

BOROUGH OF MACUNGIE
LEHIGH COUNTY, PENNSYLVANIA

Ordinance No. 2018-02

AN ORDINANCE AMENDING CHAPTER 274 OF THE MACUNGIE BOROUGH CODE OF ORDINANCES, SEWERS, BY ADDING A NEW SECTION 274-33.1, BUILDING SEWER INSPECTIONS, REQUIRING AN INSPECTION OF THE BUILDING SEWER OF EACH IMPROVED PROPERTY CONNECTED TO THE BOROUGH'S SEWER SYSTEM PRIOR TO THE TRANSFER AND/OR CONVEYANCE OF OWNERSHIP OF THE PROPERTY; REQUIRING AN INSPECTION OF THE BUILDING SEWER OF EACH IMPROVED PROPERTY CONNECTED TO THE BOROUGH'S SEWER SYSTEM PRIOR TO A CHANGE IN USE FROM RESIDENTIAL TO COMMERCIAL; REQUIRING THE INSPECTION OF THE BUILDING SEWER AT THE TIME THE BOROUGH PERFORMS REHABILITATION AND/OR REPLACEMENT WORK ON THE BOROUGH'S SEWER LINE TO WHICH THE IMPROVED PROPERTY'S BUILDING SEWER IS CONNECTED; ADDING DEFINITIONS TO SECTION 274-24; AND, REQUIRING THE CORRECTION OF DEFICIENCIES AND PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, Chapter 274 of the Borough of Macungie Code of Ordinances provides various rules and regulations concerning the use of the Borough's public Sewer System; and

WHEREAS, Section 274-31.A. of the Borough of Macungie Code of Ordinances prohibits the discharge of storm water, surface water, spring water, groundwater, roof runoff, subsurface drainage, building foundation drainage, cellar drainage, drainage from roof leader connections, and overflow or drainage from cesspools into any sewer pipe, main, or conduit constituting part of the Borough's Sewer System; and

WHEREAS, the Borough is incurring substantial costs to remove inflow and/or infiltration of storm water, surface water, groundwater, etc. from its Sewer System in order to satisfy mandates of the U.S. Environmental Protection Agency and the Pennsylvania Department of Environmental Protection; and

WHEREAS, some of the inflow and/or infiltration is introduced into the Borough's Sewer System from private Building Sewers and/or their Lateral connections rather than from leaks in the pipes, connections, and/or manholes of the Borough's Sewer System; and

WHEREAS, the Borough concludes that a substantial amount of the inflow which exists in the Borough's Sewer System is caused by the excessive age and poor condition of the private Building Sewers and their connections to the Laterals; and

WHEREAS, the Borough concludes that the inflow will continue to cause excessive sanitary sewage flows which may create and/or continue to create a danger to the health, safety, and welfare of Macungie Borough residents; and

WHEREAS, Macungie Borough is charged and obligated to enforce its Ordinances and to protect the health, safety, and welfare of its residents; and

WHEREAS, Macungie Borough concludes that it is in the best interest of the residents of the Borough to enact a comprehensive and systematic inspection, compliance and enforcement procedure concerning the upkeep and maintenance of the private Building Sewers and their connections to the Laterals connected to the Borough's Sewer System; and

WHEREAS, in order to better enforce the prohibition of certain water entering the Borough's Sewer System from private properties, Borough Council desires to amend Chapter 274 of the Macungie Borough Code of Ordinances to require the inspection of properties at certain times to ensure their compliance with the Borough of Macungie Code of Ordinances and to require the correction of deficiencies and/or violations identified by such inspections; and

WHEREAS, such inspections shall be required prior to the transfer and/or conveyance of an Improved Property, prior to a change in use from residential to commercial of the Improved Property and/or at the time of rehabilitation and/or replacement work on the Borough's Sewer line to which the Improved Property is connected.

NOW, THEREFORE, be it ORDAINED and ENACTED by the Macungie Borough Council as follows:

ARTICLE I

Chapter 274 of the Macungie Borough Code of Ordinances, Sewers, is hereby amended by adding the following definitions to Section 274-24:

BUILDING SEWER – The extension from the sewage drainage system of any structure to the lateral of a sewer.

LATERAL – That part of the sewer system extending from a sewer to the curb line or, if there is no curb line, to the property line, or, if no such lateral is provided, then “lateral” shall mean that portion of, or place in, a sewer which is provided for connection of any building sewer.

