

Upon motion by _____, seconded by _____,
the following Ordinance was duly enacted, _____ voting in favor of enactment, _____ voting
against enactment.

ORDINANCE 99-8

(As Amended and Restated by Ordinance 2004-15,
enacted November 16, 2004)

An Ordinance of Millcreek Township, Erie County, Pennsylvania, imposing sanitary sewer rentals, rates and charges for the use of the Millcreek Township sanitary sewer system upon the lots or properties served or to be served by the system and their owners; setting forth the method by which said rentals, rates and charges are to be computed; defining terms; providing for the assessment and billing of rentals, rates and charges and for late payment penalties, interest and collection fees in the event of nonpayment; providing for referral of delinquent accounts for collection and for the filing and collection of liens; providing for annual review and revision of rentals, rates and charges, the deposit of funds collected into a special account and disbursement of said funds; amending and restating Ordinance 89-30 as previously amended; and including repealor and severability clauses.

WHEREAS, Millcreek Township has heretofore established pursuant to the Municipality Authorities Act of 1945, P.L. 382, as amended, a municipal authority known as the Millcreek Township Sewer Authority for the purpose of owning, acquiring, holding, constructing, improving, maintaining and operating, either itself or by agreement with any other municipality or authority or lessee, sanitary sewers, sanitary sewer systems or parts thereof, sewage treatment works, including works for treating and disposing of industrial wastes and, for these purposes, to have, possess and enjoy all the rights, benefits and privileges granted to such authorities by the Municipality Authorities Act as amended, and has conveyed title to existing sanitary sewers to such Authority; and

WHEREAS, in connection with such creation and transfer, the Millcreek Township Sewer Authority has leased said sanitary sewer system, facilities and appurtenances to the Township of Millcreek for operation, maintenance and administration of the system by the Township; and

WHEREAS, the Sewer Authority under the terms of said Lease, has assigned to Millcreek Township the authority to impose, assess and collect rentals, rates and charges for the use of said sanitary sewer system to provide funds to defray costs of operation, maintenance, repair, administration, repair, replacement and improvement of the sanitary sewer system and facilities, and the Township under said Lease has covenanted to impose, assess and collect such rentals, rates and charges, to operate and maintain such system and pay the costs thereof from sums collected, and to pay to the City of Erie costs of treatment and disposal of sewage by it; and

WHEREAS, Millcreek Township desires to establish fair and equitable user charges to assure that each lot, parcel, building, unit and recipient of waste treatment and collection services within the Township will pay its proportionate share of the costs of operation, maintenance, repair, administration, replacement and improvement of all sanitary sewer and waste treatment services provided or paid for by the Township; and

WHEREAS, a substantial portion of the costs of the public sanitary sewer system relates to sums due to the City of Erie for wastewater treatment and system improvements and to sums due in payment of bonds and notes issued by the Millcreek Township Sewer Authority to defray costs of improvements to the system, these costs being fixed, shared by lots, parcels, buildings and units benefitted by the sanitary sewer system and being due without regard to specific consumption or usage of the system at any given time; and

WHEREAS, Millcreek Township's Sewer Rental Ordinance, No. 89-30, as enacted December 18, 1989, has since been amended to adjust the amount of rentals, rates and charges, and in substantive fashion by Ordinance Nos. 93-34, 94-37 and 95-21; and

WHEREAS, the Board of Supervisors finds it necessary to amend and restate Ordinance 89-30 so as to incorporate in a single ordinance its provisions as since amended, and to establish provisions governing commencement of assessments for new construction and limitations on credits for vacancy due to the system's substantial fixed costs.

NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Millcreek Township as follows:

1.01. Common Name and Title. This Ordinance shall be titled and known as the Millcreek Township Sewer Rental Ordinance.

1.02. Definitions.

1.02.1 Words and terms used in this Ordinance and not given specific definition shall be defined as set forth in applicable statutes of the Commonwealth of Pennsylvania or ordinances of Millcreek Township, if any, and shall otherwise be given their ordinary and common meaning.

1.02.2 For purposes of this Ordinance, the following words and terms shall be defined as set forth below:

A. **BOD (Biochemical Oxygen Demand)** - the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C. expressed in milligrams per liter.

B. **City of Erie Sewer System** - generally, the collection, transportation and wastewater treatment system and facilities for sanitary sewage owned and maintained by the City of Erie which receives sewage from the Township.

