

**Application of Pennsylvania-American Water Company for Acquisition of
the Wastewater Assets of Upper Pottsgrove Township
66 Pa. C.S. § 1329
Application Filing Checklist – Water/Wastewater
Docket No. A-2020-3021460**

18. Rates.
- a. State the current rates of the seller.

AMENDED RESPONSE:

- a. See Upper Pottsgrove’s current rates attached as **Appendix A-18-a.1** (Ordinance No. 466), **Appendix A-18-a.2** (Ordinance No. 440 that contains the Optional Water Meter Allocation Method), **Appendix A-18-a.3** (Resolution No. 236 that contains the Schedule of EDU Allocations), **Appendix A-18-a.5** (Ordinance No. 430 which establishes rates for Availability Customers), **Appendix A-18-a.6** (Resolution 718 which confirms the same rates for customers outside Upper Pottsgrove Township limits as within). In addition, the Borough of Pottstown Municipal Code §302 (“Sanitary Sewer Rates”) is attached as **Appendix A-18-a.4**, containing Industrial Pretreatment Program (“IPP”) charges which any Upper Pottsgrove industrial customers are currently subject to pursuant to the Sewage Treatment Agreement attached as **Amended Appendix A-25**. These IPP charges are consistent with Original Page 68.X of the proposed tariff at **Amended Appendix A-12**.

ORDINANCE NO. #466

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF UPPER POTTS GROVE TOWNSHIP AMENDING CHAPTER 275, SEWERS AND SEWAGE DISPOSAL, OF THE CODE OF THE TOWNSHIP OF UPPER POTTS GROVE, AS AMENDED, FOR THE PURPOSE OF AMENDING SANITARY SEWER RENTAL CHARGES.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Upper Pottsgrove Township Board of Commissioners, Montgomery County, Pennsylvania, and **IT IS HEREBY ENACTED AND ORDAINED** by the authority of same as follows:

SECTION 1. Subsection C of Section 275-7, Sewer Districts, Rentals and Charges, of Chapter 275, Sewers and Sewage Disposal, of the Code of Ordinances of the Township of Upper Pottsgrove, as amended, is hereby amended to read, in pertinent part, as follows:

Sewer Districts, Rentals and Charges ...

- C. There is hereby established a flat rate sanitary sewer rental of Two Hundred Fifteen Dollars (\$215.00) per quarter for each sewer rental unit in the Upper Pottsgrove Township sewage system. Future modifications to this rate may be enacted by Resolution and/or ordinance adopted by the Board of Commissioners.

SECTION 2. All remaining provisions of Chapter 275, Sewers and Sewage Disposal, of the Code of the Township of Upper Pottsgrove, as amended, to the extent not inconsistent herewith, are hereby reenacted and reordained.

SECTION 3. This ordinance shall become effective immediately upon enactment with the change in rate to be effective for all billings and invoices beginning January 1, 2014.

ENACTED and ORDAINED this 16th day of December, 2013.

**BOARD OF COMMISSIONERS OF
UPPER POTTS GROVE TOWNSHIP**

BY: Elwood Taylor
Elwood Taylor, President

ATTEST: Cynthia Saylor
Cynthia Saylor, Secretary

Charles D. Garner, Jr., Esquire
Solicitor

Appendix
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ORDINANCE NO. [#]440

AN ORDINANCE OF THE UPPER POTTS GROVE
TOWNSHIP BOARD OF COMMISSIONERS AMENDING
VARIOUS ARTICLES OF CHAPTER 275, SEWERS AND
SEWAGE DISPOSAL, OF THE CODE OF THE TOWNSHIP
OF UPPER POTTS GROVE, AS AMENDED.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of
Commissioners of Upper Pottsgrove Township, and it is hereby
ENACTED and **ORDAINED** by the authority of same as follows:

SECTION 1. Section 275-1, Definitions, of Article I,
Construction and Connections, of Chapter 275, Sewers and Sewage
Disposal, of the Code of the Township of Upper Pottsgrove, as
amended, is hereby amended to amend the two following definitions:

CONNECTION CHARGES - Sewer system connection charges
provided under Article V of this chapter, including,
without limitation, a connection fee, customer facilities
fee, tapping fee, and other fees or charges permitted
under the Pennsylvania Municipal Authority's Act and
other applicable state law.

