

**SHREWSBURY BOROUGH  
YORK COUNTY, PENNSYLVANIA**

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**ORDINANCE NO. 2021 – \_\_**

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**AN ORDINANCE OF SHREWSBURY BOROUGH, YORK COUNTY, PENNSYLVANIA  
ESTABLISHING AN UPDATED RESERVATION AND PURCHASE SYSTEM FOR  
SANITARY SEWER CAPACITY FOR OWNERS OR DEVELOPERS OF PROPERTY IN  
THE BOROUGH WHO DESIRE TO SECURE SANITARY SEWER CAPACITY**

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**BE IT ENACTED AND ORDAINED** by Shrewsbury Borough Council, York County, Pennsylvania (the “Borough”), and it is hereby enacted and ordained by authority of the same:

**WHEREAS**, the Borough owns a sanitary sewage collection system for accepting sewage from Properties in the Borough; and

**WHEREAS**, the Borough’s Sewer System flows into a similar sewer system owned and operated by the Shrewsbury Borough Municipal Authority; and

**WHEREAS**, those two sewer systems transport sewage to a wastewater treatment plant (the “Plant”) operated by New Freedom Borough; and

**WHEREAS**, the Shrewsbury Borough Municipal Authority does not have excess sewage capacity available for reservation at the present time and this Ordinance does not provide or promise any sewage capacity to the Authority; and

**WHEREAS**, there is expected to be further residential and commercial Real Estate development throughout the Borough; and

**WHEREAS**, it is anticipated that Properties subject to future Land Development will need allocation from and usage of the Borough’s remaining sewer capacity; and

**WHEREAS**, in the past, the Borough Engineer undertook studies of underdeveloped and undeveloped lands in the Borough, considering potential and future development on those Properties based upon the characteristics of the Properties and the applicable Borough Ordinances, including but not limited to, the Zoning Ordinance; and

**WHEREAS**, based upon the studies of its Engineer, the Borough allocated Sewer Capacity to certain Properties within the Borough, which Properties would need Sewer Capacity for new or additional Land Development; and

**WHEREAS**, the Borough is no longer able to continue retaining Sewer Capacity by allocation, as has been done in the past; and

**WHEREAS**, the Borough had in place Ordinance 1985-5, Providing for the Reservation of Sanitary Sewer System and Treatment Plant Capacity by Property Owners and Developers; Imposing Annual Charges for the Sewer Capacity Reserved; Providing for the Payment and Collection of Such Charges; and Imposing Penalties for the Failure to Pay Such Charges When Due (“Ordinance 1985-5”); and

**WHEREAS**, the Borough wants to continue with a reservation system as more specifically set forth herein; and

**WHEREAS**, the Borough is authorized the Borough Code, 8 Pa. C.S. Section 2053 which incorporates provisions of the Municipality Authorities Act of 1945 (“Municipality Authorities Act”), as amended by Act 57 of 2003, authorizing charging Reservation Fees (as defined herein), provided the Reservation Fee is based on debt and fixed operating expenses, but which fee may not exceed sixty percent (60%) of the average sanitary sewer bill for residential customers within the Borough for the same billing period; and

**WHEREAS**, the Borough also desires to allow for the purchase of Sewer Capacity by virtue of payment of the then-current Tapping Fee, as an alternative to a Sewer Capacity reservation; and

**WHEREAS**, Borough Council has determined that it is in the best interests of the Borough to impose a reservation of sanitary Sewer Capacity fee and Sewer Capacity purchase system in the Borough, which system will allow Property Owners and Developers to obtain the Sewer Capacity that they believe necessary and pay for it, rather than the Borough merely allocating it.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED by Shrewsbury Borough Council, York County, Pennsylvania, and it is hereby enacted and ordained by authority of the same:**

**SECTION 1. Purpose.** Borough Council has determined that reservation or purchase of Sewer Capacity by Owners or Developers of Property in the Borough for future use is beneficial for orderly development. Until Owners or Developers utilize remaining sanitary Sewer Capacity, the Borough shall reserve sanitary Sewer Capacity for those electing to pay the determined fee to reserve Sewer Capacity or hold sanitary Sewer Capacity for those electing to pay the applicable Tapping Fee. Payment of a Reservation Fee or Tapping Fee is appropriate because such payment secures Sewer Capacity for those who may have need for it and allows unpurchased or unreserved Sewer Capacity to be made available to others who need it and will pay for it. It is, therefore, in the public interest that Owners or Developers reserve or purchase sanitary Sewer Capacity to ensure that it will be available to them when desired. The purpose of this Ordinance is to provide for the imposition and collection of such charges to reserve or to purchase sanitary Sewer Capacity.

