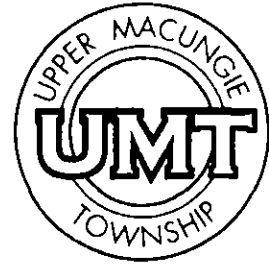


UPPER MACUNGIE TOWNSHIP AUTHORITY

8330 SCHANTZ ROAD
BREINIGSVILLE, PA 18031



(610) 395-4892

FAX (610) 395-9355

IMPORTANT NOTICE

TO: Sellers/Owners of all Real Property
FROM: Upper Macungie Township
DATE: January 1, 2009
RE: Upper Macungie Township – Ordinance No. 2008-3

On December 4, 2008, the Upper Macungie Township Board of Supervisors adopted Ordinance Number 2008-3 which became effective on January 1, 2009. A copy of this Ordinance is contained herein. With the adoption of this Ordinance, the Upper Macungie Township Authority is authorized to commence an inspection program of homes, buildings and appurtenances which are connected to the Township's sanitary sewer system. A specific provision of this Ordinance, as is set forth in Section 5, ***requires the Seller of a property located in Upper Macungie Township to retain the services of a Master Plumber registered with Upper Macungie Township for the purpose of conducting an inspection of the property and thereafter submitting a certified copy of the result of the inspection to the Township as well as purchaser of the property at or prior to Settlement.***

With the sale of any and every applicable property, the Seller must retain the services of a master plumber to conduct an inspection to verify the property is in full and complete compliance with the provisions all Township Ordinances related to connections to the Township's sanitary sewer system. The plumber's inspection and certification thereto shall ensure that when a property is being sold to a third-party purchaser, all connections are in compliance with Township Ordinances. Should the property not be in compliance and should the plumber performing the inspection not submit a certification, it shall be the responsibility of the buyer or his/her agent to ensure that the property is brought into compliance. **Should the property not be brought into compliance prior to settlement, the Township will use provisions of the applicable ordinances to ensure that the current property owner (post-settlement) brings the property into compliance with the deficiencies as noted on the inspection report. The current owner is responsible for all costs and expenses to bring the property into compliance.**

TOWNSHIP OF UPPER MACUNGIE
Lehigh County, Pennsylvania

ORDINANCE NO. 2008-3
(Duly Adopted December 4, 2008)

AN ORDINANCE REGULATING SANITARY SEWER CONNECTIONS FOR THE PURPOSE OF ELIMINATING THE INTRODUCTION OF PROHIBITED WATERS INTO THE UPPER MACUNGIE TOWNSHIP AUTHORITY SANITARY SEWER SYSTEM; PROVIDING FOR PERIODIC INSPECTIONS AND/OR TESTS OF SANITARY SEWER LINES AND FACILITIES OF HOMES, BUILDINGS AND APPURTENANCES CONNECTED TO SAID SANITARY SEWER SYSTEM; REQUIRING THE INSPECTION OF ALL PROPERTIES PRIOR TO TRANSFER OF TITLE FOR COMPLIANCE WITH THE STANDARDS AND REQUIREMENTS OF THE PROVISIONS SET FORTH HEREIN AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, Upper Macungie Township Authority (Authority) has constructed a sanitary sewer collector system for the use and benefit of the residents of the Township; and

WHEREAS, Upper Macungie Township Authority has adopted restrictions in storm water being introduced into the Township Sewer System in Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances.

WHEREAS, Upper Macungie Township (Township) has adopted Ordinance 2007-6 whereby discharge or conveyance of stormwater by and through the use of private sewer service lateral into the sanitary sewer system (Publicly Owned Treatment Works – "POTW") is prohibited.

WHEREAS, notwithstanding the adoption of Ordinance 2007-6 and Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances, the Township has obtained supporting documentation from its engineer and/or Township personnel that excessive inflow exists within the sanitary sewer system; and

WHEREAS, the Authority concludes that a substantial amount of the inflow which exists in the system is caused by violations of the provisions of Ordinance 2007-6 and Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances ; and

WHEREAS, the Authority concludes that these violations have caused and will continue to

cause excessive sanitary sewer flows which have created and will continue to create a direct danger to the health, safety and welfare of the Upper Macungie residents served by the Authority's sanitary sewer system; and

WHEREAS, the Authority concludes that these violations which have existed, and continue to exist, have resulted in, and will continue to result in excessive costs for treatment and maintenance of its system; and

WHEREAS, the Township is charged and obligated to enforce its ordinance and agreements as effectively as possible; and

WHEREAS, Upper Macungie Township concludes it is in the best interests of the residents of the Township to enact a comprehensive systematic compliance and enforcement procedure to govern the conduct of all of the users of the system.