CONNECTION UNIT - Each individual building or house
whether constructed as a detached unit or as one of a
pair or row which is designed or adaptable to separate
ownership for use as a family dwelling unit or for
commercial or industrial purposes. A school, factory,
apartment house, office building or other multiple-unit
structure whose individual apartments or units are
connected to a common internal sewage system and which
are not commonly subject to separate ownership shall be
appraised, based upon the Township's schedule of EDU
values, which Schedule may be amended from time to time
by Resolution of the Board of Commissioners.

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due and payable in full either at the time the application is made to the Township for a permit to make connection to the sewer system, as provided in §275-21 of this article, or in the case an owner of improved property fails to make connection to the sewer system as required by the Township pursuant to §275-2 of Article I of this chapter, on the date the Township begins to charge sewer rentals to the improved property, which shall be at the cost and expense of the property owner.

SECTION 5. Section B of Section 275-29, Assessment of Sewer Rental and Tapping Fees, of Article VI, Sewer Rental Unit (Equivalent Dwelling Unit or EDU), of Chapter 275, Sewers and Sewage Disposal, of the Code of the Township of Upper Pottsgrove, as amended, is hereby amended to read as follows:

- B. For purposes of daily usage and sewer rental fees, an EDU shall be defined as 250 gallons per day. For purposes of purchasing capacity within the system and assigning tapping fees, the Township shall use the EDU assignment of the host or terminal municipality/authority that supplies either conveyance or wastewater treatment facilities to the Township. This EDU value can be modified by the Board of Commissioners to address special needs or development.

SECTION 6. Section 275-31, Optional Water Meter Allocation Method, shall be deleted in its entirety and in its place a new Section 275-31, Optional Water Meter Allocation Method, of Article VI, Sewer Rental Unit (Equivalent Dwelling Unit or EDU), of Chapter 275, Sewers and Sewage Disposal, of the Code of the Township of Upper Pottsgrove, as amended, shall be created and provide as follows:

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a.2

- G. The meters shall be read quarterly by the Township or their designated representative. The owner of the property shall allow for access of meter reading personnel. If a meter cannot be read, due to lack of access, the Township will bill the owner according to their last invoice. Upon successfully gaining access and reading the meter the owners bill will either be credited or assessed based on the updated reading and the billing will be considered current.
- H. If the meter fails or the Township deems the reading erroneous, the owner will be assessed based on the highest bill paid over the previous three (3) quarters. If the meter is deemed damaged or lacks calibration the Township will notify the owner. Upon notification, the owner will have five (5) days to complete repairs as directed by the Township. Once repairs are complete the Township will schedule an inspection and require proof of calibration.
- I. The Township reserves the right to revoke the Optional Water Meter Allocation at its sole discretion. Upon revocation the owner will be billed based on their original EDU allocation. The billing will be from the start of the quarter, which the revocation occurs.
- J. If the average flow for three consecutive months is greater than the original EDU allocation then the owner will be reassessed based on the higher flows. For every 250 gpd their usage exceeds the original allocation the owner will be assessed an additional EDU. No incremental EDUs will be applied and the allocation will round to the highest number of EDUs. The owner will also be assessed an additional tapping fee based on the increased flow.

SECTION 7. In all other respects the remaining provisions of Chapter 275, Sewers and Sewage Disposal, of the Code of Ordinances of the Township of Upper Pottsgrove, as amended, are hereby reenacted and reordained.

RESOLUTION NO. 236

A RESOLUTION

PROVIDING FOR A SCHEDULE ALLOCATING SEWER RENTAL UNITS (EQUIVALENT DWELLING UNITS OR EDUS) TO IMPROVED PROPERTIES ACCORDING TO USE AS PROVIDED UNDER PART 2-A OF CHAPTER 18 OF THE TOWNSHIP OF UPPER POTTS GROVE CODE OF ORDINANCES.

WHEREAS, Part 2-A of Chapter 18, entitled "Sewers and Sewage Disposal," of the Township of Upper Pottsgrove Code of Ordinances, particularly §201-A (definition of "EDU Schedule Resolution") and §203-A of said Part, provides for the allocation of sewer rental units (equivalent dwelling units or EDUs) to improved properties according to use pursuant to a schedule adopted by resolution of the Board of Commissioners of the Township; and

WHEREAS, the Board of Commissioners of the Township desires to provide for such schedule.

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Commissioners of Upper Pottsgrove Township, Montgomery County, Pennsylvania, as follows:

SECTION 1. Authority; Title.

