

**TOWNSHIP OF WASHINGTON,
WESTMORELAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 122

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF WESTMORELAND AND COMMONWEALTH OF PENNSYLVANIA, REQUIRING SANITARY SEWER INSPECTIONS OF PROPERTIES IN THE TERRITORIAL LIMITS OF THE TOWNSHIP OF WASHINGTON WHICH ARE SERVED BY PUBLIC SANITARY SEWERS; REQUIRING SANITARY SEWER INSPECTIONS UPON THE SALE OR REFINANCING OF PROPERTIES IN THE TERRITORIAL LIMITS OF THE TOWNSHIP OF WASHINGTON WHICH ARE SERVED BY PUBLIC SANITARY SEWERS; PROVIDING FOR PROCEDURES FOR THE ADMINISTRATION AND IMPLEMENTATION THEREOF AND FEES THEREFOR; AMENDING ORDINANCE NO. 22 OF THE TOWNSHIP OF WASHINGTON, COUNTY OF WESTMORELAND AND COMMONWEALTH OF PENNSYLVANIA; AND PROVIDING PENALTIES FOR THE VIOLATION HEREOF

WHEREAS, part of the Township of Washington, County of Westmoreland and Commonwealth of Pennsylvania is serviced by public sanitary sewers; and

WHEREAS, the Township of Washington has ascertained that the public sanitary sewer lines are experiencing infiltration of water into the lines; and

WHEREAS, infiltration of water into the public sewer lines causes diminished treatment capacity at the treatment facilities, increased cost and expenses of treatment as a result of the infiltration, and noncompliance with existing environmental laws, rules and regulations.

NOW, THEREFORE, be it ordained and enacted by the Board of Supervisors of the Township of Washington, County of Westmoreland and Commonwealth of Pennsylvania as follows:

SECTION 1 – GENERAL: After the effective date of this Ordinance, it shall be unlawful for any person to own and for any person to sell or refinance a mortgage on real estate within the Township of Washington on which a building or improvement exists, without first delivering unto the purchaser a Document of Certification or Temporary Document of Certification from the proper officers of the Municipal Authority of Washington Township (hereinafter referred to as “MAWT”).

SECTION 2 – DEFINITIONS:

(A) Person: Any person, syndicate, associate, partnership, firm, corporation, institution, agency, authority, or other entity recognized by law as the subject of rights and duties.

(B) Municipal Lien Letter: A written letter from the proper official of the Township of Washington concerning municipal liens.

(C) Document of Certification: An official statement from the proper officer of the MAWT stating that there are no known illegal storm or surface water connections into the sanitary sewer on the specific property which is being sold or refinanced.

(D) Temporary Document of Certification: A temporary statement of certification from the proper officer of the MAWT issued pursuant to the terms of Section 4 of this Ordinance.

(E) Illegal storm or surface water connections: Includes, but is not limited to the discharge of ground or surface water for the connection of downspouts, roof drainage, surface area drainage, or foundation or basement drainage into the sanitary sewer system.

SECTION 3 – MANDATORY TESTING: MAWT 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 MAWT 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 upon which a building or improvement exists 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 sell or refinance a mortgage on said real estate, in which event, SECTION 4 of this Ordinance shall become applicable.

SECTION 4 – DOCUMENT OF CERTIFICATION APPLICATION: Any person selling or refinancing real estate located within the Township of Washington (hereinafter “Applicant”) that does not have a Document of Certification issued by MAWT within the last three (3) years shall make application on a form furnished by MAWT, and payment of all necessary fees, at least thirty (30) days before the date of sale or closing on the refinance. The Applicant shall then make arrangements with an individual(s) designated by MAWT to perform dye test, smoke test or air test of the sewer drain system on the property to be sold or refinanced, said smoke test to involve the use of nontoxic, nonstaining smoke, which is forced through the sewer system by the use of air blowers. The individual forming the test shall notify the Secretary of MAWT if there are no illegal storm or surface water connections and if the existing drainage system is sound, whereupon MAWT’s Secretary, 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 performing the testing.

SECTION 5 – TEMPORARY DOCUMENT OF CERTIFICATION: A Temporary Document of Certification may be issued at the MAWT's sole discretion when either:

(A) The Applicant proves that such testing cannot be performed because of weather conditions, and when that is the case, the Applicant shall provide MAWT 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, agreeing to correct, at the said purchaser'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, and no such agreement shall effect the Township or MAWT's enforcement powers or excuse the current owner from performance.