**SECTION 2. Scope.** This Ordinance shall apply to the municipal sanitary Sewer System of the Borough and to the areas of the Borough designated, from time to time, as being within the sewer service area served directly by the Borough’s Sewer System.

**SECTION 3. Definitions.** When used in this Ordinance, the following words, terms and phrases shall have meanings as follows:

- (a) “Borough Council” – The governing body of the Borough.

(b) “Developer” – Any Owner, agent of such landowner, or tenant with the permission of such landowner, who intends or causes to be made a Subdivision of land or a Land Development, or other prospective users of the Borough’s sanitary Sewer System developing in that portion of the Borough served through the Sewer System and related Sewer Systems in the Plant.

(c) “DEP” – The Department of Environmental Protection of the Commonwealth of Pennsylvania or its successor in authority.

(d) “Dwelling Unit” – Any room, group of rooms, house, trailer or other structure or enclosure occupied or intended for occupancy as separate living quarters by a family or Persons living together or by Persons living alone.

(e) “Equivalent Dwelling Unit” (herein after “EDU”) – A unit of measurement applied to a nonresidential building or improvement and its use which produces a volume of sanitary sewage equivalent to residential dwelling units. The unit rate of flow of sanitary sewage generated by one (1) EDU is stated to be an average daily flow of 350 gallons per day, subject to adjustment from time to time in conjunction with the Borough Tapping Fee calculation in accordance with the provisions of PA Act 57 of 2003.

(f) “Land Development” – The improvement, conversion of use or expansion of existing use of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

(1) A group of two (2) or more residential buildings or one (1) or more non-residential buildings on a lot or lots regardless of the number of occupants or tenure.

(2) The division or allocation of land or space between or among two (2) or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.

(3) Any other project requiring the approval of Borough Council pursuant to any act or ordinance.

(g) “Owner” – Any Person who owns Real Estate, and such ownership may be in fee simple or evidenced through an equitable interest.

(h) “Person” – Any individual, partnership, company, association, society, trust, corporation or other group or entity.

(i) “Property” – Real Estate of an Owner or under equitable control of a Developer located in the Borough.

(j) “Purchased Capacity” – The Sewer Capacity purchased by an Owner or Developer for a Property.

(k) “Real Estate” – Real estate located within the Borough.

(l) “Reserved Capacity” – The Sewer Capacity reserved by an Owner or Developer for a Property.

(m) “Reservation Agreement” – The Agreement between the Owner or Developer and the Borough setting forth the terms and conditions for Reserved Capacity.

(n) “Reservation Fee” – The charge or fee imposed by the Borough pursuant to this Ordinance for each EDU, when an Owner or Developer has requested the Borough to reserve sanitary Sewer Capacity, in the amount of one or more EDUs, for Real Estate which fee shall be based upon debt and fixed operating expenses in connection with the Sewer System, which fee is further defined in Section 9 and may be updated by the Borough from time to time.

(o) “Residential Subdivision” – A Subdivision of land into lots intended for conveyance to Persons for single family or multi-family dwellings.

(p) “Sewer Capacity” – The entitlement for a Property to discharge a certain amount of sanitary sewage waste measured in EDUs into the Borough’s sanitary Sewer System.

(q) “Sewer System” – All facilities, as of any particular time, for the collecting, transporting, treatment and disposal of sanitary sewage and industrial waste, including all related and necessary facilities, owned or to be owned by the Borough or to which the Borough has the right to utilize such facilities for the purpose of providing public sanitary sewer service.

(r) “Subdivision” – The division or re-division of a single lot, tract or parcel of land or part thereof by any means into two (2) or more lots, tracts or parcels of land, including changes in street lines or lot lines for the purposes, whether immediate or future, of improvement and development.