- C. **Consulting Engineer** - the registered Pennsylvania professional engineer retained by Millcreek Township for any specific or general purpose, including any member of his or her staff.
- D. **Equivalent Domestic Unit (EDU)** - the base unit of usage of the sanitary sewer system for purposes of measuring use and assessing rentals, rates and charges; shall be deemed to be 70,000 gallons of water consumption or of normal domestic waste discharged to the Township sewer system annually or any portion thereof.
- E. **Extraordinary Wastes** - all other wastes which do not qualify as ordinary waste.
- F. **Industrial User** - any nongovernmental user of the Township sewer system identified in the Standard Industrial Classification Manual, Office of Management and Budget, as amended and supplemented, under the following divisions:

Division A - Agriculture, Forestry, Fishing

Division B - Mining

Division D - Manufacturing

Division E - Transportation, Communications, Electric, Gas and Sanitary Sewer Services

Division I - Services

A user in the divisions listed is excluded if it discharges primarily aggregated domestic wastes or wastes from sanitary conveniences.

- G. **Industrial Waste** - shall be deemed to include any liquid, gaseous, radioactive, solid or other substance, not ordinary waste or sewage, but including discharges from pretreatment facilities and/or those resulting from any manufacturer or industry or from any establishment, including those recovering or processing natural resources. Shall include all such substances, whether or not generally characterized as waste.
- H. **Operation and Maintenance** - the associated costs of utilities and energy, manpower, materials, transportation, chemicals and services required to collect, pump and transport sewage, keep equipment and facilities functioning satisfactorily and economically, administer the system and shall include sums paid to defray costs of the City of Erie's wastewater treatment plant and facilities and those of improvements to the Township system.

- I. **Ordinary Wastes** - wastes composed of less than 350 milligrams per liter of suspended solids and/or 300 milligrams per liter BOD, and shall not contain any additional characteristics or pollutants which, in the opinion of the Township, cause the subject sewage to be unacceptable as “ordinary waste.”
- J. **Owner** - any person, firm, corporation, individual, partnership, company, association, society or group owning real property which is connected to or discharges sewage into the Township sewer system.
- K. **Rental, Rates and Charges** - Sums assessed, imposed and to be collected from each lot, parcel, building or portion thereof which is connected with the Township sewer system or which discharges sanitary sewage, industrial wastes, water or other liquids, directly or indirectly, into to Township sewer system for the use of and the service rendered by the sewer system, including operation, maintenance, repair, replacement and improvement of such system, rental to the Millcreek Township Sewer Authority, administrative costs incident to the operation and maintenance of said system and receipt, collection, treatment and disposal of sewage by the City of Erie Sewer System pursuant to agreements with it.
- L. **Replacement** - the associated costs of obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the Township sewer system so as to maintain the capacity and performance for which said system was designed and constructed; shall include costs associated with improvements to the sewer system.
- M. **Sewage** - liquid carried waste products from whatever source or origin, with such amounts of groundwater or infiltration which may be present.
- N. **Sewer** - a pipe or other conduit carrying sewage, industrial waste or other waste liquids.
- O. **Sewer Revenue Department** - the department of Millcreek Township assigned responsibility for issuing and collecting assessments for sewer rental, issuing permits to connect to the sewer system and other functions as assigned by the Township’s Board of Supervisors.
- P. **Sewer System** - the system of pipes, conduits, lift stations, force mains and all devices, appliances and facilities appurtenant thereto used for collecting, conducting, pumping and/or treating sewage; also referred to as the sanitary sewer system.

- Q. **Significant Industrial User** - any industrial user discharging sewage to the Township system which flow constitutes greater than ten percent (10%) of the design flow or constitutes a pollutant load in excess of ten percent (10%) of the design pollutant load.
- R. **Standard Laboratory Procedure** - the procedure described in the latest edition of *Standard Methods for the Examination of Water and Wastewater*.
- S. **Suspended Solids** - solids that either float on the surface or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering in accordance with standard laboratory procedure and expressed in milligrams per liter.
- T. **Township** - the Township of Millcreek, Erie County, Pennsylvania.
- U. **Township Engineer** - the engineer employed by Millcreek Township or any authorized member of his or her staff.
- V. **Township Sewer System** - the public sewers and sewage collection and transportation system as it exists at the time of enactment of this Ordinance, including all additions and/or extensions thereof which in the future may be made to the sewers and/or facilities.
- W. **User** - any person, firm, corporation, individual, partnership, company, association, society or group discharging sewage into the Township sewer system.