A. This Resolution is adopted pursuant to Part 2-A of Chapter 18 as and for the EDU Schedule Resolution therein provided.

B. This Resolution shall be known and may be cited as the "EDU Schedule Resolution."

SECTION 2. Definitions.

A. The following words and phrases appearing in this Resolution, unless the context clearly indicates otherwise, shall have the meanings given in this Subsection:

CHAPTER 18 - Chapter 18, entitled "Sewers and Sewage Disposal," of the Township of Upper Pottsgrove Code of Ordinances.

INSTALLMENT PAYMENT OPTION RESOLUTION - the resolution adopted by the Board of Commissioners, as the same may be amended from time to time, providing for the administration of and procedures for the option to pay connection charges by installments under §204 of Chapter 18.

B. Except as may be otherwise provided herein and/or if the context clearly indicates otherwise, all other words and phrases appearing in this Resolution, which also appear in Chapter 18, shall have the same meanings in this

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UPTSEW2A.RES (4/3/95)

Resolution as in Chapter 18.

SECTION 3. Schedule of EDU Allocations.

A. The following schedule of EDU allocations to improved properties according to use is hereby provided for purposes of Part 2-A of Chapter 18, particularly but not limited to §203-A of said Part:

- | | | |
|------|--|---|
| (1) | Each dwelling unit or living unit
(Including each single family
home, whether attached or detached;
each townhouse; each condominium; and
each apartment. Excluding living units
in a hotel or motel) | 1 EDU |
| (2) | Each fire house and municipal
building | 1 EDU per lateral |
| (3) | Each church | 1 EDU |
| (4) | Each store (retail or wholesale) | 1 EDU per
3,500 square feet |
| (5) | Each enclosed shopping mall (in lieu
of separate calculations for retail
stores and restaurants) | 1 EDU per
2,200 square feet |
| (6) | Each office, office building, or portion
of a building used for business and/or
professional use | 1 EDU per
3,500 square feet |
| (7) | Each warehouse, in addition to office
space | 1 EDU per
25,000 square feet |
| (8) | Each industrial establishment, excluding
process waste | 1 EDU per
10 employees |
| (9) | Industrial process waste or any wastewater
discharge other than normal domestic waste | 1 EDU per 200
gallons per day
of water
consumption |
| (10) | Each doctor's office (other than dentist's
office) | 1 EDU per 2
examining rooms |
| (11) | Each dentist's office | 1 EDU per 3
dental chairs |
| (12) | Each retail gas station: | |
| | (a) Without car washing facilities | 2 EDUs per lateral |
| | (b) With car washing facilities | 3 EDUs per lateral |

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UPTSEW2A.RES (4/3/95)

- (13) Each repair garage:
- (a) Without car washing facilities and public restroom(s) 1 EDU per lateral
 - (b) With public restroom(s) but without car washing facilities 2 EDUs per lateral
 - (c) With car washing facilities 3 EDUs per lateral
- (14) Hotel or motel, in addition to restaurant or bar:
- (a) Each living unit without kitchen and laundry facilities in unit 1 EDU per 2.5 suites
 - (b) Each living unit with kitchen and/or laundry facilities in unit 1 EDU per 1.75 suites
 - (c) Each living unit with kitchen and/or laundry facilities in unit and more than one bedroom 1 EDU per each suite
- (15) Each restaurant (other than meal caterers), barroom, or other commercial establishment (not otherwise classified herein) which regularly dispenses food and/or beverages 1 EDU per 10 seats
- (16) Each meal caterer:
- (a) Where all meals are served on the premises 1 EDU per 30 seats of seating capacity
 - (b) Where all meals are served off the premises 1 EDU per 2,500 square feet
- (17) Each nonprofit general hospital 1 EDU per 1.5 beds
- (18) Each rest home or nursing home 1 EDU per 2.5 beds
- (19) Each funeral home 1 EDU per 2 viewing rooms
- (20) Each day school (public or private) (in accordance with rated capacity) 1 EDU per 15 teachers, employees and pupils
- (21) Each boarding school 1 EDU per 3 pupils
- (22) Each day care school, preschool or nursery school (in accordance with rated capacity) 1 EDU per 20 teachers, employees and pupils
- (23) Each self-service laundromat 1 EDU/2 clothes washing machines
- (24) Each theater 1 EDU per 100 seats

