICANT

SEAL:

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE IF CORPORATE

CORPORATE  
SEAL

**BOROUGH OF PORTLAND  
SEWER CONSTRUCTION PERMIT APPLICATION**

PIN: _____	DATE: _____
PROPERTY ADDRESS: _____	
OWNER NAME: _____	APPLICANT NAME: _____ (If not owner)
ADDRESS: _____	ADDRESS: _____
TELEPHONE#: _____	TELEPHONE#: _____
GENERAL CONTRACTOR: _____	PLUMBER: _____
TELEPHONE#: _____	TELEPHONE#: _____

**SECTION I**

The undersigned does hereby apply for a permit to make a connection from the property to the sanitary sewer system of the Borough of Portland (BOP) (i.e., a sewer lateral), or replace an existing sewer lateral, and in making said Application does hereby agree to conform with all the Ordinances and Policies of the BOP concerning said system and connections thereto.

It is the responsibility of the applicant(s) to arrange for an inspection of the installation of the sewer lateral by the BOP Inspector by calling the BOP Office at 570-897-0559.

Attached hereto on a separate sheet(s) (at least 8-1/2 x 11) is a plan and profile indicating all property lines, buildings, proposed building sewers, traps, cleanouts, adapters, bends, points of discharge of all other drains on the premises, the new building sewer, and the location of the service lateral. The same information should be provided, if a portion of an existing building sewer remains in service, including the diameter and type of sewer pipe. Also enclosed is the initial sewer construction inspector fee of \$\_\_\_\_\_.

**APPLICANT**

\*\*\*\*\*

**SECTION II**

**APPLICATION & PLAN APPROVAL**

The above Application and attached plan are approved and the owner is authorized to proceed with the work outlined. The owner shall notify the BOP designated Sewer Inspector at least 48 hours before the time of connection to the BOP Sewer System.

DATE AUTHORIZED \_\_\_\_\_

\_\_\_\_\_  
BOP INSPECTOR

\*\*\*\*\*

**SECTION III**

**CERTIFICATE OF COMPLETION**

The completed work authorized by the above permit has been inspected, tested and found to be proper.

DATE CONNECTION AUTHORIZED \_\_\_\_\_

\_\_\_\_\_  
BOP INSPECTOR

ACCOUNT NUMBER ASSIGNED \_\_\_\_\_

\_\_\_\_\_  
DATE BILLING EFFECTIVE