NOW, THEREFORE, BE IT ENACTED by the Board of Supervisors of Upper Macungie Township as follows, to wit:

Section 1. Recitals.

The above recitals shall form a part of this Ordinance as fully as though the same were set forth herein at length.

Section 2. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

"Board" shall mean the Upper Macungie Township Board of Supervisors (UMT);

"Compliance" shall, whenever necessary, mean compliance with the provisions of the Ordinance set forth herein, and any amendments thereto as well as Upper Macungie Township Ordinance 2007-6 and with Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances;

"Employees" shall, whenever necessary, mean and include such employees or designated representative or officials of the UMT as the UMT shall, from time to time, designate and utilize in making the inspection and/or tests hereafter described in carrying out the other duties as prescribed herein to be performed on behalf of the UMT;

"Notice" shall mean advising when inspections and tests of the system should be performed by UMT.

"System" shall mean all of the facilities for collecting, pumping and disposing of sanitary sewage which is owned by the UMT/UMTA within the sanitary sewer service area of the UMT;

"Sump Pump" – any pump connected to the Sanitary Sewer System which is being used to pump ground/storm water into the Sanitary Sewer System.

"User" shall mean the owner, lessee or occupant of the property on which the buildings and/or appurtenances that are connected to the System are located; and

"UMT" shall mean "Upper Macungie Township" and "UMTA" shall mean "Upper Macungie Township Authority".

Throughout this Ordinance, the masculine gender shall be deemed to include the feminine and/or the neuter, the singular, the plural and vice versa, wherever required by the context.

Section 3. Compliance.

Following the passage and adoption of this Ordinance by the Board, all users of the sanitary sewage collection system of UMT shall, on or before January 1, 2009, bring themselves into voluntary compliance with the terms and conditions of the Ordinances of the UMT governing connection to and use of the sanitary sewage collection system of UMT, including but not limited to the requirements of the within Ordinance as are set forth herein; Ordinance 2007-6 as well as Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances.

Section 4. Proof of Compliance.

After January 1, 2009, a User utilizing the System of the Township may avoid the imposition or levy of any fines, fees, surcharges or penalties with regard to such use and utilization by Proof of Compliance and continuing Compliance with the provisions of the Township's Ordinance 2007-6 and any amendments thereto, the provisions of this Ordinance 2008-3 as well as Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances, which proof shall consist of and include Compliance with the following procedures and conditions as to each building and/or appurtenance connected thereto:

A. Upon request by a UMTA or UMT employee or representative, either in writing or by personal contact, each user utilizing the System shall, within ten (10) business days, as to each building and/or appurtenance so connected to the System execute a "Grant of Inspection" to UMT to permit entry upon the property served by the System on which the building and/or appurtenances are located, to inspect and/or perform such tests as may be deemed necessary, by the Township, to verify and prove Compliance with the provisions of this Ordinance 2008-3; Ordinance 2007-6 as well as Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances.

B. The Grant of Inspection shall be deemed to include the right of periodic inspections and/or tests thereafter, as may be reasonably determined to be necessary by the Township, to maintain, monitor and ensure continued Compliance with the provisions of Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances.

C. After a Grant of Inspection has been executed, it shall be deemed to be an ongoing authorization as provided for herein. When a Grant of Inspection has been submitted to UMT, the authorization to inspect shall be continuing unless the authorization is withdrawn by written Notice to UMT.

D. The Grant of Inspection shall specify that with its execution, the employees/representatives of UMT/UMTA shall be permitted to schedule an acceptable time to inspect and conduct such tests following the submission of a Notice of Inspection to the property owner advising of the date and time of the Inspection.

E. In lieu of the grant of Inspection, the user may choose to employ the services of a certified and licensed plumber as so registered by UMT, at the expense of the user, to conduct the inspection on behalf of UMTA and thereafter forwarding the results of such inspection to UMT.

F. There shall be no fees charged by UMTA for any inspections and/or tests conducted and performed by the designated representatives of UMTA or UMT with respect to processing the provisions of this Ordinance.