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(25) Each bowling alley, in addition to restaurant facilities	1 EDU per 5 lanes
(26) Each greenhouse	1 EDU per lateral
(27) Each auto salvage yard or establishment	1 EDU per lateral
(28) Other uses not classified above	To be determined by Township

B. The EDU allocation schedule under Subsection A of this Section shall be subject to the following:

1. Where two or more buildings are connected to the sewer system through a single lateral, the EDU allocation to the each such building shall be determined as though each such building is connected to the sewer system through a separate lateral. Where two or more uses are made of the same improved property (such as, without limitation, motel with a restaurant, retail store with a restaurant, or home with a professional office), the EDU allocation to each such use shall be determined as though each such use is connected to the sewer system through a separate lateral.

2. Where square feet is used to determine EDU values under the schedule, the gross floor area of the building shall be used.

3. A meal caterer under use (16) of the schedule shall mean any business which prepares and serves food only for prearranged social gatherings, but does not maintain regular meal serving hours and does not serve meals to the general public. For a meal caterer which serves meals both on and off premises, the higher of the two EDU values calculated under use (16) shall be its allocated EDU value.

4. A retail gas station under use (12) shall include a station which offers for sale, at retail, gasoline and/or other fuel for motor vehicles.

5. A repair garage under use (13) shall mean a business for the repair and/or servicing of motor vehicles, but not the sale, at retail, of gasoline and/or other fuel for motor vehicles. If a repair garage offers for sale, at retail, gasoline and/or other motor vehicle fuel, it shall be classified as a retail gas station under use (12).

6. When any building connected to the sewer system is converted, enlarged or remodeled, or when any additional building on a property is connected to the sewer system either indirectly through an existing lateral or directly through a new lateral, so as to create or establish a

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more extensive use or additional uses as classified in the schedule, an additional EDU allocation to the property shall be made in accordance with the schedule. In such case, additional tapping fees, at the then current rate, shall be assessed and payable by the owner to the Township for the additional EDUs, and sewer rental shall be assessed and payable on the increased EDU allocation. The additional tapping fees, together with any other connection charges, shall be due and payable either (i) within sixty (60) days after the date of the Township's bill for the same, or (ii), at the option of the property owner, in installments under or pursuant to the Installment Payment Option Resolution. The additional allocation of EDUs to a property under this Subsection B.6, as well as the commencement, conduct, maintenance and continuation of the more extensive use or additional uses of the property to which the additional allocation relates, shall be subject to the availability of such additional EDUs.


7. Calculations of EDU allocations under the schedule shall not result in an EDU value less than one. In the event a calculation results in a fractional EDU, the calculation shall be rounded to the next highest whole EDU which shall be the EDU value.

SECTION 4. Effective Date. This Resolution shall be effective immediately.


RESOLVED AND ADOPTED this *10th* day of *April* A.D., 1995.

**BOARD OF COMMISSIONERS OF UPPER
POTTSGROVE TOWNSHIP, MONTGOMERY
COUNTY, PENNSYLVANIA**

By:


Kenneth L. Latesta, President

Attest:


Sandra K. Fritz, Secretary

Appendix
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§ 302. Sanitary Sewer Rates. [Ord. 1840, 12/9/1996, § 302; as amended by Ord. 1844, 1/13/1997, § 2; by Ord. 1877, 12/30/1998, § 1; by Ord. 1892, 8/9/1999, § 1; by Ord. 1910, 12/19/2000; by Ord. 1957, 12/17/2002, § 1; by Res. 2002-41, 11/13/2002; by Ord. 1959, 4/14/2003, § 1; by Ord. 1973, 12/29/2003, § 1; by Ord. 1987, 12/29/2004, § 1; and by Ord. 2049, 12/26/2007]

1. All sanitary sewer rates and fees associated with the operation of the wastewater treatment plant shall be as follows and shall be modified by a schedule of fees enacted by a resolution and/or ordinance adopted by the Borough Council:

A. Metered domestic, commercial and public customers inside the Borough shall be billed a service charge of \$76.25 per quarter for each EDU (equivalent dwelling unit) and a consumption charge of \$2.63 per 100 cubic feet of water used. The basis for EDU's shall be as follows: **[Amended by Ord. 2095, 7/9/2012; and by Ord, 2119, 12/9/2013]**

Residential customers	1 EDU/unit
Mixed-use customers (residential/ commercial)	1 EDU/unit

