

TOWNSHIP OF NORTH FAYETTE

ORDINANCE NO. 359

WHEREAS, the Township of North Fayette (“Township”) believes the elimination of surface storm water inflow to the sanitary sewer system to be necessary to the health and welfare of its residents; and

WHEREAS, the Township has reason to believe that certain residential and commercial properties within the Township have storm water or surface water connections to the sanitary sewer system;

WHEREAS, the Township has entered into a Consent Order with the Allegheny County Health Department that prohibits the discharge of surface storm water into the sanitary sewer system; and

WHEREAS, the Consent Order requires the Township to institute and enforce a sewer use ordinance requiring dye testing of all structures located on property within the Township to determine whether surface storm water drains to the sanitary sewer system.

NOW, THEREFORE, in the interest of promoting the health and welfare of the residents of Township, the Board of Supervisors hereby ordains:

Section 1. Definitions.

(a) Applicant: A person applying for a Certificate of Compliance or Temporary Certificate of Compliance.

(b) Cash security: Cash, certified check, or treasurer's check.

(c) Dye test: Any commonly accepted method of testing whereby dye is introduced into the storm, surface or subsurface water collection system and downspouts of structures or improvements to real property to determine if surface storm water is entering into the sanitary sewer system.

(d) Improved and sewerred real property: Real property on which any building, driveway or parking pad, other surface or subsurface structure or improvement has been constructed, installed or erected, where the real property or any improvement on the real property is connected to the sanitary sewer system.

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

(f) Sanitary sewer system: The sanitary sewer lines and related facilities maintained and operated by the Township.

(g) Sell or transfer: The sale, transfer, or assignment of any interest in real property; provided, however, that a refinancing of real property, without a conveyance, is not a sale or transfer under this Ordinance.

(h) Surface storm water: Surface water and ground water, including but not limited to roof and driveway drainage, basement seepage, and surface and areaway drainage.

**Section 2.**     Unlawful Connections. After the date of this Ordinance, it shall be unlawful for any person to connect any rain leader, roof drain, downspout, gutter, parking lot drain, driveway drain, interior or exterior sump, French drain, spring or other collector or source of surface storm water, including but not limited to the fresh air vent of the improved and sewer property's sanitary sewer, to the sanitary sewer system.

**Section 3.**     Proof of Compliance on Sale or Transfer. After the date of this Ordinance, it shall be unlawful for any person to sell or transfer improved and sewer real property located within the Township without having obtained and delivered to the buyer or transferee, at or prior to closing or transfer, a Certificate of Compliance or Temporary Certificate of Compliance for the property being sold or transferred.

**Section 4**     Application for Certificate of Compliance.

(a)     At least 14 days prior to the date of closing or transfer of any improved real property located within the Township, the seller or transferor or its agent shall submit to the Township Manager an Application for Certificate of Compliance, completed as required by Section 4(b) below. The Certificate of Compliance form shall be available upon request from the Township Manager. The fee for filing the completed Application for Certificate of Compliance shall be established by the Township's Board of Supervisors from time to time by Resolution.

(b)     Prior to the sale or transfer of any improved real property located within the Township, the seller or transferor shall have a dye test of the property performed by a plumber licensed by the Allegheny County Health Department to perform such tests or by such other person designated or approved by the Township. Upon completion of the dye test, the person who performed the test shall complete the appropriate section of the Application for Certificate of Compliance, confirming that the property has been dye tested and certifying the results of the test.

**Section 5**      Issuance of Certificate of Compliance.

(a)      If the Application for Certificate of Compliance, properly completed and filed with the Township Manager with the designated filing fee, indicates that there are no connections of surface storm water to the sanitary sewer system, then the Township Manager shall issue the Certificate of Compliance within Five(5) days of application therefor.

(b)      If the dye test reveals the existence of one or more surface storm water connections to the sanitary sewer system, Township Manager shall not issue the Certificate of Compliance until the connections have been removed and a plumber licensed by the Allegheny County Health Department or other person approved the Township to do so has certified that there is no connection of surface storm water to the sanitary sewer system from the property to be sold or transferred.

**Section 6**      Temporary Certificate of Compliance.

(a)      When a surface storm water connection to the sanitary sewer system is discovered and the necessary work to remove the connection 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 Manager for a Temporary Certificate of Compliance. The seller or applicant must submit the following with the properly completed Application:

(i)      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 to the removal of the connections of surface storm water to the sanitary sewer system and granting the Township the right and power to enforce the contract.

(ii)      Cash security in an amount equal to one hundred ten (110) percent of the contract described in Subsection (a)(i) above.

(iii) 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, 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.