(s) “Tapping Fee” – The charge or fee imposed by the Borough pursuant to this Ordinance when an Owner or Developer has purchased sanitary Sewer Capacity for each EDU for Real Estate. That fee determined and implemented by the Borough, from time to time, in accordance with applicable law, including but not limited to, the Borough Code and the Municipality Authorities Act, to effect the purchase of Sewer Capacity. At the time of adoption of this Ordinance, the Tapping Fee, per Borough Ordinance 2017-01 is \$3,156.05.

A number of the definitions set forth above are based upon applicable law, including the Borough Code, the Municipality Authorities Act and the Municipalities Planning Code (“MPC”). To the extent that any of those laws change and are not consistent with the definitions utilized herein, the most current definition under applicable law shall be utilized unless such usage will be contrary to the purposes of this Ordinance.

#### **SECTION 4. Application; Approval; and Reservation Agreement Process.**

(a) All Owners or Developers desiring to reserve or purchase Sewer Capacity that they anticipate will be utilized on their Property in the reasonably foreseeable future shall prepare and submit a completed Capacity Reservation or Purchase Application form as presented in Attachment 1 to this Ordinance. In the event that there is more than one (1) Owner or Developer for the Property the application must be signed by all Owners or Developers.

(b) The form as presented in Attachment 1 to this Ordinance shall identify the Property information, and requested reservation or purchase of Sewer Capacity for it, in terms of a number of EDUs. This form may be changed from time to time by action of Borough Council.

(c) Following receipt and review of the completed Capacity Reservation or Purchase Application, the Borough shall in its reasonable discretion, based upon the availability of sewer capacity, requests for Sewer Capacity, competent engineering advice and other factors and conditions relating to the sanitary sewage system existing at the time of consideration of the application and the Real Estate involved, determine what Sewer Capacity, if any, can be reserved or purchased by the Owner or Developer for future Land Development.

(d) All Owners or Developers whose application for Purchased Capacity is approved shall, within ninety (90) days of receipt of approval by the Borough pay the applicable Tapping Fee(s) for the EDU(s) being purchased.

(e) All Owners or Developers whose application for Reserved Capacity is approved shall, within ninety (90) days of receipt of notice of such approval, enter into a Reservation Agreement with the Borough as presented in Attachment 2 to this Ordinance. The Reservation Agreement shall set forth the Sewer Capacity reserved, the calculation of the amount of the Reservation Fee payment, and acknowledgement of receipt of said payment. Said Reservation Agreement shall be valid for a period of five (5) full, calendar years from the date of the Reservation Agreement.

(f) On or before the fifth year of a Reservation Agreement, the Owners or Developers shall pay the then current applicable Tapping Fee(s) in full in accordance with Section 15 of this Ordinance; request a five (5) year extension of the Reservation Agreement; or request a cancellation of all or part of the Reserved Capacity. If the Owner or Developer timely requests an extension of the Reservation Agreement and pays any applicable fees, then the Borough will grant the additional five (5) year extension provided that the Reservation Agreement is not otherwise in default. In the event that the Owner or Developer does nothing before the end of the fifth year of a Reservation Agreement, the Reservation Agreement shall terminate and the Reserved Capacity shall be returned to the Borough and all paid Reservation Fees shall be forfeited by the Owner or Developer.

(g) In the event of an extension to a Reservation Agreement, on or before the fifth year of a Reservation Agreement extension, the Owners or Developers shall pay the then current applicable Tapping Fee(s) in full in accordance with Section 15 of this Ordinance, or request a cancellation of all or part of the Reserved Capacity. If the Owner or Developer pays the current applicable Tapping Fees(s) the Reserved Capacity becomes Purchased Capacity and the Owner or Developer is no longer obligated to pay additional Reservation Fees. In the event that the Owner or Developer does nothing before the end of the fifth year of a Reservation Agreement extension, the Reservation Agreement shall terminate and the Reserved Capacity shall be returned to the Borough and all paid Reservation Fees shall be forfeited by the Owner or Developer.