LICENSED MASTER PLUMBER - A licensed plumber who has satisfied the requirements and has secured a master plumber's license from a jurisdiction recognized by the Borough of Macungie. A licensed master plumber shall also be trained and/or experienced in sewer line video inspections.

VIDEO INSPECTION – A closed circuit television (CCTV) inspection performed in accordance with the National Association of Sewer Service Companies' (NASSCO) Lateral Assessment

Certification Program. A video inspection shall include the cleaning of the building sewer prior to videoing the line. A video inspection shall comply with the Video Inspection Report form available at the Borough and shall include a photograph of the home with its address noted.

ARTICLE II

Chapter 274 of the Macungie Borough Code of Ordinances, Sewers, is hereby amended by the addition of the following new Section 274-33.1:

§274-33.1 Inspections of Building Sewers.

A. Inspections.

The purpose of an inspection required by this §274-33.1 is to locate any inflow and infiltration into the private Building Sewer and its connection to the Lateral; to make sure there are no holes or damage to the private Building Sewer and its connection to the Lateral; to ensure there are no prohibited discharges into the Building Sewer; and, to verify that all clean-outs and/or vents are properly capped and not damaged. All Improved Properties that are connected to the Macungie Borough Sewer System shall be subject to inspections at certain times as set forth in §§274-33.1.A(1), (2), (3) and (4) below.

- (1) Prior to any sale, transfer and/or other conveyance of any Improved Property connected to the Macungie Borough's Sewer System, the selling or transferring Owner of the Improved Property shall retain the services of a Licensed Master Plumber for the purpose of conducting an inspection of the private Building Sewer and its connection to the Lateral to ensure compliance with Chapter 274 of the Borough's Code of Ordinances and in particular the requirements of §274-31.A. The inspection of the Building Sewer and its connection to the Lateral shall include a video inspection to determine whether such pipes and/or their connections allow storm water, groundwater, or other drainage prohibited by §274-31.A. to enter the Borough's Sewer System. The inspection shall include a visual assessment of all the drainage sources discharging into the Building Sewer to ensure compliance with §274-31.A. The cost of an inspection under this §274-33.1.A(1) shall be the responsibility of the property Owner. The Owner shall ensure that the plumber completes the Video Inspection Report form provided by the Borough. A copy of the inspection report from the Licensed Master Plumber and a copy of the video shall be provided to the Borough prior to conveying and/or transferring ownership of the Improved Property.
- (2) Prior to a change in use of any Improved Property connected to the Macungie Borough's Sewer System from a residential use to a commercial use, the Owner of the Improved Property shall retain the services of a Licensed Master Plumber for the purpose of conducting an inspection of the private Building Sewer and its connection to the Lateral to ensure compliance with Chapter 274 of the Borough's Code of Ordinances and in particular the requirements of §274-31.A. The

inspection of the Building Sewer and its connection to the Lateral shall include a video inspection to determine whether such pipes and/or their connections allow storm water, groundwater, or other drainage prohibited by §274-31.A. to enter the Borough's Sewer System. The inspection shall include a visual assessment of all the drainage sources discharging into the Building Sewer to ensure compliance with §274-31.A. The cost of an inspection under this §274-33.1.A(2) shall be the responsibility of the property Owner. The Owner shall ensure that the plumber completes the Video Inspection Report form provided by the Borough. A copy of the inspection report from the Licensed Master Plumber and a copy of the video shall be provided to the Borough prior to securing the applicable permit for the change of use and/or prior to the start of the commercial use on the Property, whichever first occurs.

- (3) All Owners of Improved Property connected to the Borough's Sewer System shall, upon notice from the Borough that the Borough intends to repair, replace and/or rehabilitate the Borough's Sewer line to which the Owner's Building Sewer is connected, make an appointment, within thirty (30) days of being notified, with the Borough to allow the Building Sewer and its connection to the Lateral to be inspected by the Borough and/or the Borough's designee to ensure compliance with Chapter 274 of the Borough's Code of Ordinances and in particular §274.31.A. The inspection shall include a visual assessment of all the drainage sources discharging into the Building Sewer and may include a video inspection of the Building Sewer and Lateral if deemed necessary by the Borough to ensure compliance with §274-31.A. The Borough shall not charge the property Owner for the inspection under this §274-33.1.A(3).
- (4) In addition to §§274-33.1.A(1), (2) and (3) above and as set forth in §274-33, the Borough shall have the right to access at reasonable times any part of an Improved Property served by the Borough's Sewer System as deemed necessary for purposes of inspection, observation, measurement, sampling and testing and/or other functions relating to services rendered by the Borough through its Sewer System.
- (5) The Owner of an Improved Property connected to the Borough's Sewer System shall be responsible for any fees associated with the administration and review of the above-referenced inspections, such fees to be set by Borough Council in the annual fee schedule resolution.

