

ORDINANCE NUMBER 125

AN ORDINANCE OF BUFFALO TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA REQUIRING SMOKE AND DYE TESTING UPON ANY PROPERTY TRANSFERS FOR VALUE OR REFINANCING BY PROPERTY OWNERS OR PROPERTY OWNERS BELIEVED TO BE IN VIOLATION OF PROHIBITED WATER INFILTRATION FOR THOSE PROPERTIES IN BUFFALO TOWNSHIP WHICH ARE SERVED BY PUBLIC SANITARY SEWERS; REQUIRING FOR THE CERTIFICATION OF COMPLIANCE; PROVIDING FOR PROCEDURES FOR THE ADMINISTRATION AND IMPLEMENTATION THEREOF AND FEES THEREFORE; AND PROVIDING PENALTIES FOR THE VIOLATION HEREOF.

WHEREAS, the Municipal Authority of Buffalo Township, hereinafter the “Authority”, is the owner of a public sanitary sewer system located in the Township of Buffalo, Butler County, Pennsylvania, hereinafter the “Township”, and,

WHEREAS, the Township and the Authority have determined that public sanitary sewer lines may be experiencing prohibited water infiltration into the lines; and,

WHEREAS, any illegal storm or surface water connections are noncompliant with existing environmental laws, and treatment facility rules and regulations; and,

WHEREAS, the Authority has no ability to monitor and enforce compliance of these laws, rules and regulations.

NOW, THEREFORE, be it ordained and enacted by the Board of Supervisors of Buffalo Township, Butler County, Pennsylvania as follows:

ARTICLE ONE
Definitions

101 Word Usage:

For the purposes of this Ordinance, certain terms and words herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The words “include” or “including” shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- C. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.

- D. The words “shall” and “must” are mandatory; the words “may” and “should” are permissive.
- E. The words “used or occupied” include the words “intended, designed, maintained, or arranged to be used, occupied or maintained”.

102 Terms Defined:

The following words and phrases when used in this Ordinance shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

AUTHORITY - Municipal Authority of Buffalo Township.

DOCUMENT OF CERTIFICATION - An official statement from the Municipal Authority of Buffalo Township stating there are no known illegal storm or surface water connections in the sanitary sewer on the specific property which is being transferred for value, refinanced, or being tested for possible infiltration.

DYE, SMOKE AND/OR AIR TEST - Any commonly accepted method of testing wherein dye, smoke and/or air is introduced into the storm, surface or subsurface water collection system and downspouts of real estate property to determine if an illegal storm water or surface water is entering the sanitary sewer system.

ILLEGAL STORM OR SURFACE WATER CONNECTIONS – Includes, but is not limited to, the connection of any foundation or basement seepage or drainage, surface water, subsurface drains, downspouts, roof drainage or surface area drainage into the sanitary sewer system.

MUNICIPAL LIEN LETTER – A written letter from the proper official of Buffalo Township, and/or Municipal Authority of Buffalo Township concerning municipal liens.

PERSON - An individual, partnership, association, corporation or a governmental unit, public entity or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

TEMPORARY DOCUMENT OF CERTIFICATION - A temporary statement of certification from the Authority issued pursuant to the terms of Article 5 of this Ordinance.

TOWNSHIP – Buffalo Township, Butler County, Pennsylvania.

ARTICLE TWO
General

After the effective date of this Ordinance, it shall be unlawful for any person to own and for any person to transfer for value real estate, or to refinance real estate within the Township on which a

building or improvement exists, without first delivering unto the purchaser or lending institution and property owner refinancing their real estate, a Document of Certification or Temporary Document of Certification from the proper officers of the Authority.

ARTICLE THREE **Mandatory Testing**

The Authority intends to do testing from time to time on all public sewer lines, new or existing, throughout the Township to determine if there are any illegal storm or surface water connections to the public sewer lines. Upon completion of the testing, if it is determined by the Authority that a parcel of real estate upon which a building or improvement exists does not have an illegal storm or surface water connection to the public sanitary sewer line, the person who is the owner of said real estate will be issued a Document of Certification and that Document of Certification shall be evidence of the lack of an illegal storm or surface water connection regarding the building or improvement on the real estate for a period of three (3) years from the issuance date thereof. After the expiration of three (3) years, it shall not be required that the property be re-tested unless any person desires to transfer for value said real estate, or refinance said real estate, in which event, Article Four of this Ordinance shall become applicable.

