

BOROUGH OF EBENSBURG

ORDINANCE #650

AMENDING CERTAIN SECTIONS OF THE CODE OF THE BOROUGH OF EBENSBURG, CHAPTER 13, SEWERS AND SEWAGE DISPOSAL

BE IT ORDAINED AND ENACTED by the Council of the Borough of Ebensburg, County of Cambria and Commonwealth of Pennsylvania, and it is hereby Ordained and Enacted:

That the Codified Ordinance of the Borough of Ebensburg, Chapter 13, Sewers and Sewage Disposal is hereby amended as hereinafter set forth.

SECTION 1. That Chapter 13, Section 13-204 "Temporary Certificate of Sewage Compliance" is hereby amended as follows:

A Temporary Certificate of Sewage Compliance 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, established from time to time by the Rules and Regulations of the Ebensburg Municipal Authority, to guarantee that the appropriate remedial work and subsequent testing will be performed. The Applicant will cause to have performed the appropriate test within thirty (30) 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 Certificate of Sewage Compliance 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 qualified contractor 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 posted with a an escrow agent; 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 Borough Manager shall determine, by regulation, when such Temporary Certificate of Sewage Compliance 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. When for any reason, the purchaser voluntarily chooses to undertake the necessary remedial activities. The Applicant may apply to the Authority for a Temporary Certificate of Sewage Compliance which may only be issued when the Purchaser provides the Authority with all of the following:
1. An acknowledgment that remedial work is required.
 2. An acknowledgment that the Purchaser will be solely responsible for the cost of all necessary remedial work.
 3. The date by which all remedial work is to be completed and successfully tested, after which Section 12.10 shall be enforceable.
- D. The Borough is anticipating future 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 Certificate of Sewage Compliance.
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 Certificate of Sewage Compliance, pending the completion of an anticipated Borough project, the Applicant shall provide the Borough with security in the amount, established from time to time by the Rules and Regulations of the Ebensburg Municipal Authority, 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 2. That any Ordinance, or part of Ordinance, conflicting with this Ordinance be and the same is hereby repealed insofar as the same affects this Ordinance.

ENACTED AND ORDAINED this 22nd day of April 2019.

EBENSBURG BOROUGH COUNCIL

Doug Tusing, President

ATTEST:

Daniel L. Penatzer; Manager

Approved this 22nd day of April 2019.

Randy S. Datsko, Mayor