1.03. Imposition of Rental, Rates and Charges. For the use of and the services rendered by said sewer system, including its operation, maintenance, repair, replacement and improvement of said system, rental to the Millcreek Township Sewer Authority, administrative costs incident to operation and maintenance of the system, sums paid and due to the City of Erie Sewer System for collection, transportation, treatment and disposal of sewage and improvements to its system and divers other expenses, quarter-annual rates and charges are hereby imposed upon each and every lot, parcel of land, building or portion thereof that is connected with the Township sanitary sewer system or discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sewer system and thence into the sewers and sewage treatment facilities of the City of Erie Sewer System, and upon the owner(s) of such lots, parcels of land or buildings. Such rental, rates and charges shall be payable to the Township by and collected from the owners of such lots, parcels of land or buildings as hereinafter provided, and shall be determined as set forth below.

1.03.1 Rental for Discharge of Normal Domestic Waste Sewer rental, rates and charges for users discharging normal domestic waste shall be based upon equivalent domestic units (EDU) of water usage, which for the purpose of establishing such rental, rates and charges, shall be deemed to be 70,000 gallons of water consumption annually. Each EDU of water usage shall constitute one (1) equivalent domestic unit (EDU) of sewer usage, and shall be charged for one (1) EDU of sewer usage. Fractional amounts shall be charged and assessed at the next greater full number of equivalent domestic units.

- A. Single-family residential dwellings and all other residential units such as apartments, mobile homes, condominium units, independent or assisted living facilities, duplexes and other multi-unit residential dwellings shall be charged for one (1) equivalent domestic unit (EDU) of sewer use for each individual residential unit.
- B. All nonresidential uses whose public water consumption is metered shall be charged for the number of equivalent domestic units of usage, obtained by dividing the total annual gallons of water consumption by 70,000 gallons. The basis for determining the number of equivalent domestic units of water used shall be the report of such water usage during the most recent quarter or period as received by the Department prior to the first day of the month preceding the assessment date from any public or private utility or water authority which furnishes water to such lot, parcel, building or portion thereof. Where a lot, parcel or building is divided into more than one use or user connected to or discharging sewage into the sewer system, each unit or user so connected to or discharging sewage into the sewer system shall constitute a separate user.
- C. Where there is no public water service or where there is no available or acceptable water consumption record for a nonresidential use, or where, in the opinion of the Township, it is impossible or impracticable to calculate and assess sewer rental, rates or charges on a water consumption basis, the Township Engineer shall determine what constitutes a reasonable, fair and proportionate charge by means of the following:
 - (1) Hotels and motels shall be charged for one (1) equivalent domestic unit of sewer usage for each two (2) hotel or motel rooms.
 - (2) Schools shall be charged for two and one-half (2½) equivalent domestic units of sewer usage for each school classroom.
 - (3) Hospitals and nursing homes (not including independent or assisted living facilities) shall be charged at a rate of two hundred fifty (250) gallons per day for each hospital or nursing home bed.

- (4) Commercial and industrial establishments shall be charged at a rate of forty (40) gallons per work day shift per employee multiplied by the number of shifts per day and averaged over a calendar year.
- (5) Such other reasonable method which the Township Engineer may determine to be fair and equitable, but in no event shall the charges under subsections A through D, above, be less than one (1) equivalent domestic unit (EDU) of sewer usage.

1.03.2 Rental for Discharge of Extraordinary Waste Sewer rental, rates and charges for users generating extraordinary waste shall be based upon equivalent domestic units (EDU) of normal domestic waste. One (1) EDU of sewer use shall be deemed to equal either 70,000 gallons of water consumption per year or 70,000 gallons of normal domestic waste per year discharged into the Township sewer system. The discharge of, and the rental, rates and charges assessed and imposed for extraordinary waste shall be in accordance with the Millcreek Township Industrial Waste Ordinance, No. 85-3 as thereafter amended.

1.03.3 Minimum Rental Assessment No lot, parcel, building, unit or user shall be charged for less than one (1) equivalent domestic unit (EDU) of sewer usage.

