

ORDINANCE NO. 10 OF 2007

A THROOP BOROUGH ORDINANCE ESTABLISHING A TAPPING FEE FOR CONNECTION TO THE EDDY CREEK SEWER LINE AND ALL EXTENSIONS TO THE EDDY CREEK SEWER LINE WHICH PROVIDES SERVICE TO DWELLING UNITS AND NONRESIDENTIAL ESTABLISHMENTS.

DEFINITIONS.

Authorities Act – The Municipality Authorities Act, 53 Pa. C.S.A. § 5601 et seq., as amended and supplemented.

Borough – The Borough of Throop, Lackawanna County, Pennsylvania.

Commercial Establishment – Any structure or any portion thereof intended to be used wholly or in part for the purpose of carrying on a trade, business or profession or for social, amusement, religious, educational, charitable, institutional or public use, and which contains plumbing for kitchens, toilets or washing facilities, excluding dwelling units.

Dwelling Unit – Any room, group of rooms, mobile home, building or other enclosure connected, directly or indirectly, to the sewer system and occupied or intended for occupancy as a separate living quarters by a family or any other group of persons living together or by a person or persons living alone. A dwelling unit shall be considered a household or a residential customer as such terms are used in Section 5607(d)(24) of the Authorities Act.

Improved Property – Any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure wastewater shall be or may be discharged.

Industrial Property- Any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure wastewater shall be or may be discharged.

Industrial Establishment – Any room, group of rooms, building or other enclosure connected, directly or indirectly, to the sewer system and used or intended for use, in whole or in part, in the operation of a business enterprise for manufacturing, processing, cleaning, laundering or assembling any product, commodity or article.

Nonresidential Establishments – An improved property other than a dwelling unit. Nonresidential establishments shall include but not be limited to all improved properties used as commercial establishments, industrial establishments, or for institutional purposes.

Owner – Any person vested with the ownership, legal or equitable, sole or partial, of any improved property.

Person – Any individual, partnership, estate, trust, firm, association, corporation, municipality, municipal authority, school district or any other group or legally recognized entity, and the members of such partnership or association and the officers of such corporation.

Sewer System – The wastewater collection and conveyance system operated by Throop Borough commonly referred to as the “Eddy Creek” sewer line and any extensions to the “Eddy Creek” sewer line.

Tapping Fee – A fee imposed to enable the recovery of the equity in the sewer system. A tapping fee shall be considered the fee referred to as a “tapping fee” in the Authorities Act and defined as a “tapping fee”.

1. *Permits required prior to connection to sewer system.*

No person shall connect any improved property with any part of the sewer system without first making application for and securing a permit, in writing, from the Borough. Such application shall be made on a form to be provided by the Borough, and no application shall be considered complete until all fees imposed in this article have been paid in full. A permit shall be valid for a period of 12 months from the date of issuance, and such permit shall expire if the construction is not commenced or the connection is not made within the twelve month period or construction is commenced within 12 months but not completed within 24 months.

2. *Imposition of tapping fee.*

*A tapping fee as set forth in Paragraph 4 of this resolution is imposed upon and shall be collected by the Borough from the owner of each improved property who or which shall physically connect such improved property to the sewer system or who or which shall expand, change or intensify the use of an improved property previously connected to the sewer system, for the use of the sewer system, whether such use or the expansion, change or intensification of such use shall be direct or indirect. A tapping fee is charged for each dwelling unit and each commercial establishment and industrial establishment as set forth in Paragraph 4 for **each** connection.*

3. *Tapping fee.*

A. Each owner of improved property shall pay a tapping fee for the use, ability to use, or expansion of use of the sewer system calculated as follows:

1. \$2,000.00 per connection.

In the event a permit is no longer valid for reasons identified in Paragraph # 1, the owner will receive a refund of \$2,000.00 minus Throop Borough's administrative expense of \$150.00 or actual expenses incurred by Throop Borough whichever is greater.

B. In case of a combination of one or more dwelling units each thereof having use of the sewer system through one sewer connection, each such dwelling unit shall be charged the fee herein provided as though each dwelling unit had a direct and separate connection to the sewer system. Each dwelling unit in a double house, row or connecting houses, and in a trailer park or mobile home park shall be considered as a separate entity for the purpose of calculating the tapping fee. In the case of apartment buildings, each apartment shall be considered a dwelling unit, and one tapping fee shall be paid for each dwelling unit within the apartment building.