Commercial/Industrial/Public Customer Meter

Meter Size	EDU's
5/8"	1
3/4"	2
1"	3
1 1/2"	6
2"	11
3"	23
4"	41
6"	64
8"	94

B. Unmetered domestic customers inside the Borough using wastewater treatment facilities shall be billed a service charge of \$131.37 per quarter for each EDU (equivalent dwelling unit); unmetered commercial and public customers inside the Borough shall be billed a service charge of \$183.93 for each EDU (equivalent dwelling unit). **[Amended by Ord, 2119, 12/9/2013]**

- C. Industrial establishments (manufacturing plants, laundries, dairies, bakeries, factories, newspaper plants, landfills, etc.) shall be billed a service charge of \$76.25 per quarter for each EDU (equivalent dwelling unit) and a consumption charge of \$2.63 per 100 cubic feet of water used. **[Amended by Ord. 2095, 7/9/2012; and by Ord, 2119, 12/9/2013]**
- D. MIPP Recovery. All Class I and Class II industrial customers shall be billed a municipal industrial pretreatment charge of \$0.08 per 100 cubic feet of water used with a maximum annual charge of \$2,000.
- E. [Reserved]
- F. Process Usage Credits. The following water uses shall be eligible for sewer process credits:
- (1) Residential, Commercial and Industrial Users.
 - (a) Process Water. Water that is consumed as part of a manufacturing process or is evaporated during such process and is not returned to the sanitary sewer system.
 - (b) Irrigation. Water used for landscaping, fountains, etc., that will not be returned to the sanitary sewer system.
 - (c) Wells. Except for wells that are totally dedicated to process water that is not discharged into the sanitary sewer system, to qualify for a process usage credit, separate water meters must be installed to record domestic and process usage.
 - (d) Swimming Pools. No process usage credits will be permitted for swimming pools since Pennsylvania Department of Environmental Protection requires that they be drained into the sanitary sewer system.
 - (2) To establish a process credit account, the following is required:
 - (a) All parcels shall have a meter pit in the legal right-of-way. Only one process meter will be permitted per parcel.
 - (b) All properties may have the following service meters:
 - 1) One domestic service meter.

- 2) One fire line and meter (if required).
 - 3) One process line and meter (if eligible).
 - (c) All required service lines and meters shall have backflow preventers installed.
 - (d) As a condition of receiving process credits, all meters shall be tested for accuracy as per the following schedule:
 - 1) Five-eighths-inch and three-quarters-inch meters to be tested every three years.
 - 2) One-inch to six-inch meters to be tested every year.
 - (e) All meters shall be tested by the Authority's contractor, with the costs being paid by the property owner. Costs shall include staff time and cost of contractor.
- (3) The amount of water calculated as a process usage credit through metering shall be deducted from the total water consumed in order to determine the bill for sewage service under the prevailing rates.
2. Trucked and Hauled Wastewater.
- A. Bulk Wastewater Discharge. The Borough will apply a per-gallon rate in accordance with the Borough bulk wastewater/septage fee schedule (schedule provided in Subsection 2E of this section) for bulk wastewater discharge volume received within a calendar month. Applied per gallon rates may be adjusted (increased/decreased) using the compatible surcharge factor formula in § 303 of this Part. For bulk wastewater discharges, the compatible surcharge factor formula will utilize actual values for BOD, TSS and NH₃ -N and will not substitute 250 mg/l in BOD or 250 mg/l in TSS or 25 mg/l in NH₃ -N for calculation purposes when these figures are less than 250 mg/l in BOD or 250 mg/l in TSS or 25 mg/l in NH₃-N.
 - B. Septage Discharge. The Borough will apply a per-gallon rate in accordance with the Borough bulk wastewater/septage fee schedule (schedule provided in Subsection 2E of this section) for septage discharge volume received within a calendar month.