1.03.4 Assessment Following Issuance of Permit to Connect. When a permit to connect to the sanitary sewer system has been issued, sewer rental, rates and charges shall be assessed and imposed upon a lot, parcel, building or portion thereof for use of or discharge of sewage into the sewer system effective as of the first day of the calendar quarter next following (i) for new construction, 120 days after the date on which the initial inspection of sanitary sewer inspections is made upon timely request therefor; or (ii) for an existing building or structure, the date on which a permit to connect to the sewer system has been issued; or (iii) the date on which a water meter is installed; or (iv) 120 days after the date on which a permit to connect to the water system is made; or (v) 60 days after the date of an official notice to connect to the sewer system is issued, whichever of the foregoing first occurs. In the event a property should connect to the sewer system without first applying for and obtaining a permit to connect to the sewer system, sewer rental, rates and charges shall be assessed and imposed from the date of such connection as subsequently determined by the Township or as of the first day of the calendar quarter next following the one hundred twentieth (120th) day after issuance of any building permit found by the Township to be related to such connection, whichever the Township should determine to have first occurred.

(As amended by Ordinance No. 2004-15, effective November 22, 2004)

- 1.03.5 Assessment Following Directive to Connect Sewer rental, rates and charges shall be assessed and imposed upon a lot, parcel, building or portion thereof for use of or discharge of sewage into the sewer system effective the first day of the calendar quarter next following the date of a directive by the Township that an owner or occupant of property connect to the sewer system.
- 1.03.6 No Credits For Vacancies Less Than Six Months As the principal costs of the sewer system are fixed, no credit shall be allowed for vacancy of any lot, parcel, building or portion thereof for less than six (6) consecutive months, and no credit shall be allowed unless evidence that water service to such lot, parcel, building or portion thereof was shut off during the entire period of the vacancy is provided.
- 1.03.7 Uniform Application of Rental, Rates and Charges Rental, rates and charges shall be assessed, imposed, liened and collected uniformly as to all owners, lots, parcels, buildings, units and users.
- 1.03.8 Rental, Rates and Charges Imposed and Assessed The rental, rates and charges for the services rendered by the Township sewer system, effective January 1, 2005 and thereafter, shall be computed on the basis of \$62.00 per equivalent domestic unit (EDU) per calendar quarter per the following schedule:

Number of Units (EDU)	Quantity of Water Used Annually	Yearly Rate Quarterly Rate
One (1) Unit	Up to 70,000 Gallons	\$248.00 \$62.00
All Over One (1) Unit	Greater Than 70,000 Gallons	\$248.00 Annually/ \$62.00 Quarterly for Each Unit of 70,000 Gallons or Portion Thereof Annually

(As amended by Ordinance No. 2004-15, to be effective January 1, 2005)

- 1.03.9 Township Subject to Rental, Rates and Charges For the services rendered to it by its own use of and discharge into the sewer system, Millcreek Township shall be subject to the same rental, rates and charges as above provided.

- 1.03.10 Review of Rental, Rates and Charges The Township's Board of Supervisors shall review the rates and charges established in this Ordinance at least annually to determine if each recipient of benefits of the sewer system within the Township is paying his, her or its proportionate share of the costs of operation and maintenance, including but not limited to repair, replacement, improvement and administration of the system and of costs paid to the City of Erie Sewer System for its receipt, transportation and treatment of sewage. If in the course of this annual review it is determined that a new rate structure is required in order to ensure that the sewer system is properly funded and that each recipient of benefit of the sewer system pays his, her or its proportionate share of the costs of operation, maintenance, repair, replacement, improvement, administration and other services, the Board of Supervisors shall have authority to develop and enact such a new rate structure. The Township shall maintain records of all billing calculations, actual billings and receipts, and such other information as it deems appropriate and/or which is required to document compliance with Federal and State regulations.
- 1.03.11 Alternative Calculation Authorized In the event any owner or user discharging sewage into the sewer system can demonstrate to the satisfaction of the Township that a portion of the water used does not and cannot enter the sewer system, the Township may determine by a reasonable and accurate method the amount of water used or the percentage of water entering the sewer system which should be chargeable to such owner or user. Such amount or percentage, when so determined by the Township, shall constitute the basis of sewer rental, rates and charges; provided, that the owner may install additional meters at the expense of the owner or other interested party in such manner as is necessary to determine the quantity of water actually entering the sewer system, in which event the quantity of water used to determine the sewer rental, rate or charge shall be the quantity of water entering the sewer system as so determined.
- 1.03.12 "User" and "Owner" Distinguished References in this Ordinance to "use," "user," "unit" or portion of a lot, parcel or building with respect to the calculation and assessment of sewer rental, rates and charges shall not be construed to modify or alter the fact that sewer rental, rates and charges shall be assessed and imposed upon the lot, parcel or building served by the sewer system pursuant to 53 P.S. § 7106, et seq., as may in the future be amended, and the owner of each lot, parcel, building or portion thereof against which sewer rental, rates and charges are imposed and assessed under this Ordinance shall be and remain liable for payment of the same, whether or not such owner occupies the property or directly uses the sewer system. Nothing in this Ordinance shall be construed to prohibit or limit an owner's ability to collect by lease or contract sums due by a tenant or other occupier of the owner's property, but such lease or contract shall not bind the Township or limit in any way the Township's authority to impose, assess, lien and collect sewer rental, rates and charges.