G. In the event a User utilizing the System executes the Grant of Inspection, and UMTA determines that said buildings and/or appurtenances are in compliance, no surcharge, fines or other penalties shall be imposed or levied upon the User; provided, however, that UMTA shall have the right and authority, pursuant to the Grant of Inspection executed as required hereby and the terms of this Ordinance, to conduct additional inspection and/or tests at a later date to determine that compliance still exists;

H. In the event a User utilizing the System refuses to execute a Grant of Inspection to UMTA for the purposes provided for herein, a surcharge of Twenty-Five (\$25.00) Dollars per month shall be imposed in addition to all other charges authorized and imposed under any applicable Ordinances of UMT commencing at the next billing period following the date of the failure of refusal to execute the Grant of Inspection to the UMTA. Should a user continue to refuse a Grant of Inspection for a period of sixty (60) days after the submission of a Final Notice of Refusal of Inspection, the surcharge shall be increased to Fifty (\$50.00) Dollars per month.

I. In the event a User utilizing the System executes the Grant of Inspection, and the UMTA inspects, conducts, tests, and determines that the buildings and/or appurtenances of said User are not in compliance, then and in such event, UMTA by its designated employee shall provide written notice of the results of the inspection and tests to the User, who shall be required to commence compliance with the applicable provisions of the Ordinance set forth herein within forty-five (45) days of the date of the notice.

J. In the event that the building and/or appurtenances of the User is determined not to be in compliance with the Ordinance set forth herein, and any amendments thereto, and the time period referred to in Subparagraph I above for the commencement of corrective work expires, and the User refuses or fails to bring buildings and/or appurtenances in compliance with the aforementioned Ordinance, the surcharge of Fifty Dollars (\$50.00) per month as per Paragraph H, per billing account,

for such User shall be imposed, in addition to all other charges authorized and imposed under any applicable Ordinances of UMT commencing at the next billing period following the date of the inspection or testing by UMTA wherein such non-compliance was determined, for permitting such violation to continue to exist.

K. The surcharge referred to herein shall be removed only upon the following conditions:

1. The User utilizing the system executes a Grant of Inspection to UMTA; and
2. UMTA inspects and/or performs tests on the building and/or appurtenances connected to the System and determines that the buildings and/or appurtenances so connected to the System are in Compliance; or
3. An independent plumber who is certified to perform inspections on behalf of UMTA submitting the results of such inspection to UMTA; and
4. Under any of these conditions, the payment in full of all surcharges billed to the User utilizing the System until the date when the buildings and/or appurtenances in question of the User are determined to be in Compliance.

Section 5. Inspection Required upon Transfer of Properties.

(A) The Seller of any property (residential or commercial) located in UMT shall be required to retain the services of a master plumber registered with UMT for the purposes of conducting an inspection of the property to ensure Compliance with the provisions of this Ordinance 2008-3; Ordinance 2007-6 as well as Section 305 of Chapter 18 of the Upper Macungie Township Code of Ordinances. Said inspection shall also require a video inspection of the sanitary sewer lateral to ensure Compliance. The plumber retained shall prepare and certify a report that the property is in Compliance. The Seller of any property shall submit the certified result to UMTA and to the purchaser of the property at or prior to the time for settlement on the sale or purchase of the property.

(B) Should the lateral, be found to be defective, based upon UMTA's Rules and Regulations and/or sound engineering practice, the lateral pipe shall be replaced or relined. There may be limited permission granted for spot repairs. The pipe replacement/relining/spot repair shall be performed by a registered certified plumber in accordance with the Code requirements of UMT.

(C) In the event that any transfer of title occurs without an inspection having been conducted and without the Seller obtaining a certified report, the Buyer or Purchaser of the property shall be responsible for having the aforementioned inspection conducted and for the submission of the certified result to UMTA.

(D) This Section shall not apply to transfer of "NEW" construction properties.

Section 6. Special Circumstances to Allow Retention of Sump Pump.

(A) Unique Topography – some areas situate in close proximity to Streams and/or Water Ways are not suitable for the removal of existing sump pumps which are presently connected to individual Sanitary Sewer Systems. Residential structures situate in such areas shall be permitted to

retain the existing sump pumps after such properties have been inspected by the plumbing inspector for UMTA.

