

ORDINANCE NO. 2011-08

**AN ORDINANCE OF THE TOWNSHIP OF LOWER MACUNGIE, LEHIGH COUNTY, PENNSYLVANIA, AMENDING SECTION 131-79 OF THE LOWER MACUNGIE CODE TO ESTABLISH A PROCEDURE TO SHUT OFF THE WATER OF SEWER USERS WHO ARE DELINQUENT IN THE PAYMENT OF THEIR SEWER RENTALS IN ORDER TO INDUCE THOSE USERS TO PAY THEIR DELINQUENT RENTALS.**

**WHEREAS**, Lower Macungie Township maintains a sanitary sewer system, which provides service to properties and individuals located within the Township's geographical limits; and

**WHEREAS**, the Lower Macungie Township Board of Commissioners wishes to maintain a safe and fully functioning sewer system that protects, benefits and preserves the health, safety and welfare of inhabitants of the Township and those individuals connected to the Township's sewer system; and

**WHEREAS**, the Lower Macungie Township Board of Commissioners has determined that requiring the prompt payment of sewer rentals and charges will ensure that the Township's sewer system is safe and fully functioning, which will serve to promote and preserve the health, safety and welfare of all persons connected to the Township's sewer system, including the inhabitants of the Township; and

**WHEREAS**, the Lower Macungie Township Board of Commissioners has determined that developing a procedure to shut off the water of sewer users who are delinquent in the payment of their sewer rentals will assure the prompt payment of sewer rentals and charges to the Township; and

**WHEREAS**, the Lower Macungie Township Board of Commissioners has determined that in order to induce prompt payment of sewer rentals and charges, it is in the best interest of the Lower Macungie Township to enact a procedure to shut off the water of sewer users who are delinquent in the payment of their sewer rentals and charges to the Township.

**NOW, THEREFORE, BE IT ENACTED and ORDAINED** by the Lower Macungie Township Board of Commissioners:

**I.** Section 131-79 of the Lower Macungie Code shall be amended as follows:

**§ 131-79 Municipal Claim and Lien and Water Shut Off.**

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- A. Municipal Claim and Lien. Sewer rentals or charges imposed by this Article shall be a claim on the Improved Property connected and served by the Sewage System, and any such sewer rentals or charges which are not paid within thirty (30) days after each billing date applicable to the particular Improved Property, at the discretion of the Township, shall be filed as a lien against the Improved Property so connected to and served by the Sewage System, which lien shall be filed in the office of the Clerk of Courts, Civil Division, of Lehigh County, Pennsylvania, and shall be collected in the manner provided by law for the filing and collecting of municipal claims.
- B. Shutting off Water if Sewer Rentals or Charges are not paid; Notice; Statement of Defense.
1. If the owner or occupant of a premises served by the Township sewer system shall neglect or fail to pay for a period of thirty (30) days from the due date thereof, any rental or charge imposed by the Township for the use of the sewers and sewer system, the Township may request Lehigh County Authority, the utility supplying the Township residents with water, to shut off the supply of water to such premises until all such overdue rentals and charges, together with any penalties and interest thereon, shall be paid to the Township. Upon such request, Lehigh County Authority is hereby authorized to shut off the supply of water to such premises until all such overdue rentals and charges, together with any costs, penalties and interest thereon, shall be paid to the Township.
  2. In no case shall the water supply to any premises be shut off until ten (10) days after written notice of an intention to do so has been posted at a main entrance to the premises and mailed to both the person liable for payment of the rentals and charges and to the owner of the property or property manager via certified mail, return receipt requested and by regular first class mail. If, during said ten (10) day period, the person liable for payment of the rentals and charges delivers to the Township or Lehigh County Authority, a written statement under oath or affirmation averring that there is a just defense to all or part of the claim, and that the statement was not executed for the purpose of delay, the water supply shall not be shut off until the claim has been judicially determined.

3. Prior to discontinuing service to a building, which contains one or more dwelling units occupied by one or more tenants (excluding nursing homes, hotels and motels), the Township shall comply with the provisions of the Utility Service Tenants Rights Act, 68 P.S. 399.1 *et seq.*, as amended.
4. The property owner shall pay any and all costs associated with any water shut off that are imposed by Lehigh County Authority, including, but not limited to, the loss of water revenues resulting from such shut off. The property owner shall remit payment of these costs, including the estimated loss of revenue, directly to Lehigh County Authority.
5. Nothing in this Section shall authorize the Township or the Lehigh County Authority to shut off or deny water service to a lessee for failure of a previous lessee to pay the sewer rental charges.
6. The Board of Commissioners may by ordinance adopt such rules and regulations as are necessary to effectuate the purposes of this Section

C. Collection by Assumpsit. The Township shall have the right to proceed for the recovery and collection of the sewer rentals and charges imposed by this Article by action of assumpsit against the person or persons who were the owner or owners of the property served by the Township sewer system at the time the sewer rentals and charges imposed by this Article first became payable. Such action may be commenced in the Court of Common Pleas of Lehigh County, Pennsylvania or in front of the appropriate Magisterial District Judge of the Commonwealth of Pennsylvania.

**III.** This Ordinance shall take effect as of May 6, 2011.

**III.** All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

**IV.** In the event that any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provisions, section, sentence, clause or part of this Ordinance, it being the intent of the Township that such remainder shall be and shall remain in full force and effect.

ORDAINED and ENACTED this 5<sup>th</sup> day of May, 2011, in lawful session duly assembled.

ATTEST:

TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY, PENNSYLVANIA

By: *Renea Flexer*  
Renea Flexer, Secretary

By: *Roger C. Reis*  
Roger C. Reis, President

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