

**ORDINANCE 2004-26**

**AN ORDINANCE GRANTING PERMISSION TO APPLIED WASTEWATER MANAGEMENT, INC., TO OPERATE EQUIPMENT, PIPES AND MAINS FOR THE OPERATION OF A WASTEWATER COLLECTION, TREATMENT AND DISPOSAL SYSTEM WITHIN AN AREA LOCATED IN THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY AS FURTHER DESIGNATED HEREIN**

**WHEREAS**, Applied Wastewater Management, Inc., currently provides wastewater collection, treatment and disposal services pursuant to an approved rate and tariff issued by the New Jersey Board of Public Utilities; and

**WHEREAS**, a portion of Hillsborough Township commonly known as the "Hillsborough Chase" subdivision and certain existing homes on adjoining lots are suitable for centralized wastewater collection, treatment and disposal services; and

**WHEREAS**, the Township Committee of the Township of Hillsborough has determined that the provision of such services would best be accomplished by a method which does not involve public funds and minimizes municipal responsibility and liability; and

**WHEREAS**, Applied Wastewater Management, Inc., has significant experience as the operator of sewer utilities which have been approved by the Board of Public Utilities; and

**WHEREAS**, the Township Committee of the Township of Hillsborough has determined that the best way to provide centralized wastewater collection, treatment and disposal services to the Hillsborough Chase subdivision and certain existing homes on adjoining lots is by authorizing Applied Wastewater Management, Inc., to serve same; and

**WHEREAS**, the Township Committee of the Township of Hillsborough has determined that it has the authority to consent to the grant of the utility franchise herein requested to privately owned utility companies as part of the Township's responsibility to provide for the general health, safety and welfare of the community.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey as follows:

**Section 1:** Municipal consent is hereby granted to Applied Wastewater Management, Inc. (hereinafter, “AWM”), for the operation, and maintenance of a public utility to provide a sewerage collection and treatment service to the Hillsborough Chase subdivision and certain existing homes on adjoining lots, more completely defined in Section II of this Ordinance. This consent shall entitle AWM to own, operate, and maintain a sewerage collection and treatment system, including but not limited to facilities such as collection main, treatment plants, disposal beds, driveways and other appurtenances and equipment in order to provide service to the franchise area, subject to such additional approvals, endorsements or consents as the law may require.

**Section 2:** The franchise for the consent granted in Section 1 of this Ordinance consists of the lands known and designated as: Block 145, Lots 34, 35, 36, and 37, and Block 148, Lots 2.01, 2.02, 2.03, 2.04, 14A and 3 through 17 inclusive, as shown on the current tax map of the Township of Hillsborough. Block 148, Lots 2.01, 2.02, 2.03, 2.04, 14A and 3 through 17 will remain as shown on the current tax maps. The land which consisted of Block 145, Lots 34, 35, 36, and 37 on the Township of Hillsborough’s current tax map has been separated in to new Blocks and Lots. These new Blocks and Lots are as follows:

- Block 145.04, Lots 1 to 27 are residential lots except Lots 25 and 27.
- Block 145.05, Lots 1 to 15 and Block 145.06, Lots 1 to 17 are residential lots.
- Block 145.07, Lot 1, Block 145.10, Lot 1 and Block 145.11, Lot 1 are to be dedicated as open space.
- Block 145.08, Lots 1 to 10 are residential lots except Lot 10.
- Block 145.09, Lots 1 to 46 are residential lots except for Lots 1, 22, 31, 45 and 46. The proposed treatment plant will be located on Block 145.09, Lot 46. The remaining property will be known as Block 145, Lot 36.01 which will not be included in the franchise. This is shown graphically as depicted in the attached Schedule “A”.

**Section 3:** The consent granted pursuant to Section 1 shall be for a period of 99 (ninety-nine) years from the final adoption of this Ordinance. The Mayor and Acting Clerk of the Township of Hillsborough are hereby authorized to execute on behalf of the Township all documents required to acknowledge said consent. Hereafter, the Township of Hillsborough is referred to as “the Township”.

**Section 4:** Municipal consent and authority is also hereby granted to AWM to lay their mains (pipes), valves, pumps and other equipment beneath such public roads, streets, private roads or streets and places within the franchise area as may be deemed necessary for their corporate purpose, free from all charge to be made by any person or body politic whatsoever for such privilege, except as otherwise provided in Section 5 of this Ordinance, provided that the mains (pipes) shall be laid below the surface in accordance with approved plans by the Township and shall not unnecessarily obstruct or interfere with the public travel or damaged public or private property. All such property shall be restored in a workmanlike manner to the condition said property was in prior to the installation of the said pipes. Except in the event of an emergency, the consent of the public charged

with repair and maintenance of such roads, streets and places shall be first obtained in writing. AWM shall be required to restore such public roads, streets and the places to the conditions they were in prior to the installation of mains, valves, pumps and other equipment by AWM.

**Section 5:** AWM, in the construction, installation, maintenance, and operation of its sewerage treatment and collection systems, shall comply with all applicable federal, state, and local statutes, rules, regulations, and ordinances and shall obtain all necessary approvals, permits, and licenses from, and pay all necessary fees to, all federal, state and local agencies having jurisdiction over any aspect of the sewerage collection and treatment system.

**Section 6:** AWM shall indemnify and hold harmless the Township from and against any and all claims, losses, or damages of any type arising out of the construction, installation, maintenance and operation of the sewerage collection and treatment system or any of its component parts.

**Section 7:** All provisions of this Ordinance which are obligatory upon or shall inure to the benefit of AWM shall also be obligatory upon and shall inure to the benefit of all successors and assigns of AWM.

**Section 8:** To the extent now or hereafter permitted by the statutes or laws of the State of New Jersey, this Ordinance shall inure to the benefit of, and be binding upon, any city, town, or other municipal corporation to which the franchise area of the Township of Hillsborough may hereafter be attached or annexed, or into which it may be incorporated.

**Section 9:** To the extent that any part or parts of this Ordinance are repealed or otherwise modified or voided by statute or case law, the remaining sections of this Ordinance shall remain in full force and effect.

**Section 10:** This Ordinance shall take effect upon its adoption, passage and publication according to law.

ATTEST:

TOWNSHIP OF HILLSBOROUGH

\_\_\_\_\_  
Kevin P. Davis, Acting Township Clerk

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Steven N. Sireci, Mayor

CERTIFICATION

I, ANN MARIE FUCCELLO, Deputy Township Clerk, hereby certify that the above ordinance is a true and correct copy of an ordinance adopted by the Township Committee of the Township of Hillsborough at a regular and duly convened meeting held on September 28, 2004.

IN WITNESS THEREOF, I have set my hand and affixed the seal of the Township of Hillsborough this \_\_\_\_ day of \_\_\_\_\_ 2004.

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