

BOROUGH OF EBENSBURG

ORDINANCE #631

**ESTABLISHING A REQUIREMENT FOR CERTIFICATION OF
SANITARY SEWER STATUS FOR NEW OR REPLACEMENT CONNECTIONS AND
EXISTING CONNECTIONS; ESTABLISHING A REQUIREMENT FOR
CERTIFICATION PRIOR TO THE SALE OR TRANSFER OF REAL ESTATE,
AND AS A CONDITION FOR THE ISSUANCE OF MUNICIPAL LIEN LETTERS
AND PROPERTY TAX VERIFICATION LETTERS;
AND ESTABLISHING RULES AND REGULATIONS GOVERNING SANITARY
SEWER CONNECTIONS AND THE ELIMINATION OF INFLOW AND
INFILTRATION FROM THE SANITARY SEWER SYSTEM**

WHEREAS, the Borough of Ebensburg is desirous of eliminating storm and surface waters from entering into the sanitary sewer system of the Borough and,

WHEREAS, the Borough of Ebensburg is desirous of establishing certain procedures for the issuance of municipal lien and property tax certifications and

WHEREAS, the Borough of Ebensburg desires to implement the Rules and Regulations of the Ebensburg Municipal Authority applicable to the Sanitary Sewer System.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Ebensburg, County of Cambria, Commonwealth of Pennsylvania, and it is hereby ordained and enacted:

SECTION I - GENERAL

- A. From and after the effective date of this Ordinance, it shall be unlawful for any Person to construct, install, maintain, repair, operate, use, or allow an Illegal Storm or Surface Water Connection on real estate that they own. This prohibition expressly includes, without limitation, Illegal Storm or Surface Water Connections made prior to the effective date of this Ordinance, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- B. From and after the effective date of this Ordinance, it shall be unlawful for any Person to sell or otherwise transfer real estate within the Borough of Ebensburg on which a building or improvement exists, without first delivering unto the purchaser a Certificate of Sewage Compliance or Temporary Certificate of Sewage Compliance from the Borough Manager of the Borough of Ebensburg.

- C. From and after the effective date of this Ordinance, all Persons connected to or connecting to the Sanitary Sewer System owned and operated by The Ebensburg Municipal Authority shall be governed by the Rules and Regulations Governing Sanitary Sewer Service, as adopted, and amended from time to time, by The Ebensburg Municipal Authority.

SECTION II - 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 and Property Tax Verification Letter: A written letter from the proper official of the Borough of Ebensburg concerning municipal liens and property taxes.
- C. Certificate of Sewage Compliance: An official statement from the Borough Manager of the Borough of Ebensburg or his designate stating that there are no known illegal storm or surface water connections into the sanitary sewer connections on the specific property which is being sold, and that the customer facilities have successfully passed an air pressure test. A Certificate of Sewage Compliance shall remain in effect for a period of five (5) years.
- D. Temporary Certificate of Sewage Compliance: A temporary statement of certification from the Borough Manager of the Borough of Ebensburg, issued pursuant to the terms of Section IV of this ordinance.
- E. Illegal Storm or Surface Water Connections: The discharge of ground or surface water or the connection of downspouts, roof drainage, surface areaway drainage, or foundation or basement drainage into the sanitary sewer system.
- F. Sale: When used in this Ordinance, the “sale” of property shall apply to any sale and/or any type of transfer of ownership of real estate for any purpose whatsoever including but not limited to transfers within a family, inheritance, corporate transfers, transfers from joint ownership to individuals, and to or from financial institutions in cases of foreclosure. It shall apply to a “sale, transfer or assignment” of any interest in real property, except that the following transactions are exempted:
1. Refinancing of real property without a conveyance of an interest.
 2. A transfer from an individual or individuals into an ordinary grantor trust as that term is commonly accepted.
 3. A transfer between spouses or former spouses pursuant to a bona-fide marriage settlement agreement.
 4. A transfer arising from a Sheriff’s sale where the purchaser is a mortgage holder or lien creditor. However, a subsequent transfer of the property from the mortgage holder or lien creditor shall be subject to this regulation.

