TOWNSHIP OF ANTRIM,
FRANKLIN COUNTY, PENNSYLVANIA

ORDINANCE NO. 331 OF 2014

AN ORDINANCE AMENDING CHAPTER 110-SEWERS OF THE CODE OF THE TOWNSHIP OF ANTRIM, PENNSYLVANIA, BY PROVIDING THE TOWNSHIP WITH THE RIGHT TO DISCONNECT USERS OF THE SEWER SYSTEM FOR FAILURE TO PAY THEIR SEWER BILLS

WHEREAS, the "Municipality Authorities Act", authorizes townships to create municipal authorities, (53 Pa. C.S.A. Sections 5601-5623); and

WHEREAS, the Township of Antrim has created a municipal authority known as the "Antrim Township Municipal Authority"; and

WHEREAS, the Antrim Township Municipal Authority has constructed a sewer system pursuant to the Municipality Authorities Act, [53 Pa. C.S.A. Section 5607 (a)(5)]; and

WHEREAS, the Antrim Township Municipal Authority has entered into a lease with the Township of Antrim obligating the Township of Antrim to operate the sewer system; and

WHEREAS, pursuant to said lease, the Township of Antrim is also required to collect sewer rentals for users of the sewer system, enact regulations requiring users to pay sewer rentals and take enforcement action against users of the sewer system who fail to pay said rentals in any matter permitted by law; and

WHEREAS, 53 P.S. Section 2231 provides townships with the right to collect rentals for the use of the sewer system if a lease is entered into between the municipal authority and the township; and

WHEREAS, Pennsylvania Common Law provides utility suppliers with the right to terminate services for users who fail to pay their user fees; and

WHEREAS, numerous users of the Antrim Township Municipal Authority sewer system have failed to pay their sewer rental bills; and

WHEREAS, as of the date of enactment of this ordinance, said sewer rental delinquent bills are in excess of $100,000; and

WHEREAS, failure of sewer users to pay their sewer bills places an undue burden on other users of the sewer system who do pay their bills in a timely manner.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby enacted and ordained by the Township of Antrim Board of Supervisors as follows:

I. Section 110-45 of the Code of the Township of Antrim shall be amended by placing a capital "A" before the current paragraph in said section and by adding a new Section "B" that shall read as follows:

B.) This Article may also be enforced by the Township of Antrim disconnecting users of the sewer system from the sewer system for failure to pay their bills provided that the following procedure is complied with:

1.) Upon failure of a user to pay the sewer bill within thirty (30) days of the due date, a written notice shall be sent to the user advising the user that if their delinquent sewer bill is not paid within sixty (60) days of the notice the Township shall disconnect the user from the sewer system.

2.) The notice shall also advise the user that if they believe the bill is wrong, or they have a just defense for failing to pay their sewer bill, they have the right to request a hearing with the Township Manager/Administrator within fifteen (15) days of the date of the notice.

3.) The notice shall also advise the user that if they believe the bill is wrong, or they have a just defense for failing to pay the sewer bill, they have the right to request a hearing before the Township Board of Supervisors within forty-five (45) days of the date of the notice.

4.) A second notice shall also be sent to the user thirty (30) days before the date set for terminating the sewer service. This notice shall again advise the user that if their bill is not paid within thirty (30) days their sewer service shall be terminated. The notice shall also advise the user that he/she has the right to request a hearing before the Township Board of Supervisors within fifteen (15) days of the date of the notice if the user believes the bill is in error, or the user has a just defense for not paying the bill.

5.) Both notices shall be sent by certified mail, restricted delivery, return receipt requested. In addition, copies of both notices shall be sent by regular United States mail and copies of both notices shall be conspicuously posted on the front door of building to be disconnected at or near the time the notices are sent. Said posting of the property shall be excused if the owner or inhabitant of the building refuses to allow said posting to take place.

6.) If a user requests a hearing before the Township of Antrim Board of Supervisors and after the hearing before the Township Board of Supervisors,

it is determined that the user shall be disconnected from the sewer system for failing to pay the sewer bill, the user shall have the right to appeal the decision of the Township of Antrim Board of Supervisors within thirty (30) days after entry of the decision as provided in 42 Pa. C.S.A. Section 5572 (relating to entry of order). If the user does not timely appeal an unfavorable decision of the Board of Supervisors then he/she shall be disconnected from the sewer system at the expiration of the time period for filing the appeal to the Franklin County Court of Common Pleas. The user shall not have the right to appeal the decision of the Township Manager/Administrator to the Franklin County Court of Common Pleas. If the user disagrees with the decision of the Township Manager/Administrator he/she shall have the right to request a hearing before the Township Board of Supervisors. The user shall not be disconnected from the sewer system during the pendency of the appeal to the Franklin County Court of Common Pleas if the user does the following: a) Provides the Township with a written statement under oath or affirmation averring that the bill is in error or the user has a just defense for not paying the bill and that the statement is not executed for the purposes of delay; and b) the user pays into an escrow account established by Township an amount equal to the disputed sewer rental arrearage and further pays into the escrow account, in a timely manner, the sewer rental bills that become due until a decision is made by the Franklin Count Court of Common Pleas. If the decision of the Franklin County Court of Common Pleas is in favor of the user, the money placed in the escrow account, plus interest, shall be paid to the user. If the decision is in favor of the Township of Antrim, the moneys plus interest shall be paid to the Township.

7.) Prior to disconnecting sewer service in a residential building as defined under "The Utility Service Tenants Rights Act", (68 P.S. §§ 399.1 et seq.) the Township shall comply with the provisions of that act, if applicable.

8.) If requested, the hearing before the Township Manager/Administrator shall be an informal hearing. If requested, the hearing before the Township of Antrim Board of Supervisor shall be held pursuant to the "Administrative Law and Procedure" law as set forth in 2 PA C.S.A. Sections 551-555.

II. Section 110-41 of the Code of the Township of Antrim shall be amended by adding the following sentence at the end of the existing paragraph:

"The Township also has the right to enter the property and disconnect the property from sewer service pursuant to Section 110-45 (B) of this Chapter."

SECTION III. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconditional by any Court of competent jurisdiction,

such portion shall be deemed as a separate, distinct and independent provision, and such portion shall not affect the validity of the remaining portions hereof.

SECTION IV. Repeal and Effect of this Ordinance on Previous Provision of the Code.

The provisions of this Ordinance, shall only repeal and/or affect Sections 110-41 and 110-45 of Chapter 110 of the Code of the Township of Antrim, Pennsylvania. The remaining sections of Chapter 110 and existing definitions contained in Section 110 shall continue in force after the enactment of this Ordinance and such provisions shall date from the date of the adoption of the prior ordinance enacting same. All such provisions not affected by this ordinance are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Supervisors of the Township of Antrim, and it is the intention of said Board of Supervisors that such provisions contained within the Code are hereby reenacted and reaffirmed as they appeared in said Code. Only such provisions of Chapter 110 as this Ordinance expressly amends shall be deemed repealed and only changed provisions in this Ordinance shall be deemed to be enacted from the effective date of this ordinance.

SECTION IV. Effective date.

This Ordinance shall take effect five (5) days after enactment.

Duly Enacted and Ordained this 27th day of May, 2014, by the Board of Supervisors of Antrim Township, Franklin County, Pennsylvania, in lawful session duly assembled.

ATTEST:

Jennifer Becknell, Secretary

ANTRIM TOWNSHIP
BOARD OF SUPERVISORS

~~Pat Heraty~~, Chairman
Vice