1.04 Billing and Collection of Rental, Rates and Charges The rental, rates and charges fixed and established by this Ordinance shall be effective as to all lots, parcels, buildings or portions thereof served by the Township sewer system existing as of the effective date of this Ordinance, and shall be effective to all other lots, parcels, buildings or portions thereof so served subsequent to the effective date of this Ordinance.

1.04.1 Billing and Collection by Sewer Revenue Department Rental, rates and charges imposed by this Ordinance shall be assessed and billed by the Township's Sewer Revenue Department effective as of the first day of each calendar quarter beginning in January. A bill shall be prepared and mailed by the Sewer Revenue Department on or before the first business day of January, April, July and October of each year to the owner of each premises served by the Township sewer system. Such assessments shall be payable at their face amount during the calendar month in which said assessment bill was mailed.

1.04.2 Late Payment Penalty Effective on the first day of the calendar month next following an assessment billing, a penalty of five percent (5%) of the rental, rates or charges assessed for that calendar quarter and not paid within the calendar month of the assessment shall be added for nonpayment within the time allowed.

1.04.3 Interest on Unpaid Rental, Rates and Charges Interest at the rate of ten percent (10%) per year from the first day of the calendar month next following that month in which sewer rental, rates and charges were assessed and billed shall accrue and be added to all original amounts of sewer rental, rates and charges remaining unpaid at the end of the calendar month in which the same were first imposed and assessed, and shall continue to accrue until the full amount of such rental, rates and charges is paid in full.

1.04.4 "Bad Check" Fees The Township shall assess and impose such fee as is then authorized by applicable ordinances and resolutions for any check(s) or drafts(s) tendered to it which are returned without payment for nonsufficient funds or any other reason, such fees to be added to the sewer rental account as another charge. The "bad check fee" imposed shall be in the sum of \$20.00 per returned item, and this fee may in the future be modified by ordinance enacted or resolution adopted by the Board of Supervisors.

1.04.5 Collection Fees The Township shall have the right to charge a fee equal to twenty-five percent (25%) of the unpaid balance of any sewer rental bill or account if said bill or account is referred by the Township to a collection agency retained by Township for collection of delinquent accounts.

1.04.5 Rental, Rates and Charges Constitute Lien on Property Served In accordance with the Municipal Claims Act, 53 P.S. § 7101, et seq., all rental, rates, charges, penalties, interest, collection fees, lien filing and satisfaction fees and other charges imposed for failure to pay promptly shall constitute a lien upon and against the subject property and its owner from the date of their imposition and assessment.

1.04.6 Liens to be Filed in Court Liens for unpaid sewer rental, rates and charges shall be filed by the Township in the Court of Common Pleas of Erie County as required by the Municipal Claims Act to preserve the Township's statutory lien therefor within the time limit provided by law. The Sewer Revenue Department shall provide the Township Solicitor with such information as is necessary to assure filing of liens in Court to preserve existing statutory liens for unpaid rental, rates and other charges. The Board of Supervisors shall have authority to cause liens to be filed in the Court within that time specified by statute if the Board deems such filing necessary for protection of the Township's interests or for collection of sums due.

1.04.7 Collection Fees - Scire Facias Proceedings In the event the Township should determine under its Resolutions and policies then effect that a delinquent sewer rental account should be referred to the Township Solicitor or other attorney retained by Township for collection in scire facias sur municipal lien proceedings pursuant to the Municipal Claims Act, 53 P.S. § 7101, et seq., as may in the future be amended, then all attorney's fees and costs incurred by the Township in such proceeding shall be imposed upon the lot, parcel, building and owner as a cost of collection, in accordance with the Municipal Claims Act and applicable ordinances and resolutions of the Township.

