

**ORDINANCE NO. 28-2008**

**AN ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE GRANTING PERMISSION TO APPLIED WASTEWATER MANAGEMENT, INC. TO CONSTRUCT, INSTALL AND OPERATE EQUIPMENT, PIPES AND MAINS FOR THE OPERATION OF A WASTEWATER COLLECTION AND TREATMENT SYSTEM WITHIN CERTAIN DESIGNATED AREAS OF THE TOWNSHIP OF MOUNT OLIVE COMMONLY REFERRED TO AS "MORRIS CHASE"**

**WHEREAS**, the Planning Board of the Township of Mount Olive, on February 3, 2002, adopted a resolution granting final subdivision approval and amended preliminary major final site plan approval to Toll Bros., Inc., to construct a development of single family detached dwellings and townhouse units within Block 4400, Lot 79 on the Tax Map of the Township of Mount Olive, which development is commonly referred to as "Morris Chase"; and

**WHEREAS**, Toll Bros., Inc. has previously secured subdivision approvals to construct detached single-family subdivision within Block 4400, Lots 86 and 108 as shown on the Tax Map of the Township of Mount Olive (prior to filing final maps), which development is commonly referred to as "Morris Hunt"; and

**WHEREAS**, the resolution of the Mount Olive Council dated July 9, 2002 authorized execution of a Developer's Agreement embodying certain obligations to be undertaken by Toll Bros., Inc., including agreements reached with the Township (at Sections 43 and 44) to provide a privately owned sewer utility and to provide said utility and to secure all necessary government approvals for the construction of said utility; and

**WHEREAS**, Toll NJ II, LP, the successor in interest to Toll Bros., Inc., shall have the sewer utility constructed by Applied Wastewater Management, Inc. (hereinafter AWM) of Hillsborough, New Jersey, a company which has significant experience in such construction; and

**WHEREAS**, AWM seeks to own and operate the sewer utility, subject to the terms and conditions of this ordinance; and

**WHEREAS**, AWM has significant experience as the operator of sewer utilities which have been approved by the Board of Public Utilities in various municipalities; and

**WHEREAS**, AWM has made application to the Township of Mount Olive for municipal consent to a territorial franchise to provide a central wastewater collection, treatment and disposal system to service the above referenced Morris Chase development (hereinafter referred to as the “Wastewater System”); and

**WHEREAS**, the Township Council of the Township of Mount Olive has determined that the installation and operation of a central wastewater collection, treatment and disposal system to serve the franchise area is for the convenience, health, safety and general welfare of the public; and

**WHEREAS**, the Township Council of the Township of Mount Olive has determined that it has the authority to consent to the grant of a utility franchise herein requested by a privately owned utility company 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 Council of the Township of Mount Olive as follows:

**SECTION 1.** Municipal consent is hereby granted to AWM for the formation, operation and maintenance of a public utility to provide a sewerage collection and treatment service within the franchise area defined hereinafter. 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 mains, a treatment plant, disposal beds, driveways and other appurtenances and equipment within the franchise area, subject to such additional approvals, endorsements or consents as the law may require.

**SECTION 2.** The municipal consents herein granted are conditional upon and limited by the requirement that AWM obtain from the New Jersey Board of Public Utilities approval of the municipal consents granted in this ordinance.

**SECTION 3.** AWM, in the construction, installation, maintenance, and operation of the sewerage treatment and collection system, shall comply with all applicable federal, state and local statutes, rules, regulations, ordinances and the Developer's Agreement between the parties, and shall obtain all necessary approvals, permits and licenses from all federal, state and local agencies having jurisdiction over any aspect of the sewerage collection and treatment system.

**SECTION 4.** AWM shall defend and indemnify and hold the Township harmless 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. AWM shall maintain liability insurance with respect to the construction, installation, maintenance, and operation of the sewerage collection and treatment system so as to provide coverage in amounts not less than \$3 million or such other amounts as the Township may from time to time require, and shall name the Township as an additional insured on such policies. AWM shall provide to the Township certificates of such insurance on an annual basis showing the Township as an additional insured.

**SECTION 5.** The consents granted herein may not be assigned by AWM to any person or entity without the consent of the Township. Such consent, if granted, shall be by means of a duly adopted ordinance of the Township Council. 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 successor and assigns of said companies.

**SECTION 6.** 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 (Morris Chase) of the Township of Mount Olive may hereafter be attached or annexed, or into which it may be incorporated.

**SECTION 7.** Within thirty (30) days after receiving notice of the approval of this Ordinance, the terms of this ordinance shall be accepted by AWM by the filing with the Township Clerk a written acceptance thereof.

**SECTION 8.** To the extent that any part or parts of this ordinance are repealed or otherwise modified or voided by state statute or case law, the remaining sections of this ordinance shall remain in full force and effect.

**SECTION 9.** This ordinance shall take effect upon final passage and approval, and publication by law.

**ATTEST**

**TOWNSHIP OF MOUNT OLIVE**

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**Lisa Lashway**  
**Mount Olive Township Clerk**

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**Ray Perkins, Council President**

## CLERK'S CERTIFICATION

**NOTICE** is hereby given that the above Ordinance was introduced and passed first reading by title at a regular meeting of the Mayor and Council of the Township of Mount Olive, held on \_\_\_\_\_, 2007, and it will be considered for final passage at a regular meeting of said Mayor and Council to be held on \_\_\_\_\_, 2007 at \_\_\_\_\_ p.m. or as soon thereafter same can be considered, in the Municipal Building, 204 Flanders-Drakestown Road, Budd Lake, New Jersey, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning same. During the week prior and up to the time of public hearing, copies of said Ordinance will be available to the members of the general public who request same, in the Township Clerk's Office between the hours of 8:30 a.m. and 4:30 p.m.

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**Lisa Lashway, Township Clerk**