(iv) The filing fee established by the Township Board of Supervisors from time to time by resolution.

(b) When dye testing cannot be performed because of weather conditions, the seller or applicant may apply to the Township Manager for a Temporary Certificate of Compliance. The seller or applicant must submit the following with the properly completed Application:

(i) cash security in the amount of Five Hundred (\$500).

(ii) the written, signed agreement of the purchaser or transferee to correct, at the purchaser's or transferee's sole expense, any surface storm water connections to the sanitary sewer system disclosed by the subsequent dye test, together with a license from the purchaser or transferee to the Township, its agents, contractors, and employees, to enter upon the property to conduct the dye testing should the applicant fail to do so. Nothing in this subsection 6(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's enforcement powers or excuse the current owner of the property from performance.

(iii) The filing fee established by the Township Board of Supervisors from time to time by resolution.

(c) The Township Manager may reject the Application for Temporary Certificate of Compliance whenever, in his or her sole judgment, the conditions defined by this Section 6 do not exist or the submissions required by this Section 6 have not been made.

(d) The Temporary Certificate of Compliance shall be effective for sixty (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 Sections 4 and 5 of this Ordinance, the cash security shall be forfeited, and the Township may use the funds to complete the remedial work or the dye testing.

(e) The Application for Temporary Certificate of Compliance form shall be available upon request from the Township Manager.

**Section 7**      Municipal Lien and Tax Verification Letters. A request to the Township for a municipal lien letter or tax verification letter must be accompanied by a valid Certificate of Compliance or Temporary Certificate of Compliance and by the appropriate fee, which shall be established by the Township Board of Supervisors from time to time by resolution. The Township shall issue the municipal lien letter or tax verification letter within seven (7) days of receipt of the appropriately documented request and the applicable fee.

**Section 8**      Expiration of Certificate of Compliance. A Certificate of Compliance issued under this Ordinance shall be valid for a period of one (1) year from the date of issuance.

**Section 9**      Regulations. The Township Manager is hereby empowered to make reasonable rules and regulations for the operation and enforcement of this Ordinance, including but not limited to: establishing the form of applications, acknowledgements and certifications; and limiting the time of year in which Temporary Certificate of Compliance is available for reasons of weather.

**Section 10**     Conflict with General Police Powers. Nothing in this Ordinance shall limit in any fashion whatsoever the Township's right to enforce its ordinances or the laws of the Commonwealth. Nothing in this Ordinance shall be a defense to any citation issued by any municipal corporation or the Commonwealth pursuant to any other law or ordinance.

**Section 11**     Penalties. Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance, upon conviction before any District Justice, shall be sentenced to pay a fine of five hundred dollars (\$500.00) and, in default of payment, to imprisonment for a term not to exceed thirty (30) days.

**Section 12**     Severability. It is the express intent of the Township that the provisions of this Ordinance are severable. If any section, subsection, sentence, clause, or phrase of this Ordinance shall be held to be illegal, invalid, or unconstitutional, the remaining provisions shall not be affected or impaired.

**Section 13**     Repeal. Any ordinance or any part of any ordinance conflicting with the provisions of this Ordinance is hereby repealed.

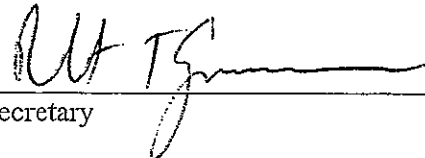
**Section 14**     Subsequent Dye Testing Program. This Ordinance shall not preclude the Township from conducting dye testing or other testing or inspection, or implementing a program of dye testing or inspection, within the Township for purposes of discovering or locating the inflow of surface storm water to the sanitary sewer system.

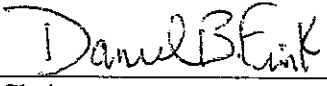
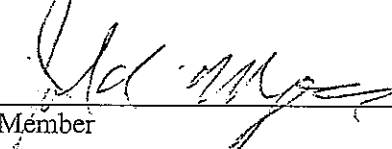
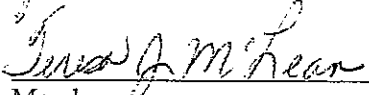
**Section 15**     Effective Date. The effective date of this Ordinance shall be December 15, 2004.

ORDAINED AND ENACTED into law this 26th day of October, 2004.

ATTEST:

TOWNSHIP OF NORTH FAYETTE

  
\_\_\_\_\_  
Secretary  
(SEAL)

BY:   
\_\_\_\_\_  
Chairman  
  
\_\_\_\_\_  
Member  
  
\_\_\_\_\_  
Member

APPROVED AS TO FORM:

\_\_\_\_\_  
Solicitor