(B) Upon receiving approval from UMTA, a sump pump may be retained in accordance with the specifications issued by UMTA whereby ground water may be discharged into the UMT Sanitary Sewer System.

(C) Permitted sump pumps shall be subject to periodic inspections being performed by the plumbing inspector for UMTA or by an approved certified plumber at the expense of the owner of the property after which a report shall be issued to UMTA for review and approval by UMTA.

Section 7. Cost Contribution by UMTA.

The Authority will consider providing a contribution, on an individual basis, of a maximum of One Thousand (\$1,000.00) Dollars toward the cost of pipe replacement/relining or sump pump removal from the Sanitary Sewer System. Only owner occupied residential property owners may be eligible for this contribution for such work, whether or not the subject property is being sold. No contribution will be made toward "spot" lateral repairs. The decision regarding such contribution by the Authority shall not be appealable.

Section 8. Non-Compliance.

In the event a User is found to be in Compliance and subsequent inspections and/or tests determine Non-Compliance now exists, the terms and provisions of Section Four, Paragraphs H, I, and J, thereof shall be applicable, except that in addition to the surcharge to be charged in accordance with Section Four, Paragraph I, if any, the User shall be liable for payment of a sum equal to the number of the months since the original determination of compliance was made, multiplied by the monthly surcharge amount provided for in Section Four, Paragraph I, for knowingly, willfully and/or intentionally creating or permitting such violation to commence and continue. A non-compliance occurs when a reconnection of a sump pump is discovered with the performance of a subsequent inspection.

Section 9. Penalty for Non-Compliance.

In the event a User if found to be in a state of non-compliance a second or subsequent time, then the User shall be liable for the payment of a sum equal to One Thousand Dollars (\$1,000.00) per day, plus an amount equal to the sum of the months since the original non-compliance was corrected (and if never corrected, from the date of such non-compliance determination), multiplied by the monthly surcharge amount provided for in Section Four, Paragraphs H or J, for knowingly, willfully and/or intentionally permitting such violation to commence and continue.

Section 10. Violations.

Any User violating any of the provisions of this Ordinance shall be liable to the Township for any expenses, costs and fees, including but not limited to reasonable attorney fees, occasioned or

caused to the Township by reason of seeking enforcement of such Ordinance against the violator, as well as for any losses or damages occasioned or caused to the Township by reason of such violation.

Section 11. Remedies.

UMT and UMTA shall have full power and authority to invoke any legal, equitable or special remedy for the enforcement of this Ordinance.

Section 12. Supplemental Ordinance.

This Ordinance shall be deemed supplemental to all other Ordinances and provisions thereof for enforcement and compliance purposes, and shall not be deemed to amend or rescind said other Ordinances and provisions; further, that any fines, fees, charges or penalties levied or imposed pursuant to this Ordinance shall be in addition to any fines, fees, charges or penalties levied or imposed pursuant to all other Ordinances and provisions thereof.

Section 13. Compliance.

The Board, by passage hereof, has determined that the measures hereinbefore set out are a reasonable means of ensuring compliance with the Ordinance set forth herein and any amendments thereto, and further that the same are necessary to protect and ensure the health, safety and welfare of the residents of the Township and the area served by the System.

Section 14. Severable Provisions.

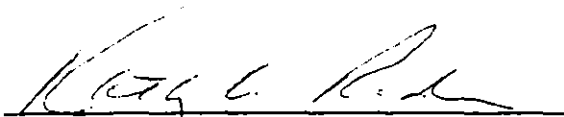
The provisions of this Ordinance shall be deemed severable, and should any section or part hereof be deemed invalid or unenforceable by the Courts of the Commonwealth of Pennsylvania, such section, clause, sentence or provision shall be deemed stricken and the invalid or unenforceable part shall not affect the validity or enforceability of any other part or parts of this Ordinance which can be given effect without such part or parts as may be so deemed invalid or unenforceable.

Section 15. Effective Date.


This Ordinance shall become effective five (5) days after its enactment.

DULY ENACTED AND ORDAINED this 4th day of December, 2008, by the Board of Supervisors of Upper Macungie Township, Lehigh County, Pennsylvania, in a lawful session duly assembled.

ATTEST:


KATHY A. RADER, Secretary

TOWNSHIP OF UPPER MACUNGIE
LEHIGH COUNTY, PENNSYLVANIA

BY: 
EDWARD J. EARLEY, Chairman
of the Board of Supervisors