

**HOPEWELL TOWNSHIP
BEAVER COUNTY, PENNSYLVANIA
ORDINANCE NO. 2010-06**

**AN ORDINANCE OF HOPEWELL TOWNSHIP, BEAVER COUNTY, PENNSYLVANIA,
ESTABLISHING A REQUIREMENT FOR CERTIFICATION OF SANITARY SEWER STATUS
PRIOR TO THE SALE OF REAL ESTATE SERVED BY PUBLIC SEWERS BOTH WITHIN AND
OUTSIDE THE SERVICE AREA OF THE WASTEWATER TREATMENT FACILITIES OF
HOPEWELL TOWNSHIP AS A CONDITION FOR THE ISSUANCE OF MUNICIPAL LIEN
LETTERS AND PROPERTY TAX VERIFICATION LETTERS AND REPEALING ALL PRIOR
ORDINANCES CONTRARY HERETO**

WHEREAS, Hopewell Township is desirous of eliminating storm, surface, and subsurface waters from entering into the sanitary sewer system of Hopewell Township; and

WHEREAS, to achieve the goal stated above, Hopewell Township wishes to establish certain procedures for the issuance of Municipal Lien Letters and Property Tax Verification Letters by requiring all persons selling real estate located in Hopewell Township served by public sewers both within and outside the service area of the wastewater treatment facilities of Hopewell Township to obtain from Hopewell Township and prior to sale, a certification ("Certification") that there are no known illegal connections and/or sources of storm, surface or subsurface water entering into the sanitary sewer on the specific property which is being sold; and

WHEREAS, Hopewell Township further desires to establish certain requirements upon a purchaser of real estate located in Hopewell Township served by public sewers both within and outside the service area of the wastewater treatment facilities of Hopewell Township in the event that a seller fails to comply with the requirements of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Commissioners of Hopewell Township, Beaver County, Pennsylvania, and the Authority of the same as follows:

SECTION 101. SHORT TITLE

This Ordinance may be known and cited as the "Smoke and Dye Test Ordinance."

SECTION 102. GENERAL

After the effective date of this Ordinance, it shall be unlawful for any person to sell real estate served by public sewers both within and outside the service area of the wastewater treatment facilities of Hopewell Township 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 Hopewell Township.

SECTION 103. DEFINITIONS

- A. APPLICANT: Any person selling real estate located in Hopewell Township served by public sewers both within and outside the service area of the wastewater treatment facilities of Hopewell Township.
- B. DOCUMENT OF CERTIFICATION: An official statement from the proper officer of Hopewell Township stating that there are no known illegal connections and/or sources of storm, surface, or subsurface water entering into the sanitary sewer on the specific property which is being sold.
- C. ILLEGAL STORM, SURFACE, OR SUBSURFACE WATER CONNECTIONS AND/OR SOURCES: Includes but is not limited to the discharge of storm, surface, or subsurface

water or the connection of downspouts, roof drainage, surface areaway drainage, and/or foundation or basement drainage into the sanitary sewer system whether by way of direct connections or through faulty sanitary drainage piping.

- D. INSPECTOR: A person selected by Hopewell Township to conduct tests to determine if illegal storm, surface, or subsurface water connections and/or sources exist within the sanitary drainage system on the property being tested.
- E. MUNICIPAL LIEN AND PROPERTY TAX VERIFICATION LETTER: A written letter from the proper official of Hopewell Township concerning municipal liens and property taxes.
- F. PERSON: Any person, syndicate, associate, partnership, firm, corporation, institution, agency, Authority, or other entity recognized by law as the subject of rights and duties.
- G. REAL ESTATE: Real Estate located within Hopewell Township on which a building or improvement exists that is connected to a public Sanitary Sewer System.
- H. TEMPORARY DOCUMENT OF CERTIFICATION: A temporary statement of certification from the proper officer of Hopewell Township issued pursuant to the terms of Section 105 of this Ordinance.

SECTION 104.

DOCUMENT OF CERTIFICATION APPLICATION

The Applicant shall make application on a form furnished by Hopewell Township at least thirty (30) days before the settlement date. The Applicant shall then have Hopewell Township perform a dye test, hydrostatic lateral injection test, smoke test, and/or air test of the sewage drainage system on the property to be sold, said smoke test to involve the use of nontoxic, non-staining smoke, which is forced through the sewer system by the use of air blowers. In the event that there are no illegal storm, surface, or subsurface water connections and the existing drainage system is sound and free of infiltration of groundwater, the Hopewell Township Inspector or his designate shall issue a Document of Certification upon the payment of any established fee. When an illegal storm, surface, or subsurface 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 drainage system are removed/repared, the system retested, and certification of such removal/repair is made by Hopewell Township. Certificates issued shall be valid for five (5) years from the date of issuance and this validity period shall include Certificates issued prior to the passage of this Ordinance.

SECTION 105.

TEMPORARY DOCUMENT OF CERTIFICATION

A Temporary Document of Certification may be issued at Hopewell Township's sole discretion as follows:

- A. The Applicant proves that such testing cannot be performed because of weather conditions, and when such is the case, the Applicant shall provide Hopewell Township with security in the amount of Three Thousand Dollars (\$3,000.00) to guarantee that the appropriate testing and, if necessary, any required repairs or corrective measures will be performed. The Applicant will cause to have performed the appropriate testing within fourteen (14) days of subsequent written notification from Hopewell Township, which will be given at such time as weather conditions make such testing possible. In addition, the Applicant shall provide a signed written acknowledgment 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 a result of subsequent testing. Nothing in this subsection shall prohibit any purchaser from requiring the Applicant to reimburse the purchaser for any costs incurred; PROVIDED, NEVERTHELESS, that primary liability shall run with the land and no such agreement shall affect Hopewell Township's enforcement powers or excuse the current owner from performance.