5. A transfer from a record owner to a mortgage holder/lien creditor pursuant to a Deed in Lieu of Foreclosure. However, a subsequent transfer of the property from the mortgage holder or lien creditor shall be subject to this regulation.
- G. Rules and Regulations: The Rules and Regulations Governing Sanitary Sewer Services, as adopted and amended by The Ebensburg Municipal Authority.
- H. Sewer Lateral: All piping, including the property line viewport, on the customer's side of the Connection Stub. In those cases where, due to distance from the Sewer Main, it is necessary to extend a Sewer Lateral through neighboring public or private property, the installation and maintenance of the entire Sewer Lateral shall be the responsibility of the Customer.
- I. Connection Stub: The short section of pipe, including the tapping tee or saddle, between the sewer main collection line and the customer's viewport. In most cases, the Connection Stub will terminate at the customer's viewport situated at the customer's property line. In some cases, due to distance from the Sewer Main, the Connection Stub may terminate at a point other than the customer's property line. The Connection Stub is considered part of the Sewer Main, owned and maintained by the Authority.
- J. Customer: The individual or individuals, partnership, association, company, municipality, or any entity whatsoever becoming the contractual applicant or actually using the sanitary sewer service of the Authority and responsible for payment therefor, as provided in the Rules & Regulations of the Authority.
- K. Owner: Any and all persons vested with title, legal or equitable, sole or partial, of a Building or other real estate.
- L. Building: Each single-family dwelling unit, multiple dwelling unit, multiple use unit, store, shop, office, business, institutional, commercial, or industrial unit; contained within any structure; erected and intended for continuous or periodic habitation, occupancy, or use by humans or animals; from which wastewater may be discharged.
- M. Building Drain: The lowest horizontal piping of a building's drainage system which receives the discharge from other drainage pipes inside the walls of a building and conveys it to the Sewer Lateral at a point at the building wall.
- N. Inspector: The person or persons appointed by the Borough and/or Authority to inspect existing or proposed facilities of the Sanitary Sewer System, Sewer Laterals, and Building piping and fixtures
- O. Service Charges: The customer facilities fee, connection fee, and tapping fee (comprised of capacity, collection, special purpose and reimbursement fees) imposed by the Authority under Act 57 of 2003, as amended, payable upon connection of a

Building or property to the Sanitary Sewer System, and also refers to regular usage fees, surcharges, and other charges

SECTION III – PRE-SALE COMPLIANCE REQUIRED

Any person selling or otherwise transferring real estate located within the Borough of Ebensburg (hereinafter "Applicant") shall make application for a Certificate of Sewage Compliance, on a form furnished by the Borough of Ebensburg at least seven (7) days before the date of sale or transfer. The application fee shall be established from time to time by Resolution of the Borough Council.

The Applicant shall, as prescribed within the Rules and Regulations, then have a plumber perform an air pressure test of the Sewer Lateral on the property to be sold. The plumber shall notify the Authority at least seventy-two (72) hours before the test is made so that the Authority may witness the test. The Authority shall have the right to approve the test as performed and/or to require that additional tests be made. The Authority shall also have the right to rely on the results of any internal televising of the Sewer Lateral completed by the Authority. In the event that there are no illegal storm or surface water connections and the Sewer Lateral is deemed to be in compliance with these Rules and Regulations, the Authority shall issue a Certificate of Sewage Compliance upon the payment of any established fee. When an illegal storm or surface water connection or malfunctioning drainage system is discovered by the means of the above-mentioned testing, no Certificate of Sewage Compliance will be issued until the illegal connections/malfunctioning drainage system are removed/repared, and/or the entire Sewer Lateral is replaced from the foundation wall to the property line. The system must be retested. The Borough must inspect all work performed and witness all tests. Failure to have the Borough inspect the work may result in the Borough requiring the uncovering of any pipe or other structure to view the repair, at the cost of the property owner.

A Certificate of Sewage Compliance shall expire five (5) years following the date of issuance of the Certificate of Sewage Compliance. If any additions are made to the property within the five (5) year period, certification for said addition shall be required.

SECTION IV - TEMPORARY DOCUMENT OF CERTIFICATION

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

- A. The Applicant proves that such testing cannot be performed because of weather conditions, and when such is the case, the Applicant shall provide the Borough with security in the amount of Two Thousand Dollars (\$2,000.00) to guarantee that the appropriate test will be performed. The Applicant will cause to have performed the appropriate test within fourteen (14) days of subsequent written notification from the Borough, which will be given at such time as weather conditions make such testing possible. 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 primary liability shall run with the land and no such agreement shall affect the Borough's enforcement powers or excuse the then current owner from performance.

