

TOWNSHIP OF KILBUCK

ORDINANCE NO. 0-17-01

AN ORDINANCE OF THE TOWNSHIP OF KILBUCK, AMENDING THE TOWNSHIP CODE OF ORDINANCES, CHAPTER 170, SEWERS AND WATER, ARTICLE VI, TO ADD PROVISIONS REQUIRING INSPECTION OF PRIVATE SEWER LATERALS UPON SALE OR TRANSFER OF PROPERTY AND AMENDING PROVISIONS RELATING TO SANITARY SEWER DYE TESTING

WHEREAS, the Township of Kilbuck ("Township") has entered into a Consent Order and Agreement ("COA") with the Allegheny County Health Department which allows for the Township to comply with certain COA obligations by enacting an ordinance providing for the testing, and repair or replacement if needed, of private sewer laterals upon sale or transfer of property; and

WHEREAS, the Township desires to administer the sewer lateral inspection program established herein with the same or similar procedures and criteria applicable to sanitary sewer dye testing.

I. NOW THEREFORE, the Board of Supervisors of Kilbuck Township does ordain that Chapter 170 of the Township Code of Ordinances is amended by revising Article VI, Drainage Restrictions; Dye Testing, as follows:

1. **§ 170-32, Definitions**, is amended by adding thereto or revising the following defined terms as follows:

SELL OR TRANSFER. The sale, transfer or assignment of any interest in real property, except for transactions solely between spouses and the refinancing of real property without a conveyance.

SANITARY SEWER SERVICE LATERAL. The sanitary sewer service lateral is a pipe that connects the plumbing from a residence, business, or commercial structure to the public sanitary sewer system. The sanitary sewer service lateral does not receive sewage from the public sewer. Generally, the sanitary sewer service lateral ends at its point of connection with the sewer main. In certain cases, where the sewer main and a lateral stub extending from the main to the property line were constructed concurrently (with a cleanout structure built near the property line), the private lateral is deemed to terminate at its point of connection with the cleanout structure located near the property line.

MAIN SANITARY SEWER OR TRUNK SEWER. A public sewer that is a main stem or artery of the sewerage system.

INTERCEPTING SANITARY SEWER. A public sewer into which the sewage from all main and other sewers is discharged.

2. **§ 170-35, Application for certificate of compliance; dye testing,** is amended to read in its entirety as follows:

§ 170-35, Application for certificate of compliance; dye testing and televised inspection.

- A. At least 45 days prior to the date of closing or sale or transfer of any improved real property located within the Township of Kilbuck, the seller or transferor or their agent shall submit to the Township Secretary/other designated Township representative an application for certificate of compliance, completed as required by Subsection B below. The certificate of compliance form shall be available upon request from the Township Secretary. The fee for filing the completed application for certificate of compliance shall be established by the Supervisors of the Township of Kilbuck from time to time by resolution.
- B. Prior to the sale or transfer of any improved real property located within the Township of Kilbuck, the seller or transferor shall have a dye test of the property and a televised inspection of the sewer lateral performed by a plumber licensed by the Allegheny County Health Department to perform such tests/inspections and approved by the Township of Kilbuck. Upon completion of the dye test and televised inspection, the person who performed the test and inspection shall complete the appropriate section of the application for certificate of compliance, confirming that the property has been dye tested and the sewer lateral inspected and certifying the results of the test and inspection.

3. **§ 170-36, Issuance of certificate of compliance,** is amended to read in its entirety as follows:

§ 170-36. Issuance of certificate of compliance.

- A. If the application for certificate of compliance, properly completed and filed with the Township Secretary, with the designated filing fee, indicates that there are no connections of surface stormwater to the sanitary sewer system and that the

sewer lateral passed inspection, then the Township Secretary or other Township designee shall issue the certificate of compliance within 10 days of application therefor.

- B. If the dye test reveals the existence of one or more surface stormwater connections to the sanitary sewer system, or if the sewer lateral inspection reveals defects, the Township Secretary shall not issue the certificate of compliance until the connections have been removed and/or lateral defects corrected and a plumber licensed by the Allegheny County Health Department and approved by the Township of Kilbuck to do so has certified that there is no connection of surface stormwater to the sanitary sewer system from the property to be sold or transferred and/or that any sewer lateral defects have been corrected.

- 4. **§ 170-37, Temporary certificate of compliance**, is amended to read in its entirety as follows:

§ 170-37. Temporary certificate of compliance.

- A. When a surface stormwater connection to the sanitary sewer system or a sewer lateral defect is discovered and the necessary work to remove the connection or correct the sewer lateral defect would require a length of time such as to create a hardship for the seller or applicant, the seller or applicant may apply to the Township Secretary for a temporary certificate of compliance. The seller or applicant must submit the following with the properly completed application:

- (1) A bona fide executed contract with a plumber registered and licensed by the Allegheny County Health Department requiring the plumber to complete the remedial work necessary for the removal of the connections of surface stormwater to the sanitary sewer system, or necessary to correct any sewer lateral defect, and granting the Township of Kilbuck the right and power to enforce the contract.
- (2) Cash security in an amount equal to 110% of the contract described in Subsection A(1) above.
- (3) The agreement of the purchaser or transferee to be responsible for all cost overruns related to the remedial work, together with a license from the purchaser or transferee to the Township of Kilbuck,

its agents, contractors, and employees, to enter upon the property to complete the remedial work in case of default by the contractor or the applicant.