1.04.8 Assessments to be Issued to Owners Billings for sewer rental, rates and other charges shall be mailed to the owner(s) of the properties served by the sewer system. Owners of properties served by the sewer system which are occupied by tenants or other persons or entities aside from the owner shall have the right to examine collection records of the Township to determine whether such rental, rates and other charges have been paid by such tenants or occupiers; provided, that such examination shall be at the offices of the Sewer Revenue Department during its regular business hours.

A. With respect to properties for which sewer rental is assessed at the rate of one (1) EDU of consumption per unit upon the property, the Sewer Revenue Department shall in its billing to the property owner(s) submit a bill stating the total sewer rental due for the property for the specified number of equivalent domestic units of consumption.

B. With respect to multiple unit commercial and other properties for which sewer rental is assessed on the basis of actual water consumption (or other alternative calculation authorized by this Ordinance) for which the Department has appropriate records and consumption reports, the Sewer Revenue Department shall in its billing to the property owner(s) submit a bill stating the total sewer rental, rates and charges due for the property and a detailed listing, by separate unit to the extent possible, of the calculated consumption or usage and the sewer rental, rates and charges assessed as to each unit within the property.

1.04.9 Agreements for Billing of Occupiers of Multi-Unit Commercial Premises

Notwithstanding the provisions of Section 1.04.8, above, the Board of Supervisors in appropriate circumstances and upon written request of the owner is authorized to enter into written agreements with owners of multiple unit commercial properties which are, in whole or in part, leased to third parties, which provide for direct billing by the Township of sewer rental, rates and charges to tenants of the owner. Any such agreements shall be entered into only where the Board of Supervisors deems such an agreement to be appropriate in view of the number of leased units within the property and the consideration to be granted by the owner under the agreement. All such agreements shall, at a minimum, include the following:

- A. A clear specification and acknowledgment by the owner that sewer rental assessments and all penalties, interest and other charges imposed for nonpayment thereof shall constitute a statutory lien upon the benefitted property and its owner(s) from the time of their assessment, having priority over all other liens excepting only those for real estate taxes;
- B. An express acknowledgment by the owner(s) that the billing methods specified in the agreement result from the owner's request;
- C. An express acknowledgment by the owner that the billing method specified in the agreement constitutes proper receipt by owner(s) of all assessments and other impositions, and a waiver by owner of any and all claims of deficient notice;
- D. Continuing and prompt notice by the owner to the Sewer Revenue Department of the identity, proprietor or manager and mailing address for billing purposes of each leased unit, this including notice of the commencement and termination dates of tenancies for all leased units or portions of the premises during the term of said agreement;
- E. Assumption of liability by the owner(s) for full and timely payment of all sewer rental, rates and charges assessed and imposed during times in which all or any portion of the premises are not occupied or leased by third parties;
- F. Appropriate assistance by the owner(s) to the Sewer Revenue Department in effecting collection of delinquent sewer rental, rates and charges with a minimum of administrative inconvenience and cost to the Department, this including owner's assistance as may be necessary to allow or effectuate prompt termination of public water service to the leased premises for failure to pay sewer rental, rates and charges;
- G. Appropriate provision for collecting sums due which pertain to premises for which frequent and/or repeated delinquencies arise;
- H. Assumption of responsibility by the owner(s) to pay in full to the Sewer

Revenue Department not later than 240 days after the date of a sewer rental, rate or charge assessment not paid by the owner's lessee(s) or occupant(s) all sums then due as sewer rental, penalties, interest and other charges for such unit or premises; and

- I. Express provision that any breach of such agreement by the owner(s) shall result in the immediate termination of said agreement, with billings for sewer rental, rate and charge assessments thereafter being issued directly to the owner(s) for payment, with appropriate provision to be made for collection of all sums due as of such breach.

1.04.10 Billing to Third Parties Does Not Relieve Owner of Liability In no event shall the Township's agreement at the request of the owner(s) of a property served by the sewer system or otherwise to issue billings for assessment of sewer rental, rates and charges to the lessee or occupier of owner(s) relieve or excuse owner(s) in any respect from liability to pay such rental, rates and other charges should the lessee or occupier fail for any reason to do so. Sewer rental, rates and other charges assessed and imposed pursuant to this Ordinance shall constitute a lien against the property benefitted by the sewer system regardless of the manner in which such assessments are billed.