- B. When an illegal storm or surface water connection or malfunctioning drainage 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 Borough for a Temporary Document of Certification which may only be issued when the Applicant provides the Borough 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 the Borough listed therein as a third party beneficiary;
 2. Cash security in the amount of said contract as posted with the Borough; and,
 3. An agreement by the purchaser to be responsible for all cost overruns related to the remedial work, together with a license to the Borough to enter upon the property to complete work in case of default by the contractor. The Building Inspector shall determine, by regulation, when such Temporary Document of Certification shall expire, at which time the security shall be forfeited, and the Borough may use the security to have the necessary remedial work completed.
- C. The Borough is anticipating repair or replacement of the Sewer Main(s) in the vicinity of the property to be transferred. In such a case, the Applicant may choose to bring the Sewer Lateral into compliance, as described in Section III, or may apply for a Temporary Document of Certification.
1. If the Sewer Lateral is brought into compliance and a Certificate of Sewage Compliance is issued, the purchaser will be responsible for any additional remedial work that may be required in order to satisfactorily connect to the new Sewer Main.
 2. If the Applicant applies for a Temporary Document of Certification, pending the completion of an anticipated Borough project, the Applicant shall provide the Borough with security in the amount of Two Thousand Dollars (\$2,000.00) to guarantee that the appropriate remedial work and subsequent testing will be performed. 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 primary liability shall run with the land and no such agreement shall affect the Borough's enforcement powers or excuse the then current owner from performance.

SECTION V – PRE-CONNECTION COMPLIANCE REQUIRED

No Person shall connect or reconnect to the Sanitary Sewer System without first complying with the Rules and Regulations of the Ebensburg Municipal Authority relative to application for service, required testing and payment of any fees.

SECTION VI – REDUCTION OF INFLOW AND INFILTRATION

All persons now connected to the Sanitary Sewer System, upon notice received from the Ebensburg Municipal Authority, shall employ any and all measures deemed necessary to bring Building Drain and Sewer Lateral facilities into compliance with the Rules and Regulations of the Ebensburg Municipal Authority.

SECTION VII – RIGHT OF INSPECTION

Duly authorized employees or representatives of the Borough and the Authority shall have the right to enter on the premises of any person, firm, corporation or other entity connected to the System for the purpose of inspection, observation, measurement, sampling, testing, inspection of connections or fixtures, for a disconnection of service, for enforcement of these Rules and Regulations and for other such purposes for the protection of public health and property and the effective, orderly operation of the Sanitary Sewer System. Borough and Authority employees or representatives shall bear proper credentials and identification and display the same when requested. By virtue of being connected to and receiving service from the Sanitary Sewer System, each person, firm, corporation or other entity receiving said services acknowledges and authorizes Borough and Authority employees or representatives to enter upon their premises for the aforesaid purposes, including closed circuit televising (CCTV) of all buried and under slab piping of the premises and any type of testing including air pressure, water pressure and smoke testing.

SECTION VIII – FAILURE TO ELIMINATE INFLOW AND INFILTRATION

Any Owner, found to be in violation of the Authority's Rules and Regulations, by allowing any quantity of Inflow and Infiltration into the Sanitary Sewer System, shall be required to bring all buried pipelines into compliance. In the event the Borough identifies any illegal connections or leaking, deteriorating or poorly constructed private Sewer Lateral and/or sanitary sewer service connections, the Borough Manager shall give written notice of same to the Owner that such illegal connections be eliminated and/or that said connections be, repaired, replaced, or rehabilitated, at the Owner's expense, within six (6) months of the date of the notice.

Compliance must be proven at the time of inspection by an air pressure test as outlined in Section 312 of the International Plumbing Code. If a portion(s) of the said system fails to meet compliance standards, additional repairs must be completed and tested until the entire system has been determined to be in compliance; all within the original six (6) month time frame.

Failure to bring all buried pipelines into compliance within the six (6) month time frame shall be deemed a violation of the Rules and Regulations. In such circumstances, the Borough may take one or more of the following enforcement actions.

- a. The Borough and/or Authority may file a civil action in order to enforce the penalty clause of this Ordinance.
- b. The Borough may apply a surcharge, as determined from time to time by the Authority, to the customer's service charge until such time that required repairs are made.
- c. The Borough may discontinue water service to the property, and disconnect the non-compliant Sewer Lateral from the Sewer Main.
- d. The Borough and/or Authority may enter the property to correct the condition(s) and collect the cost of such correction(s) plus ten (10%) percent of all costs.