- (4) The filing fee shall be established by the Supervisors of the Township of Kilbuck from time to time by resolution

B. When dye testing or sewer lateral inspection cannot be performed because of weather conditions, the seller or applicant may apply to the Township Secretary/other designated Township representative for a temporary certificate of compliance. The seller or applicant must submit the following with the properly completed application:

- (1) Cash security in the amount of \$3,000.
- (2) The written, signed agreement of the purchaser or transferee to correct, at the purchaser's or transferee's sole expense, any surface stormwater connections to the sanitary sewer system disclosed by the subsequent dye test, or to correct any defects in the sewer lateral revealed by the subsequent televised lateral inspection, together with a license from the purchaser or transferee to the Township of Kilbuck, its agents, contractors, and employees, to enter upon the property to conduct the dye testing, and to conduct televised lateral inspection, should the applicant fail to do so. Nothing in this Subsection B shall prohibit any purchaser or transferee from requiring the applicant to reimburse the purchaser or transferee for any costs incurred in connection with such remedial work; provided, however, that primary responsibility for the remedial work and all costs thereof shall run with the land, and no such agreement shall affect the Township of Kilbuck's enforcement powers or excuse the current owner of the property from performance.
- (3) The filing fee shall be established by the Supervisors of the Township of Kilbuck from time to time by resolution.

C. The Township Secretary or other designated Township representative may reject the application for temporary certificate of compliance whenever, in his or her sole judgment,

the conditions defined by this section do not exist or the submissions required by this section have not been made.

- D. The temporary certificate of compliance shall be effective for 60 days, and the expiration date of the temporary certificate of compliance shall be noted on the certificate. If, upon the expiration of the temporary certificate of compliance, the seller or applicant has not applied for and received a certificate of compliance, as provided for in §§ 170-35 170-36 of this article, the cash security will be forfeited, and the Township of Kilbuck may use the funds to complete the remedial work or the dye testing or the televised lateral inspection and any required remedial work.

To the extent that the cost of completion of the dye testing, lateral inspection or remedial work exceeds the cash security, the Township may file a municipal claim against the property for the cost of completion of the dye testing, lateral inspection or remedial work and any professional consultant fees incurred in connection with such completion, 6% interest per annum, plus a penalty of 5% of the amount due plus attorney's fees and costs related to filing and prosecuting the municipal claim.

- E. The application for temporary certificate of compliance form shall be available upon request from the Township Secretary.

- 5. **§ 170-39, Expiration of certificate of compliance**, is amended to read in its entirety as follows:

§ 170-39, Expiration of certificate of compliance.

- A. A certificate of compliance issued under the article shall be valid for:
 - (1) As to dye testing, a period of two (2) years from the date of issuance;
 - (2) As to sewer lateral inspection, for a period of two (2) years from the date of issuance.

- 6. **§ 170-40, Regulations**, is amended to read in its entirety as follows:

§ 170-40. Regulations.

The Township Board of Supervisors is hereby empowered to make reasonable rules and regulations for the operation and enforcement of

this article, including, but not limited to: establishing the form of applications, acknowledgements and certifications, establishing testing procedures and criteria for passing or failing dye testing or lateral inspections, and limiting the time of year in which temporary certificate of compliance is available for reasons of weather.

7. **§ 170-43, Subsequent dye testing program**, is amended to read in its entirety as follows:

§ 170-43. Subsequent dye testing program.

This article shall not preclude the Township of Kilbuck from conducting dye testing, televising laterals or conducting other testing or inspection, or implementing a general program of dye testing or inspection, within the Township for purposes of discovering or locating the inflow of surface stormwater to the sanitary sewer system.

8. A new **§ 170-44, Appeals**, is added to read as follows:

§ 170-44. Appeals.

- A. Any person aggrieved by a determination by the Township or any Township official with respect to issuance or denial of a certificate of compliance or temporary certificate of compliance may appeal, pursuant to the Local Agency Law.
 - (1) Requests for an appeal shall be in writing and must be filed with the Township Secretary within twenty (20) days of the determination appealed from.
 - (2) A request for an appeal shall be accompanied by:
 - (a) A nonrefundable appeal fee in the amount of \$100, or such other fee as set by resolution of the Township Board of Supervisors; and
 - (b) A deposit of \$300 to be used to pay expenses of advertising and court reporter. If the deposit is less than actual costs, the appellant shall pay the difference. If the deposit exceeds actual costs, the difference shall be refunded in full.

(3) The Board of Supervisors may hear the appeal or designate a hearing tribunal or hearing officer to hear and/or rule upon the appeal.

9. A new § 170-45, **Sewer lateral inspection standards**, is added to read as follows:


§ 170-45. Sewer lateral inspection standards.

A. NASSCO (National Association of Sewer Service Companies) pipe assessment standards will be used to determine the presence of pipe defects. Any sewer lateral found to have a defect with condition grade of 4 or higher shall be deemed to fail inspection. Multiple condition grade 3 defects will also cause a sewer lateral to fail inspection if there are more than two such defects.

- II. This Ordinance shall be effective ninety (90) days after enactment.
- III. Should any part or provision of this Ordinance be declared invalid by a court of competent jurisdiction, it is the intention of the Board of Supervisors that all remaining parts and provisions of this Ordinance shall be in effect to the full extent permitted by law.
- IV. Any ordinance or resolution inconsistent with this ordinance is repealed to the extent of such inconsistency.
- V. This ordinance is to be construed and applied so as to be consistent in all respects with the Township's obligations under the COA.

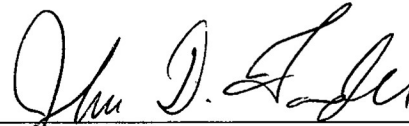
This Ordinance adopted by the Board of Supervisors of the Township of Kilbuck at a duly assembled public meeting held this 28 day of MARCH, 2017.

ATTEST:



Township Secretary

TOWNSHIP OF KILBUCK

By: 

Chair, Board of Supervisors