1.04.11 Collection Policies and Procedures Authorized The Board of Supervisors may by resolution adopt such policies and procedures as it deems appropriate to ensure collection of sewer rental, rates and charges assessed and imposed pursuant to this Ordinance. Without limitation, collection procedures may include referral of delinquent accounts to a collection agency; filing of liens; scire facias sur municipal lien proceedings to collect filed liens; proceedings to terminate public water service to premises for nonpayment of sewer rental in accordance with 53 P.S. § 2261 as may in the future be amended; and any and all other measures or combination thereof which the Board of Supervisors may deem appropriate.

- A. All costs of such collection procedures, including but not limited to fees for filing, perpetuation and satisfaction of liens, collection fees, attorney's fees, court costs, litigation expense, charges for service of documents, shall upon being incurred by the Township be imposed as a charge for nonpayment and added to the balance due on said premise's account.
- B. No lien shall be satisfied, nor shall any collection proceeding be discontinued until all amounts due on an account, including rental, rates, penalties, interest, collection fees, costs incurred in termination and restoration of public water service, attorney's fees, court costs and other charges are first paid in full to the Sewer Revenue Department.

- C. In the event public water service to a premises should be terminated for nonpayment of sewer rental, rates or other charges, the Township and/or the Sewer Revenue Department shall be authorized to require, as a condition of resumption of water service, that the property's owner deposit with the Sewer Revenue Department in escrow a sum at least sufficient to satisfy costs charged by the provider of water service with respect to such termination and restoration of service as may be billed to the Sewer Revenue Department, any excess thereof remaining after payment of actual charges to be refunded to the payer after such actual charges have been determined.

1.04.12 Application of Payments Received On Accounts When a payment is tendered upon a sewer rental account whose balance then due includes rental or rates, penalties, interest, lien costs, collection fees or other charges, such payment shall be applied first to payment of penalties, costs and other charges, then to interest and then to rental or rates.

1.05 Prohibition Against Discharge of Harmful Wastes. The Board of Supervisors is authorized to prohibit the dumping of wastes into the Township's sewer system or facilities which, in the Board of Supervisors' discretion, are deemed harmful to the operation of the sewer system and facilities.

1.06 Rental, Rates and Charges Constitute Lien On Property. Each and every assessment or imposition of rental, rates or other charges authorized by this Ordinance is hereby made a lien upon the corresponding lot, parcel, land or premises as provided by the Act of 1933, May 1, P.L. 103, Article XV, Section 1512, 53 P.S. § 7101, et seq., as amended, and shall be collected with interest, penalties and other charges for nonpayment as a municipal claim.

1.07 Sewer Revenue Fund. The funds received from the collection of the rental, rates and other charges authorized by this Ordinance shall be deposited into the Township's Sewer Revenue Fund, a fund and account dedicated to the operation, administration, maintenance, repair and improvement of the sewer system. Withdrawals shall be made from this fund only upon appropriation by the Board of Supervisors for payment of expenses associated with the sewer system, these including but not limited to:

- A. Payment to the trustee and/or the Millcreek Township Sewer Authority for lease rental due under the Lease Agreement(s) between the Township and Authority;
- B. Payments to the City of Erie for sums due to it under agreements or otherwise for its receipt, transportation, treatment and disposal of sewage and/or for enhancement of its system;
- C. Payment of costs of operation, maintenance, repair, improvement and administration of the sewer system;

- D. Reimbursement payments required by Federal and/or State industrial cost recovery or other regulations;
- E. Providing such other funds as may be required by the Agreement and Lease between the Township and the Millcreek Township Sewer Authority.

1.08 Repealor. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. It is expressly intended that this Ordinance shall amend and restate Ordinances Nos. 89-30, 93-34, 94-37 and 95-21, all of which shall be deemed repealed as of the effective date of this Ordinance and be superseded by this Ordinance. Ordinances Nos. 99-16 and 2003-15 are expressly repealed upon the effective date of restatement of this Ordinance by Ordinance 2004-15.

(As amended by Ordinance No. 2004-15)

1.09 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstances is for any reason held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

1.10 Effective Date. This Ordinance shall become effective on April 1, 1999. Its restatement is effective as of November 22, 2004, with amendment to Section 1.03.8 being effective as of January 1, 2005.

(As amended by Ordinance No. 2004-15)

BE IT ENACTED, this 9th day of March, 1999, restatement hereof being enacted this 16th day of November, 2004.

Lawrence G. Curtis, Secretary