- B. In cases where it is determined by Hopewell Township that it is unable to complete the certification process prior to a scheduled closing between a purchaser and a seller, the purchaser may apply for a Temporary Document of Certification upon the written agreement, to escrow from the real estate closing, the sum of Three Thousand Dollars (\$3,000.00) in favor of Hopewell Township, which funds are to be used to perform the required testing and if necessary to correct any and all malfunctions and/or violations found by Hopewell Township upon inspection.

In the event there is a balance left in the escrow account after the corrections have been completed, the same shall be refunded from the escrow agent to the purchaser. In the event there is a shortage of funds, the seller/applicant shall be required to make up the difference in costs for said repair and correction. In the event such an application is made, Hopewell Township, at its discretion, may reject or approve such an application as it deems necessary after a preliminary visual investigation of the residence in question.

- C. When an illegal storm, surface, or subsurface water connection or malfunctioning drainage system has been discovered and the necessary remedial activities to correct such connection or malfunction would require a length of time such as to create a practical hardship for the applicant, the applicant may apply to Hopewell Township for a Temporary Document of Certification which may only be issued when the applicant provides Hopewell Township with all of the following:
1. A bona fide executed Contract between the applicant and a registered, licensed plumber to complete the necessary remedial work with Hopewell Township listed therein as a third party beneficiary;
 2. Cash security in the amount of said Contract as posted with Hopewell Township; and,
 3. An agreement by the purchaser to be responsible for all cost overruns related to the remedial work, together with a license to Hopewell Township to enter upon the property to complete work in case of default by the Contractor. The Hopewell Township Manager shall determine when such Temporary Document of Certification shall expire, at which time the security shall be forfeited. Hopewell Township shall use the security to have the necessary remedial work completed.

SECTION 106. RULES AND REGULATION

The Hopewell Township Manager is hereby authorized, empowered, and directed to make reasonable Rules and Regulations for the operation and enforcement of this Ordinance as he/she deems necessary, which shall, include, but not be limited to:

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

All rules and regulations issued pursuant to this Section shall be in writing and be approved by Hopewell Township prior to such Rules and Regulations being effective.

SECTION 107.

Nothing in this Ordinance shall limit in any fashion whatsoever, Hopewell Township's right to enforce any Ordinance, Resolution, or law of Hopewell Township, Beaver County, or the Commonwealth of Pennsylvania, the intent being that this Ordinance shall supplement already existing Ordinances dealing with the enforcement of sanitary sewer status within Hopewell Township. Nothing in this Ordinance shall be a defense of any citation issued by any municipal corporation or the Commonwealth of Pennsylvania pursuant to any other law or Ordinance.

SECTION 108.

(a) Any Applicant who shall fail, neglect, or refuse to comply with the terms or provisions of this Ordinance, or any regulation or requirement pursuant thereto and authorized thereby shall upon conviction before any district justice, be sentenced to pay a fine of Three Thousand (\$3,000.00) Dollars and cost of prosecution, including reasonable attorney fees, and in default of payment thereof, to imprisonment for a term not to exceed ninety (90) days.

(b) In the event an Applicant shall fail, neglect or refuse to comply with the terms or provisions of this Ordinance, then the purchaser of said real estate located in Hopewell Township ("Purchaser") served by public sewers both within and outside the service area of the wastewater treatment facilities of Hopewell Township shall be responsible for and obtain from Hopewell Township a Certification that there are no known illegal connections and/or sources of storm, surface, or subsurface water entering into the sanitary sewer on the specific property which was purchased in accordance with the provisions of this Ordinance.

(c) All conditions and requirements of this Ordinance shall be applicable and enforceable by Hopewell Township, in Hopewell Township's sole discretion, against the Applicant and/or the Purchaser.

SECTION 109.

Authorization. The proper officials of the Township are hereby authorized and directed to do all things necessary to effectuate the purpose of this Ordinance. The Township Manager is expressly authorized and empowered and directed to make such reasonable Rules and Regulations for the operation and enforcement of this Ordinance as he/she deems necessary. All Rules and Regulations issued pursuant to this Section shall be in writing and approved by the Township prior to such Rules and Regulations being effective.

SECTION 110.

Repealer. All ordinances and parts of ordinances inconsistent with the terms of this Ordinance are hereby repealed; provided, however, that such repeals shall be only to the extent of such inconsistency and in all other aspects this ordinance shall be cumulative of the other ordinances regulating and governing the subject matter covered by this Ordinance.

SECTION 111.

Severability. If any section or provision or parts thereof in this ordinance shall be adjudged invalid or unconstitutional such invalidity or unconstitutionality shall not affect the validity of the ordinance as a whole or any other section or provision of the part thereof as if such invalid or unconstitutional provision

had not been included in the Ordinance. To the extent possible the Court shall revise such invalid or unconstitutional provision to preserve the original intent of such provision.

SECTION 112.

Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

ORDAINED AND ENACTED INTO LAW this *11th* day of *OCTOBER* 2010 by the Board of Commissioners of the Township of Hopewell, in this lawful session regularly assembled.

ATTEST:

TOWNSHIP OF HOPEWELL



Andy Brunette



Richard Bufalini, President