**SECTION 5. Additional Sewer Capacity.** In the event that the Reserved or Purchased Capacity shall be determined to be insufficient for the Subdivision or Land Development, and the Owner or Developer desires to request reservation or purchase of additional Sewer Capacity, such request shall be processed as a new application in accordance with the provisions of Section 4 of this Ordinance.

**SECTION 6. Cancellation or Return of Sewer Capacity.**

(a) An Owner or Developer may, at any time, upon written notice to and approval thereof by the Borough, cancel all or any portion of the Reserved or Purchased Capacity. If a Reservation Agreement is in good standing at the time that an Owner or Developer desires to cancel it, then the Reserved Capacity shall be returned to the Borough. The Borough shall reimburse the Owner or Developer in an amount not to exceed Seventy-Five percent (75%) of all Reservation Fees paid. If Purchased Capacity is returned, then the Borough shall reimburse the Owner or Developer Seventy-Five percent (75%) of the Tapping Fee(s) that was paid. The twenty-five percent (25%) of fees retained by the Borough shall be used to offset administrative and legal costs incurred.

(b) In the event that the DEP shall fail to issue or shall cancel, revoke or stay the effectiveness of any permit for any reason, or should it for any reason impose a ban on connections or extensions to the Borough's sanitary Sewer System or the Plant, the Borough shall not as a result thereof incur any liability of any nature to an Owner or Developer for the Reserved or Purchased Capacity.

(c) In the event that Reserved Capacity is no longer available, the Reservation Fees paid shall be returned to the Owner or Developer paying them, minus any fees and costs incurred by the Borough in administering the Sewer Capacity reservations in an amount not to exceed the twenty-five percent (25%) of the Reservation Fees paid.

**SECTION 7. Assignment of Sewer Capacity.**

(a) Reserved Capacity or Purchased Capacity shall be applied to and only valid for the Property for which such Sewer Capacity is obtained, except as provided hereunder. Reserved Capacity or Purchased Capacity shall be in the nature of a covenant running with the land and, upon the sale or conveyance by any means of any unimproved lot, parcel, tract or any part of a Property, the Reserved Capacity or Purchased Capacity applicable to such Property shall transfer to and become owned by the new Owner or Developer thereof, with or without a formal assignment of such Reserved Capacity or Purchased Capacity. However, the Borough may require documentation of such transfer and assignment in order to continue the validity and effectiveness of the Reserved Capacity or Purchased Capacity for the Property.

(b) If Reserved Capacity or Purchased Capacity is not utilized with the Property intended, it shall not be available for use by the Owner or Developer elsewhere and may only be returned to Shrewsbury Borough in accordance with Section 6 above.

**SECTION 8. Reservation Fee Imposition.**

(a) Effective as of the year 2022, an annual Reservation Fee for the reservation of Sewer Capacity is hereby imposed upon the Owners or Developers of all Properties which are subject to the terms of this Ordinance and approved by the Borough.

(b) The annual Reservation Fee shall be applicable and continue in effect until any of the following events occur:

- (1) On non-approval of a Subdivision or Land Development Plan for Property by the Borough;

- (2) Modification or revision of a Subdivision or Land Development Plan for or change of use of the Property;
- (3) The applicable Tapping Fee(s) have not been paid within five (5) years of the signing of the Reservation Agreement;
- (4) A period of five (5) years from the date of signing of the Reservation Agreement has expired; or
- (5) Individual units of the Property covered by this Agreement apply for and are issued building permits and sewer connection permits for the respective EDU's reserved under this Agreement (in which case, EDUs that are Reserved Capacity must be converted to Purchased Capacity and the appropriate Tapping Fee(s) shall be paid).

If one of events (1) through (4) above occurs, the Borough may determine that the Reserved Capacity should be returned, and it shall be processed in accordance with Section 6 above.

**SECTION 9. Amount of Reservation Fee.**

(a) Until otherwise modified by Resolution or other action by Shrewsbury Borough, the annual Reservation Fee for one EDU of Reserved Capacity shall be equal to sixty percent (60%) of the average residential user fee charged in association with the Borough Sewer System.

(b) Effective January 1 and for the calendar year 2022, the Reservation Fee is hereby determined to be \$234.19 per EDU. The Borough may recalculate and change the Reservation Fee periodically by resolution or action at a public meeting, but not more frequently than once per year.