(B) 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 a time such as to create a practical hardship for the Applicant, the Applicant may apply to the MAWT's secretary for a Temporary Document of Certification which may only be issued when the Applicant provides MAWT with all the following:

- (1) An Agreement signed by the Applicant and the Purchaser, if applicable, that all necessary remedial work will be completed within three (3) months after the sale or refinance, and the Agreement shall also state that the Purchaser/Owner will be responsible for all costs overruns related to the remedial work together with a license to MAWT 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 MAWT may use the security to have the necessary remedial work completed;
- (2) Cash security in an amount to be determined by the engineer for MAWT plus twenty-five (25) percent;

SECTION 6 – MUNICIPAL NO-LIEN LETTER: The Township of Washington shall not issue a Municipal No-Lien Letter until such time as the Township of Washington has in its possession a Document of Certification or a Temporary Document of Certification.

SECTION 7 – RULES AND REGULATIONS: The MAWT's Secretary is hereby authorized, empowered 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:

- (A) Establishing acceptable forms of security or guarantee;
- (B) Acceptable testing methods;
- (C) Establishing the forms of applications, purchaser acknowledgements, and Certifications;
- (D) Limiting the times of year in which Temporary Documents of Certification are available for reasons of weather;

(E) 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 MAWT Board prior to such rules and regulations being effective.

SECTION 8 – SYSTEMWIDE TESTING REMEDIATION: After the completion of testing by MAWT in SECTION 1, 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 draining system to be removed/repaired, the system re-tested, 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.

SECTION 9 – OTHER LAWS: Nothing in this Ordinance shall limit in any fashion whatsoever the Township of Washington's right or the MAWT's right to enforce any Ordinance, Resolution or law of the Township of Washington, County of Westmoreland or Commonwealth of Pennsylvania, the intent being that this Ordinance shall supplement already existing resolutions and ordinances dealing with the enforcement of sanitary sewer status within the Township of Washington. Nothing in this Ordinance shall be a defense to any citation issued by any municipal corporation or the Commonwealth of Pennsylvania pursuant to any other law or Ordinance.

SECTION 10 - AMENDMENTS TO ORDINANCE 22: Section 5 of Ordinance 22 of the Township of Washington, County of Westmoreland and Commonwealth of Pennsylvania is

hereby amended to eliminate the following sentence: "These provisions do not apply to combination (sanitary and storm) sewers."

Section 1 of Ordinance 22 of the Township of Washington, County of Westmoreland and Commonwealth of Pennsylvania is hereby amended to read as follows:

"Every owner of property in the Township of Washington whose property abuts upon any public sanitary sewer presently in existence or to be constructed in the future shall connect, at its own cost, the house, building or other structures located on said property with the aforementioned public sanitary sewer for the purpose of disposing of all acceptable sanitary sewage emanating from said property."

SECTION 11 – PENALTY: Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance, or of any regulation or requirement pursuant thereto and authorized thereby shall, upon conviction before any District Justice, be sentenced to pay a fine of ONE THOUSAND DOLLARS (\$1,000.00) and costs of prosecution, and in a default of payment thereof, to imprisonment for a term not to exceed ninety (90) days.

SECTION 12 – SEVERABILITY: The provisions of this Ordinance are severable, and if any Section, sentence, clause or phrase shall be held by a court of competent jurisdiction to be illegal, invalid or unconstitutional, the remaining portions of this Ordinance shall not be affected or impaired thereby.

SECTION 13 – CONFLICT: Any Ordinance or resolution or part of any Ordinance or resolution conflicting with the provisions of this Ordinance be and the same are hereby repealed to the extent of such conflict.

SECTION 14 – EFFECTIVE DATE: This Ordinance shall become effective within five (5) days of passage.

ORDAINED AND ENACTED into law by the Board of Supervisors for the Township of Washington, County of Westmoreland and Commonwealth of Pennsylvania in lawful session assembled this 14th day of March, 2002.

TOWNSHIP OF WASHINGTON

By Joseph P. Dalsass
Chairman, Joseph P. Dalsass

By Richard C. Gardner
~~Vice~~ Chairman, Richard C. Gardner

By John D. Turack
Member, John D. Turack

ATTEST:

By Audrey A. Saffner
Audrey A. Saffner, Secretary