SECTION IX – FAILURE TO CONNECT OR RECONNECT

Each Owner of any Building within the Borough and Authority service area, located on property abutting any street, alley or right-of-way in which a Sewer Main has been provided by the Authority, and where any part of a Building wherein wastewater is generated is within one hundred fifty (150) feet of the Sewer Main; at his own expense shall connect the Building to the Sanitary Sewer System in accordance with these rules and regulations within six (6) months after the date of official written notice to do so from the Borough, unless otherwise approved in writing by the Borough.

Each Owner of any Building within the Borough and Authority service area, already connected to the Sanitary Sewer System and for which a new Sewer Main has been provided by the Authority; at his own expense shall connect the Building to the new Sanitary Sewer System in accordance with the Rules and Regulation within six (6) months after the date of official written notice to do so from the Borough, unless otherwise approved in writing by the Borough.

In the event any Owner refuses or neglects to connect within the six (6) month period, he shall be deemed to be in violation of the Authority's Rules and Regulations and this Ordinance.

Failure to connect or reconnect to the Sanitary Sewer System within the six (6) month time frame shall be deemed a violation of the Rules and Regulations. In such circumstances, the Borough may take one or more of the following enforcement actions.

- a. The Borough and/or Authority may file a civil action in order to enforce the penalty clause of this Ordinance. Any Owner who fails to make a proper connection to the Sanitary Sewer System within the time specified after receipt of proper notice or after obtaining a time extension in writing from the Borough shall, upon conviction thereof before a District Magistrate, pay a fine or penalty of \$50.00 for each day that the violation continues.
- b. The Borough may discontinue water service to the property.

- c The Borough and/or Authority may enter the property to install a properly functioning Sewer Lateral and collect the cost of such correction(s) plus ten (10%) percent of all costs.

Any owner that fails or neglects to connect to the Sanitary Sewer System shall nonetheless be assessed all ongoing service charges that would otherwise have been payable had the Owner connected, as required, by the Rules and Regulations. The payment of service charges shall not relieve the Owner of the requirement to connect.

SECTION X – CORRECTIVE ACTION PLAN

If for any reason an Owner is unable to comply with the Rules and Regulations and make required repairs or connection within the six (6) month period, the Owner may submit a corrective action plan to the Borough. The plan shall include a signed contract with a prospective contractor as well as the specific date of repair. The scope of work must be sufficient, as determined by the Authority, to accomplish compliance with the Rules and Regulations. The approval of a corrective action plan will avoid any penalty described above during the approved term of said corrective action plan, but will not negate the obligation to pay any and all service charges that would have otherwise been payable.

SECTION XI – CONNECTIONS TO STORMWATER SYSTEM

The diversion or direct connection of storm or surface water to the Borough's separate stormwater collection system is prohibited. In no event is stormwater to be discharged upon or across public or private sidewalks and public or private streets, or discharged onto adjacent property.

SECTION XII – RIGHT TO ENFORCE

Nothing in this Ordinance shall limit, in any fashion whatsoever, the Borough's right to enforce any ordinance or law of the Borough of Ebensburg, County of Cambria or Commonwealth of Pennsylvania. Nothing in this Ordinance shall be a defense of any citation issued by any municipal corporation or the Commonwealth pursuant to any other law or ordinance.

SECTION XIII - PENALTIES

Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance (except failure to connect), 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 \$600.00 and costs of prosecution, and in default of payment thereof, to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.

SECTION IX - 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 XV - REPEALER

Any Ordinance, or part of Ordinance, conflicting with this Ordinance be and the same is hereby repealed insofar as the same affects this Ordinance. The Codified Ordinance of the Borough of Ebensburg, Chapter 13, Part 2, titled "Sanitary Sewer Connections" (Ord. 558, 10/27/2008, as amended by Ord. 618, 1/26/2015) is specifically repealed in its entirety and replaced with this Ordinance #629.

SECTION XVI – EFFECTIVE DATE

The effective date of this Ordinance shall be the 1st day of August 2016.

ENACTED AND ORDAINED this 25th day of July 2016.

EBENSBURG BOROUGH COUNCIL

ATTEST:

Doug Tusing, President

Daniel L. Penatzer; Manager

Approved this 25th day of July 2016.

Randy S. Datsko, Mayor