**SECTION 10. Reservation Fee Due Dates and Collection.**

(a) The first Reservation Fee payment shall be paid on or before the effective date of any new Reservation Agreement.

(b) Thereafter Reservation Fees for all existing Reservation Agreements shall be billed by the Borough in the early portion of each calendar year for that particular calendar year (i.e., January, February or March for that calendar year).

(c) The Reservation Fee shall be payable for each EDU as approved.

**SECTION 11. Effect of Failure to Pay Reservation Fees.**

(a) A penalty payable at the rate of one percent (1%) per month of the outstanding sewer Reservation Fee shall be added thirty (30) days after the date upon which an annual payment was due but not paid in full.

(b) The Borough shall not issue an occupancy or construction permit to or for the use of an Owner or Developer for which any payment is due.

(c) All payments which shall be due and remain unpaid for a period of ninety (90) days may be entered as a lien, pursuant to the Municipal Lien Law, against the Property of the Owner or Developer for which such charges were unpaid.

(d) The Borough may, in its sole discretion, cancel all or any portion of the remaining Reserved Capacity for which a payment shall be due and remain unpaid for a period of more than ninety (90) days.

(e) If a Reservation Agreement is terminated for failure of the Owner or Developer to pay fees when due and owing, there shall be no refund of any fees previously paid.

**SECTION 12. Adjustment to Charges.** Annually, after completion of the annual billing period, an Owner or Developer who has Reserved Capacity may apply to the Borough to have the Reserved Capacity and annual rental charges adjusted to reflect Sewer Capacity utilized by connection to the sanitary sewage system during the preceding period.

(a) Residential Subdivisions - For each Dwelling Unit connected to the system during such period, the Owner or Developer's Reserved Capacity shall be reduced by one (1) EDU, and the annual Reservation Fee for the current period shall be reduced to reflect each Dwelling Unit so connected.

(b) For all other Subdivisions, Land Developments and projects - The Owner or Developer may seek a reduction in the number of EDU's based upon a change in the proposed Subdivision, Land Development or project. Such a reduction may be granted at the reasonable discretion of the Borough.

**SECTION 13. Attachments.** Attached hereto and made a part hereof and incorporated herein is the Capacity Reservation or Purchase Application to be completed by Owner or Developer applying to the Borough for the reservation or purchase of Sewer Capacity. The Capacity Reservation or Purchase Application is marked as Attachment 1. Also attached hereto and made a part hereof and incorporated herein is the Reservation Agreement which Owners or Developers shall be required to enter into with the Borough upon approval by the Borough of any Reserved Capacity. The Reservation Agreement is marked as Attachment 2.

**SECTION 14. Tapping Fee for Purchased Capacity.** If an Owner or Developer desires to purchase Sewer Capacity rather than reserve it, then the then applicable Tapping Fee(s) shall be paid. When connecting to the Sewer System and utilizing that Purchased Capacity, the Developer or Owner shall not be required to pay an additional Tapping Fee. However, if any other charges or fees are applicable to the Purchased Capacity, beyond that covered by the Tapping Fee(s), then the Owner or Developer shall pay those fees at the time of connection.

**SECTION 15. Tapping Fees and Connection Fees for Reserved Capacity.** At the time of connection of a Property to the Sewer System utilizing Reserved Capacity, the following shall occur:

(a) Seventy-five percent (75%) of the Reservation Fees paid would be applied against the then applicable Tapping Fee(s). If that number exceeds the Tapping Fee(s), then



the Tapping Fee(s) shall be considered paid in full, and there shall be no refund of any Reservation Fees paid. If the portion of the Reservation Fees is not sufficient to pay the Tapping Fee(s) due and owing, then the balance thereof shall be paid by the Owner or Developer.

(b) However, if any other charges or fees are applicable, beyond that covered by the Tapping Fee(s), then the Owner or Developer shall pay those fees at the time of connection.

**SECTION 16. Disposition of Revenues.** All revenues received by the Borough from the annual Reservation and Tapping Fees imposed by this Ordinance shall be used only for payment of Sewer System expenses of the Borough.