- C. Sampling and Analysis. The Borough shall not charge a fee for sampling and/or analysis performed by plant personnel for the reasons of bulk wastewater discharge approval, bulk wastewater/septage discharge monitoring or bulk wastewater discharge sampling and analysis for billing purposes. The Borough reserves the right to request reimbursement or payment for any sampling and/or analytical services performed by outside laboratories that are deemed necessary for the above reasons or if requested by generator or hauler of wastes.
- D. Permitting. The Borough shall charge a one-time permit recording fee in accordance with the Borough bulk wastewater/septage fee schedule for any bulk wastewater discharge or septage discharge generator or hauler applying for discharge privileges. Permits are susceptible to changes, revisions, additions and deletions without a repermitting fee. A permit reapplication due to discharge privilege expiration or suspension will be charged a repermitting fee in accordance with the Borough bulk wastewater/septage fee schedule.
- E. Bulk Wastewater/Septage Fee Schedule. **[Amended by Ord. 2070, 12/29/2009]**

Type	Fee
(1) Septage discharge fee	\$0.0212 per gallon
(2) Holding tank wastewater discharge fee	\$0.0106 per gallon
Other wastewater sources	To be determined by the Utilities Coordinator based on the characteristics of the wastewater sources, the minimum charge shall be \$0.0106 per gallon
(3) Sludge discharge fee	
0.00% to 3.00% total solids	\$0.0309 per gallon
3.01% to 4.00% total solids	\$0.0412 per gallon
4.01% to 5.00% total solids	\$0.0515 per gallon

Type	Fee
5.01% to 6.00% total solids	\$0.0618 per gallon
6.01% to 7.00% total solids	\$0.0721 per gallon
For every percent higher in total solids than 7.00%	Add \$0.01 plus 3%
<p>At the discretion of the WWTP Utilities Coordinator, an additional surcharge can be imposed on the fees described in Subsections (1) through (3) above the WWTP Utilities Coordinator reasonably determines that due to unanticipated cost increases the rates set forth in this section do not provide sufficient compensation for the sewer treatment that is being provided to the bulk wastewater providers.</p>	
(4) Permit fee to discharge for up to 5 years	
Septage permit	\$100
Holding tank wastewater permit	\$100
Sludge permit	\$125
(5) Laboratory analysis fees	
CBOD	\$22 per analysis
TSS	\$10 per analysis
NH3-N	\$15 per analysis
TS	\$10 per analysis
NO2	\$15 per analysis

Type	Fee
NO3	\$15 per analysis
Fecal	\$15 per analysis
Coliform	\$30 per analysis

3. **Transporting Charges.** When the Borough, Lower Pottsgrove Township, Upper Pottsgrove Township, West Pottsgrove Township or any other municipal entity uses the other POTW to transport wastewater to the WWTP which is not reflected in the above rate differentials, then the municipality using the other municipality's system shall pay the municipality \$5.67 annually per customer.

4. **Sanitary Sewer Rates When Water Service is Turned Off.** When a premises is vacant and the owner has temporarily terminated water service as described in § 107, Subsection 7, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, the owner shall continue to pay the quarterly service charge for sanitary sewer. The consumption charge shall cease as of the day the water service is turned off. **[Added by Ord. 2129, 11/10/2014]**

5. **Sanitary Sewer Rates When Sanitary Sewer is Disconnected.** In the event the Authority has approved and the owner has disconnected from the public water supply as described in § 107, Subsection 8, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, the property owner may request, in writing, that sewer capacity for the premises be relinquished also. In that instance, the Authority shall review the request and determine if sanitary sewer is required for the premises, which determination shall be in the sole discretion of the Authority. In the event that the Authority determines that the request shall be honored, the owner shall obtain any permits necessary, pay any deposits required, and disconnect the premises from the public sanitary sewer system in a manner acceptable to and approved by the Authority. The owner shall be responsible for all of the costs/fees/deposits associated with the disconnection and inspection. After the sanitary sewer is disconnected, the owner shall no longer be responsible to pay the sanitary sewer quarterly service charge. However, once sanitary sewer capacity to the premises is relinquished, there will be no refund or credit for sanitary sewer charges, which shall be charged to the date the capacity is relinquished or for the cost of capacity. In the event the owner or future owner of the premises wishes to resume sanitary sewer service to the premises, the

owner shall be required to make application and pay all the applicable fees/charges (including a tapping fee) to have sanitary sewer service capacity for the premises. **[Added by Ord. 2129, 11/10/2014]**

ORDINANCE NO. 430

AN ORDINANCE OF UPPER POTTS GROVE TOWNSHIP
AMENDING CHAPTER 275, SEWERS AND SEWAGE
DISPOSAL, OF THE CODE OF THE TOWNSHIP OF UPPER
POTTS GROVE, AS AMENDED, TO ESTABLISH ANNUAL
CHARGES FOR THE RESERVATION OF SANITARY SEWER
SYSTEM AND TREATMENT PLANT CAPACITY.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Upper
Pottsgrove Township Board of Commissioners and **IT IS HEREBY ENACTED**
AND ORDAINED by the authority of same as follows:

SECTION 1. A new Article X, Reservation of Sanitary Sewer
System and Treatment Plant Capacity, of Chapter 275, Sewers and
Sewage Disposal, of the Code of the Township of Upper Pottsgrove,
as amended is hereby created and shall provide as follows:

"Article X.
Reservation of Sanitary Sewer System and
Treatment Plant Capacity.

