

AN ORDINANCE PERMITTING THE TOWN OF LUMBERPORT TO FILE A LIEN ON REAL PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN OF LUMBERPORT FOR UNPAID AND DELINQUENT FIRE, POLICE OR STREET FEES

BE IT ORDAINED by the Town of Lumberport as follows:

LIEN FOR UNPAID AND DELINQUENT FIRE, POLICE OR STREET FEES.

(Cross Reference: West Virginia Code §8-13-13, as amended).

Section 01. Lien for unpaid and delinquent fire, police or street fees. The Town of Lumberport may, pursuant to the procedures established in this Ordinance, place a lien upon real property located within the corporate limits of the Town of Lumberport for unpaid and delinquent fire, police or street fees. This Ordinance shall apply to existing fire, police or street fees, and any such fees which may be enacted or amended by ordinance in the future.

Section 02. Notice of Assessment; Petition for Reassessment. The Town of Lumberport shall give the property owner written notice of any assessment for unpaid and delinquent fees made pursuant to this Ordinance. A Notice of Assessment and Intent to File Lien shall be served on the property owner, either personally or by certified mail, return receipt requested. The aforesaid notice shall state the amount of the delinquency, that the Town of Lumberport will file a lien against the property unless the delinquency is paid in full within said ninety (90) days, and also state that the property owner has the right to petition for a reassessment. A copy of this ordinance shall be attached to said notice. Unless the property owner, to whom the Notice of Assessment and Intent to File Lien is given, shall within ninety (90) days after service thereof, pay the delinquency in full, or file with the Town of Lumberport a petition for reassessment in writing verified under oath by the property owner or his duly authorized agent having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reasons for the objections; then the assessment shall become final and not subject to administrative or judicial review. A lien may be filed in the office of the Clerk of the County Commission of Harrison County, on the day following the date upon which the assessment becomes final.

Section 03. Hearing Procedure; Administrative Decision. When a petition for reassessment provided in Sections Section 02 is filed within the time prescribed for such filing, the Town of Lumberport shall assign a time and a place for a hearing thereon and shall notify the petitioner of such hearing by written notice at least twenty days in advance thereof. Such hearing shall be held within 90 days from the date of filing the petition, unless continued by agreement of the parties or by the Town of Lumberport for sufficient cause.

The hearing shall be informal and shall be conducted in an impartial manner by the Mayor of the Town of Lumberport or a hearing examiner designated by the Mayor of the Town of Lumberport. The burden of proof shall be upon the property owner to show that the assessment is incorrect and

contrary to law, in whole or in part. After such hearing, the Town of Lumberport shall, within a reasonable time, give notice in writing to the property owner, either personally or by certified mail, return receipt requested, of the Town of Lumberport's decision.

Section 04. Judicial Review. An appeal may be taken by the property owner to the Circuit Court of Harrison County within sixty days after service of the Town of Lumberport's administrative decision issued pursuant to Section Section 03.

Section 05. Release of Lien. The Town of Lumberport, upon payment in full of the delinquency, shall forward a receipt showing payment in full and a release of lien to the property owner. The release shall be in recordable form.

This ordinance takes effect Ninety (90) days after final reading.

Passed on 1st Reading on this 12th day of July, 2010.

Public Hearing held on this 26th day of July, 2010.

Passed on 2nd Reading on this 26th day of July, 2010.


James Lopez, Mayor

Attest:


Norma J. Edwards, Town Clerk