B. Results of Inspections.

- (1) If upon completion of an inspection under this §274-33.1, the Building Sewer and/or its connection to the Lateral is found to be defective and/or non-compliant with Chapter 274 of the Borough's Code of Ordinances and/or sound engineering practice, the Owner shall have the Building Sewer and/or its connection to the Lateral replaced, relined or repaired in a manner consistent with the Borough's Code of Ordinances. At the discretion of the Borough, there may be limited permission granted for spot repairs. Any sewer pipe replacement/relining/spot

repair shall be performed by a licensed master plumber in accordance with the applicable Code requirements adopted by the Borough.

- (2) If upon completion of an inspection under this §274-33.1, the Improved Property is found to be discharging prohibited water and/or waste into the Building Sewer and/or into the Borough's Sewer System, the Owner shall cease any such prohibited discharge and properly perform all work necessary to ensure compliance with Chapter 274 of the Borough's Code of Ordinances.

C. Correction of Deficiencies/Violations.

- (1) All deficiencies and violations discovered by the inspections provided for in this §274-33.1 shall be corrected within thirty (30) days of discovering such deficiencies and/or violations or prior to settlement on the sale and/or transfer of the Improved Property or prior to a change in use from residential to commercial, whichever first occurs.
- (2) The Building Sewer and its connection to the Lateral shall be re-inspected by video after having been repaired, relined and/or replaced. The results and/or report of the re-inspection and a copy of the video shall be provided to the Borough within thirty (30) days of having the repair, relining and/or replacement work performed or prior to settlement on the sale and/or transfer of the Improved Property or prior to a change in use from residential to commercial, whichever first occurs.

D. Transfer Without Inspection.

The failure to comply with this §274-33.1 prior to conveying and/or transferring ownership of an Improved Property and/or prior to a change in use from residential to commercial shall not relieve the Owner of the Improved Property from complying with the requirements of Chapter 274 of the Borough's Code of Ordinances. Any deficiencies and/or violations of Chapter 274 of the Borough's Code of Ordinances shall be the responsibility of the Owner of the Improved Property.

E. Maintenance, Repair and Replacement of Clean-outs.

It shall be the responsibility of the Owner of an Improved Property connected to the Borough's Sewer System to maintain, repair, and replace all the clean-outs along the Improved Property's Building Sewer and/or its connection to the Lateral, including any clean-out at the right-of-way, curb line, or the edge of the pavement, whichever applies.

F. Violations and Penalties.

- (1) In the event an Owner of an Improved Property connected to the Borough's Sewer System is found to be in non-compliance with Chapter 274 of the Borough's Code of Ordinances, then the Owner shall be liable for the payment of a sum equal to One Thousand Dollars (\$1,000.00) per day for knowingly, willfully, and/or

intentionally permitting such a violation to commence and continue.

- (2) Any Owner of an Improved Property connected to the Borough's Sewer System violating any of the provisions of this Chapter 274 of the Borough's Code of Ordinances shall be liable to the Borough for any expenses, costs, and fees including, but not limited to, reasonable attorney's fees, occasioned by or caused to the Borough by reason of seeking enforcement of such Chapter against the violator, as well as for any losses or damages occasioned or caused to the Borough by reason of such violation.

G. Remedies.

The Borough shall have full power and authority to invoke any legal, equitable or special remedy in conjunction with the enforcement of this Section 274-33.1.

ARTICLE III. 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.

ARTICLE IV Severability.

The provisions of this Ordinance shall be deemed severable, and if any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Council of Macungie Borough, that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included therein.

ARTICLE V Effective Date.

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

DULY ORDAINED and ENACTED by the Borough Council of the Borough of Macungie, this _____ day of _____, 2018, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF MACUNGIE

Christopher T. Becker
Council President

Attest:

Chris L. Boehm, Borough Manager

AND Now, this _____ day of _____, 2018, the above Ordinance is hereby APPROVED.

Ronald Conrad, Mayor