ARTICLE FOUR **Document of Certification Application**

Any person transferring for value real estate, or refinancing real estate, located within the Township and is furnished public sewage through the Authority, hereinafter the "Applicant", that does not have a Document of Certification issued by the Authority within the last three (3) years shall make application on a form furnished by the Authority, and payment of all necessary fees, at least ten (10) days before the date of the property transfer or refinancing. The Applicant shall then make arrangements with an individual or company on a list provided by the Authority to perform a dye test, smoke test or air test of the sewer drain system on the property to be transferred for value or refinanced. Payment for said test must be made to said individual or company prior to the time that the test is performed. The individual or company performing the test shall notify the designated official of the Authority if there are no illegal storm or surface water connections and if the existing drainage system is sound, whereupon the Authority's designated party, upon the payment of any established fee, shall issue a Document of Certification. When an illegal storm or surface water connection or malfunctioning drainage system is discovered by the means of the above-mentioned testing, no Document of Certification will be issued until the illegal connections/malfunctioning draining system are removed/repared, the system re-tested, and any additional fees and costs paid and certification of such removal/repair is received from the individual or company performing the testing.

ARTICLE FIVE
Temporary Document of Certification

A Temporary Document of Certification may be issued at the Authority's sole discretion when either:

1. The Applicant proves that such testing cannot be performed because of weather conditions, and when that is the case, the Applicant shall provide the Authority with security in the amount of Three Thousand Dollars (\$3,000.00) to guarantee that the appropriate test will be performed. The Applicant will cause to have performed the appropriate test within sixty (60) days of the issuance of a Temporary Document of Certification. In addition, the Applicant shall provide a signed written acknowledgement from the purchaser of the real estate, or in the case of a refinancing, the Applicant, agreeing to correct, at the said purchaser's or Applicant's sole expense, any violations/defects that may be discovered as the result of subsequent tests. Nothing in this subsection shall prohibit any purchaser from requiring the Applicant to reimburse the purchaser for any costs incurred; provided, nevertheless, that the primary liability shall run with the land, no such agreement shall effect the Authority's enforcement powers or excuse the current owner from performance.

2. When an illegal storm or surface water connection or malfunctioning draining system has been discovered and the necessary remedial activities to correct such connection would require a length of time such as to create a practical hardship for the Applicant, the Applicant may apply to the Authority's designated official for a Temporary Document of Certification which may only be issued when the Applicant provides the Authority with all of the following:

- a. An Agreement signed by the Applicant and the Purchaser, if applicable, that all necessary remedial work will be completed within ninety (90) days after the property transfer, and the Agreement shall also state that the purchaser/owner will be responsible for all costs or overruns related to the remedial work together with a license to the Authority to enter upon the property to complete the work in case of default. In the event of default, all of the cash security shall be forfeited in its entirety and the Authority may use the security to have the necessary remedial work completed.
- b. Cash security in an amount to be determined by the Authority's Engineer plus twenty-five (25%) percent.

ARTICLE SIX
Municipal No-Lien Letter

The Township and the Authority shall not issue a municipal no-lien letter until such time as the Township and the Authority have in its possession a Document of Certification or a Temporary Document of Certification.

ARTICLE SEVEN
Rules and Regulations

The Authority is hereby empowered, authorized, and directed to make reasonable rules and regulations for the operation and enforcement of this Ordinance as necessary, which shall include, but not be limited to:

1. Establishing acceptable forms of security or guarantee.
2. Establishing acceptable testing methods in consultation with the Authority's Engineer.
3. Establishing the forms of applications, purchaser acknowledgements, and Certifications.
4. Limiting the times of year in which Temporary Documents of Certification are available for reasons of weather.
5. A Schedule of fees and costs necessary to enforce the terms, conditions, and provisions of this Ordinance.

All rules and regulations issued pursuant to this Section shall be in writing and be approved by the Authority Board and the Township Supervisors prior to such rules and regulations being effective.

ARTICLE EIGHT
System Wide Testing and Remediation

After the completion of testing by the Authority in Article Three, if the testing determines the existence of illegal storm or surface water connections, the person owning said real estate upon which a building or improvement exists, shall cause the illegal connection/malfunctioning drainage system to be removed/repaired, the system retested, and the payment of any additional fees and costs and the procurement of a Document of Certification to be completed within one (1) year of the determination of the existence of an illegal storm or surface water connection.

ARTICLE NINE
Penalty

Prior to filing before any District Judge, the owner shall be given 30 days after notice to correct the violation.

Any person who shall fail, neglect, or refuse to comply with any of the terms or provisions of this Ordinance, or any regulation or requirement pursuant thereto and authorized thereby shall,

upon conviction before any District Judge, be sentenced to pay a fine of up to One Thousand Dollars (\$1,000.00) and costs of prosecutions, and in default of payment thereof, to imprisonment for a term not to exceed ninety (90) days.

ARTICLE TEN
Delegation of Enforcement

The enforcement of the provisions of this Ordinance is delegated to the Authority.

ARTICLE ELEVEN
Severability

The provisions of this Ordinance are severable, and in the event that any Section or provision of this Ordinance is declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

ORDAINED AND ENACTED into law this ____ day of _____, 20__ by the Board of Supervisors of Buffalo Township, Butler County, Pennsylvania in lawful session assembled and duly published hereof.

CHAIRMAN

VICE-CHAIRMAN

SUPERVISOR

SUPERVISOR

SUPERVISOR

ATTEST: _____
TWP. SECRETARY/TREASURER