**SECTION 17. Amendment of Rates.** The rates established for the Reservation or Tapping Fees as set forth above may be amended hereafter from time to time by Borough Council by duly adopted resolution.

**SECTION 18. Repealer.** This Ordinance repeals any portions of Ordinance No. 1985-5 and any other Borough Ordinances that are inconsistent with the provisions herein.

**SECTION 19. Severability.** Should any section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**ENACTED AND ORDAINED** this \_\_\_\_ day of \_\_\_\_\_ 2021.

**ATTEST:**

**SHREWSBURY BOROUGH COUNCIL**

\_\_\_\_\_  
Cindy Bosley, Secretary

By \_\_\_\_\_  
Richard Buchanan, President

Approved this \_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Michael, G. Sharkey, Mayor

**ATTACHMENT 1**

**Shrewsbury Borough Sanitary Sewer System**

**CAPACITY RESERVATION OR PURCHASE APPLICATION**

1. Owner/Developer Name: \_\_\_\_\_

2. Contact Person: \_\_\_\_\_

3. Phone Numbers: \_\_\_\_\_

\_\_\_\_\_

4. Email Address(es): \_\_\_\_\_

5. Billing Address: \_\_\_\_\_

\_\_\_\_\_

6. Property Address(es): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

UPI Number(s): \_\_\_\_\_

\*If more than one lot, or for a proposed Subdivision, attach a plan.

7. Number of EDUs:

For residential developments, the number of EDUs must match the number of residential living units. For non-residential units, the number of EDUs must be determined by current Borough Rules, Rates, and Regulations.

Please indicate below the number of EDUs desired to be purchased or reserved.

\_\_\_\_\_ Purchased EDUs

\_\_\_\_\_ Reserved EDUs

8. Application Review

After review of the application and confirmation of the number of EDUs to be reserved, the Owner or Developer shall be notified of the amount of Reservation Fee to be paid for the upcoming year. This amount shall be paid upon execution of the Reservation Agreement.

Alternatively, if the Owner or Developer desires to purchase the EDUs, then the Owner or Developer shall be notified of the amount of the Tapping Fees to be paid, which must be paid within thirty (30) days of the date of the invoice issued by the Borough.

Date: \_\_\_\_\_

\_\_\_\_\_  
Owner/Developer Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Co-Applicant (joint Owner/Developer) Signature

**Borough Use Only**

Date Application Received: \_\_\_\_\_

Application Approval Date: \_\_\_\_\_

Application Approval Signature: \_\_\_\_\_

Purchased Capacity: \_\_\_\_\_ EDUs

Reserved Capacity: \_\_\_\_\_ EDUs

Amount Paid: \_\_\_\_\_

Reservation Agreement Date (if applicable) \_\_\_\_\_

**ATTACHMENT 2**

**Shrewsbury Borough Sanitary Sewer System**

**RESERVATION AGREEMENT**

**THIS RESERVATION AGREEMENT** (the “Agreement”) made and executed on this day of \_\_\_\_\_, 2021, between **SHREWSBURY BOROUGH**, a municipal corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, with offices located at 35 West Railroad Avenue, Shrewsbury, Pennsylvania 17361 (the “Borough”), and the undersigned **OWNER/DEVELOPER**, (the “Capacity Holder”).

**BACKGROUND:**

The Borough operates and maintains a municipal sanitary Sewer System, which collects sewage within the Borough and facilitates its treatment.

The Capacity Holder has requested and the Borough has approved Reserved Capacity in the amount of \_\_\_\_\_ EDU(s) for the Parcel (herein after defined) identified as follows:

UPI: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
Shrewsbury Borough, York County, Pennsylvania (the “Parcel”).

The parties agree that the Reserved Capacity for the Capacity Holder’s use on the Parcel, is subject to the terms and conditions enumerated herein and in the applicable Ordinances and Regulations of the Borough.

**INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES AGREE AS FOLLOWS:**

1. The foregoing preamble and paragraphs are incorporated herein by reference hereto.
2. The Capacity Holder has submitted to the Borough a Capacity Reservation or Purchase Application for Reserved Capacity, and the Borough has approved such Application, resulting in this Agreement.
3. The Capacity Holder has and shall submit to the Borough the appropriate current yearly Reservation Fee(s) totaling \_\_\_\_\_ for the year 2021 in accordance with the rate schedule of the Borough. The Capacity Holder agrees to continue to pay Reservation Fees in accordance with Borough policies and rate schedules in the future, as are in effect from time to time, when the respective payments are due and payable.
4. The Capacity Holder recognizes and acknowledges that the Reservation Fee is only a Reservation Fee. At the time of connection of the Parcel to the Sewer System utilizing the Reserved Capacity, the Capacity Holder shall be responsible to pay the applicable

Tapping Fee(s) and any other fees, subject to the provisions of applicable Ordinances, Rules and Regulations.

5. Reservation Fees are the obligation of the Capacity Holder, their respective heirs, personal representatives, successors and assigns, and in the event of non-payment shall be collected as a lien against the Parcel for which the Sewer Capacity is reserved.
6. The Capacity Holder agrees to remit to the Borough annually, Reservation Fees as billed by the Borough. At such time as the Capacity Holder applies for building and zoning permits and for sewer connection permits, the Reservation Fee shall terminate.
7. The Capacity Holder acknowledges that the Reserved Capacity is for only the Parcel identified in this Agreement and the intended use of the Parcel as set forth in the Capacity Reservation or Purchase Application. The Capacity Holder assumes responsibility for notifying a successor of obligations and responsibilities under this Agreement.
8. The Capacity Holder recognizes that the Reserved Capacity addressed in this Agreement shall not be transferred to another Property unless authorized in writing by the Borough, in its sole discretion. Any such approval may include conditions, and the Capacity Holder shall be responsible for any fees or costs related to such transfer.
9. Upon signing of this Agreement by the parties and payment of all applicable fees, the reservation shall be effective.
10. Reserved Capacity referred to in accordance with the Capacity Reservation or Purchase Application, the Agreement, and the Rates, Rules, and Regulations of the Borough is subject to any limitation or restriction placed upon the Borough by any said regulatory agency, and a determination by the Borough that the regulatory requirements can be met in a manner deemed to be in the best interests primarily of the existing customers and of the Borough's Sewer System ratepayers. This includes, but is not limited to, the implementation of the DEP's Chesapeake Bay Tributary Strategy of Chesapeake Bay Point Source Plan, which may limit treatment plant capacity. Reservations made in anticipation of completion of construction of expanded or upgraded wastewater treatment facilities are subject to the completion of construction, and the permitting of the new facilities by the DEP, or other agency, approval for which is required.
11. Approval of Reserved Capacity by the Borough does not constitute a representation that such Sewer Capacity is sufficient for the Capacity Holder's intended use of the Parcel and does not grant any rights to the Capacity Holder. In addition, the Capacity Holder hereby agrees to indemnify, defend and hold harmless the Borough from and against any and all claims arising from or related to the Reserved Capacity.
12. This Agreement shall be effective for a period of five (5) years from the date of signing of this Agreement. This Agreement may be extended for one (1) additional term of five (5) years upon request of the Capacity Holder. Any extensions thereafter, if any, shall be at the sole and exclusive discretion of the Borough.

13. This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania. Any disputes arising hereunder shall be brought before the Court of Common Pleas of York County, Pennsylvania. The parties submit to the exclusive jurisdiction and venue of that Court. If the Borough is required to take any action to enforce any provision of this Agreement, it shall be entitled to recover all expenses incurred, including reasonable attorney's fees and court costs. If this Agreement is terminated because the Capacity Holder fails to pay Reservation Fees when due and owing, no previously paid fees shall be refunded to the Capacity Holder. Additionally, the Borough shall be entitled to all remedies available at law or in equity.

**INTENDING TO BIND THEMSELVES, THEIR HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS**, the undersigned do hereunto set their hands and seals the date and year above written.

**ATTEST:**

**SHREWSBURY BOROUGH**

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

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

**WITNESS:**

\_\_\_\_\_

\_\_\_\_\_ Owner/Developer

\_\_\_\_\_ Print Name (and title, if applicable)

\_\_\_\_\_

\_\_\_\_\_ Owner/Developer

\_\_\_\_\_ Print Name (and title, if applicable)