Section 275-54. Purpose.

Township has determined that allocation to and reservation of sanitary sewer system capacity for future use creates an unreasonable and inequitable economic burden upon the Township and the existing users connected to the sewer system. Until such time as landowners who have been granted capacity choose to make use of such capacity, the Township and the existing users of the system are required to amortize the costs of the reserved facilities. Moreover, such reserved capacity remains unavailable to other persons who may have an immediate need for capacity. Therefore, it is determined to be in the best interest of the Township, the existing users of the sanitary sewer system, and potential users without reserve capacity, that landowners desiring or required to reserve sanitary sewer system capacity pay a charge designated and calculated to amortize the cost of the current debt service in proportion to

the existing users of the system. The purpose of this Article is to establish procedures for the imposition and collection of such charges to be known as sewer reservation fees, pursuant to Pennsylvania law.

Section 275-55. Additional Definitions.

As used in this Article, the following terms shall have the meanings indicated:

RESERVED CAPACITY - The allocated sanitary sewage capacity for and reserved by an applicant.

SEWER RESERVATION FEE - The charge imposed upon a applicant for the allocated sanitary sewage capacity reserved.

Section 275-56. Reservation of Capacity Fee.

- A. An annual fee for the reservation of sewer capacity is hereby imposed upon an applicant for any connections not made within six (6) months from the date of approval of the sewage planning module by DEP.
- B. The annual reservation of capacity fee shall be applicable and continue in effect until any of the following events occur:
 - (1) The total reserve capacity has been utilized or consumed; or
 - (2) Any unused reserve capacity has been cancelled by the applicant for whom it was reserved, or by the Township as hereinafter provided; or
 - (3) A period of five (5) years shall have expired from the date of final approval by the Township of the development or project, or application. If after five (5) years from the date of final approval by the Township, an applicant is still in need of or a portion of the sewer capacity originally reserved, the applicant shall make application to the Township for continued reserve capacity which shall be processed as a new application for sewer capacity, and the approval to grant an extension of

the reserve capacity shall not be unreasonably withheld by the Township.

C. Rates.

- (1) The reservation capacity fee shall not exceed sixty percent (60%) of the average sanitary sewer bill for a residential customer in the Township.
- (2) The amount of the fee shall be established and modified as necessary by Resolution and/or Ordinance adopted by the Board of Commissioners.
- (3) Reservation of capacity fees shall be billed quarterly. The face amount of each quarterly bill shall be due and payable in full within thirty (30) days from its date. If full payment of the face amount is not received within thirty (30) days from its date, a penalty of ten percent (10%) of the face amount of the bill shall be added thereto, and interest on the unpaid amount, including penalty, shall accrue at the rate of nine percent (9%) per annum commencing from the thirtieth (30th) day until paid. The penalty and interest provided in this subsection shall be in addition to such other and further penalties, interest or other remedies which may be available to the Township should it proceed to collect such bill, penalty and interest by way of municipal claim and lien or other appropriate legal or equitable action.
- (4) Adjustment to Rates. Any applicant who has reserved sewer capacity may apply to the Township to have the reserve capacity charges adjusted to reflect capacity utilized by connection to the sanitary sewage system during the preceding quarter following applicable Township procedures.

Section 275-57. Adjustments to Capacity; Cancellation

- A. In the event that the reserve capacity of any applicant shall be determined to be insufficient during the term of any permit, an applicant shall request additional reserve capacity. Such request shall be processed as a new application in accordance with all Township requirements.

B. An applicant may, at any time, upon written application to the Township, cancel all or any portion of the reserve capacity allocated to and reserved by him. Such cancellation shall be effective as of the date of the next billing quarter, provided that the application shall have been made at least thirty (30) days prior thereto.

SECTION 2. Repealer. All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed.