C. The tapping fee shall not be charged for the reoccupancy of vacant buildings where flows have temporarily been reduced or eliminated.

4. *Expansion of Use.*

Should any owner of any improved property connected to the sewer system expand, change or intensify the use of said improved property, the owner shall pay a tapping fee calculated in the manner set forth in this article upon the expanded, changed or intensified portion if such use of the sewer system by the improved property. Examples of an expansion, change or intensification of the use of an improved property shall include, but shall not be limited to, the installation of an additional dwelling unit or units in an existing dwelling or the commencement of a home occupation which requires use of the sewer system such as a beauty salon or barber shop the conversion of a warehouse to a restaurant or manufacturing facility; or the adding of a third work shift to an industrial processing operation. A change in sewage flows generated by an improved property of more than 225 gallons per day on the basis of average daily flows over the prior 12 months shall be considered an expansion of the use of the sewer system regardless of whether the improved property has been enlarged or any new use has been instituted. The Borough may compare current flow rates with flow rates previously approved by means of the payment of tapping fees or the approval of a planning module for land development or with the last calendar year average daily flow based on water meter readings for the entire year to determine whether there has been a change in sewage flows exceeding 225 gallons per day regardless of whether the improved property has been expanded or any new use has been instituted.

5. *Time of payment of fees.*

The tapping fee shall be due and payable at the time application is made to the Borough to make any such connection to the sewer system as provided in Paragraph 1;

or at the time application is made to the Borough for a zoning permit; or when the use of an improved property connected to the sewer system is expanded, as the same may hereafter be amended or supplemented, whichever shall occur earlier.

6. *Fees to be paid to the Borough.*

All tapping fees shall be payable to the Treasurer of this Borough or to such other officer or representative of this Borough as shall be authorized, from time to time, to accept payment thereof. Tapping fees which are not paid in full when due shall bear interest at the rate of 12% per annum or at the rate of any outstanding debt incurred by the Borough, whichever is greater.

7. *Fees in addition to other charges.*

The tapping fees imposed hereunder shall be in addition to any fees or charges imposed by the Borough by reason of the reservation of capacity in the sewer system or the use, or availability for use, of the sewer system.

8. *Violations and penalties.*

Any person who or which shall violate or shall assist or permit any other person to violate any of the provisions of this article shall, upon conviction thereof in a summary proceeding, be sentenced to pay in addition to all other fees and charges identified in the ordinance a fine of not less than \$100 nor more than \$600, and in default of payment of the fine, such person shall be liable to imprisonment for not more than 30 days.

9. *Remedies.*

In addition to or in lieu of the penalties provided in the aforementioned paragraph hereof, the Borough may commence actions to collect fees which are due and payable under this article and/or may file a municipal claim for the unpaid fee, plus costs of collection, including the reasonable attorney's fees incurred by the Borough against the improved property. Any violations of this article may be abated by proceeding against the violator in a court of equity for relief.

10. *Reservation of rights.*

This Borough reserves the right subject to its Agreement with Olyphant Borough, from time to time, to adopt modifications of, supplements to, or amendments of this article. Where an extension of the sewer system has been made at the expense of a private person, the Borough reserves the right to require payment of a reimbursement part of the tapping fee.

BE IT FURTHER ENACTED AND RESOLVED, that all resolutions or parts of resolutions conflicting with the provision of this Ordinance be and the same are hereby repealed; and

SECTION 1.

If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The Borough of Throop reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes and intent of this Ordinance and the effective administration thereof.

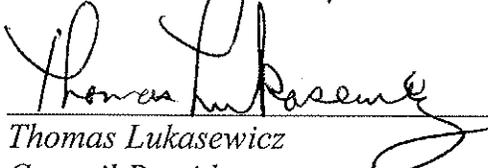
SECTION 2.

This Ordinance shall become effective immediately upon approval.

SECTION 3.

This Ordinance is enacted by the Council of the Borough of Throop under the authority of the Pennsylvania Legislature, and any other applicable law arising under the laws of the Commonwealth of Pennsylvania.

Approved this 28th day of November, 2007:



Thomas Lukasewicz
Council President



Stanely Lukowski
Mayor

Attest:



Christina Sullivan
Secretary