SECTION 3. Severability. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Board of Commissioners of Upper Pottsgrove Township that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

SECTION 4. Effective Date. This ordinance shall become effective immediately upon enactment.

ENACTED AND ORDAINED this 17th day of November, A.D. 2008.

**UPPER POTTS GROVE TOWNSHIP
BOARD OF COMMISSIONERS**

BY: _____

Edward Taylor
President

ATTEST: _____

Cynthia W. Kayer
Secretary

RESOLUTION NO. 718

A RESOLUTION OF THE UPPER POTTS GROVE TOWNSHIP BOARD OF COMMISSIONERS, MONTGOMERY COUNTY, PENNSYLVANIA, AFFIRMING ITS COMMITMENT TO PROVIDE WASTEWATER SERVICE TO ITS EXISTING WASTEWATER CUSTOMERS; AFFIRMING THAT THE SAME RATES, TERMS AND CONDITIONS WILL APPLY TO ITS CUSTOMERS OUTSIDE THE UPPER POTTS GROVE TOWNSHIP LIMITS, AS IT DOES TO CUSTOMERS WITHIN UPPER POTTS GROVE; AGREEING NOT TO APPROVE ANY RATES, SERVICE, TERMS OR CONDITIONS THAT DO NOT TREAT CUSTOMERS OUTSIDE UPPER POTTS GROVE TOWNSHIP LIMITS THE SAME AS CUSTOMERS WITHIN THE TOWNSHIP LIMITS; AND AGREEING NOT TO PERMIT (UNLESS OTHERWISE DIRECTED BY A PENNSYLVANIA REGULATORY AGENCY) ANY NEW RETAIL CUSTOMER CONNECTIONS TO ANY NEW RETAIL CUSTOMER CONNECTIONS BEYOND ITS MUNICIPAL BOUNDARIES; AND AGREEING NOT TO REPEAL THIS RESOLUTION OR PERMIT IT TO EXPIRE WITHOUT PRIOR WRITTEN NOTIFICATION TO THE PUC.

WHEREAS, Upper Pottsgrove Township (“Township”) owns and operates its sanitary sewer collection facilities (“System”), which provides wastewater collection to properties within Upper Pottsgrove Township; and

WHEREAS, Upper Pottsgrove Township also provides wastewater collection services to two residential houses situate in Douglass Township, Berks County, Pennsylvania; and

WHEREAS, said two customers in Douglass Township are located outside the geographic limits of Upper Pottsgrove, but are immediately adjacent thereto and in close proximity to Upper Pottsgrove’s wastewater mains; and

WHEREAS, the Douglass Township customers were permitted to connect to the Upper Pottsgrove wastewater system since these existing houses were using failing septic systems and there

was no wastewater system in that portion of Douglass Township available to these two customers;
and

WHEREAS, Upper Pottsgrove Township Board of Commissioners, as part of a Petition for Declaratory Relief with the Pennsylvania Public Utility Commission, intends to enact this Resolution to clarify and resolve that it will not agree to provide any additional connections for retail customers outside its municipal boundaries.

NOW, THEREFORE, BE IT ENACTED AND RESOLVED by the Upper Pottsgrove Township Board of Commissioners as follows:

SECTION 1. Upper Pottsgrove Township shall continue to provide wastewater service to the existing wastewater customers.

SECTION 2. Upper Pottsgrove Township shall apply at all times in the future, the same rates, terms and conditions to its customers outside Upper Pottsgrove Township limits as it does to customers within the Upper Pottsgrove Township limits.

SECTION 3. Upper Pottsgrove Township agrees not to approve any rates or service terms that do not treat the customers outside the Upper Pottsgrove Township limits the same as customers within the Upper Pottsgrove Township limits.

SECTION 4. For as long as it owns the System, Upper Pottsgrove Township agrees not to permit, unless otherwise directed by Pennsylvania Regulatory Agency, any new retail customer connections to any retail customer connections beyond its municipal boundaries without prior approval of the PUC.

SECTION 5. Upper Pottsgrove Township further agrees not to repeal this Resolution or to permit it to expire without prior written notification of its repeal or expiration to the PUC.

ENACTED and RESOLVED this 17 day of August, 2020.

**UPPER POTTS GROVE TOWNSHIP
BOARD OF COMMISSIONERS**

BY: _____

Trace Slinkerd, President

ATTEST: _____

Jeannie DiSante, Secretary