

OFFICIAL

BOROUGH OF AVALON

ORDINANCE NO. 1246

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING A REQUIREMENT FOR CERTIFICATION OF SANITARY SEWER STATUS PRIOR TO THE SALE OF REAL ESTATE WITHIN THE BOROUGH OF AVALON, AND AS A CONDITION FOR THE ISSUANCE OF MUNICIPAL LIEN LETTERS AND PROPERTY TAX VERIFICATION LETTERS; CREATING APPLICATIONS, DOCUMENTS OF CERTIFICATION AND TEMPORARY DOCUMENTS OF CERTIFICATION; CONFERRING AND IMPOSING POWERS AND DUTIES UPON THE BUILDING INSPECTOR; IMPOSING PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE.

WHEREAS, the Pennsylvania Sewage Facility Act, the Act of January 24, 1966, P.L. (1965) 1535, Section 1, 35 P.S. Section 750.1 et seq., requires the Borough of Avalon to make or cause to be made such inspections and tests as may be necessary to carry out the provisions of said Act to eliminate illegal storm water and surface water from entering into its sanitary sewer system.

WHEREAS, illegal storm water and surface water connections can cause an overload to the Avalon Borough sanitary sewer system;

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

WHEREAS, the Borough Council of the Borough of Avalon has determined that the most efficient and effective means of eliminating illegal storm water and surface water connections to its sanitary sewer system is through a program of dye testing and/or smoke testing of the properties of

Avalon Borough by certified persons or entities at time of sale of such properties; and

WHEREAS, the Borough Council of Avalon Borough has determined that for the health, safety and welfare of the residents of Avalon Borough, it is necessary to implement a requirement of certification that there are no illegal storm water or surface water connections to the sanitary sewers prior to the sale of such real estate within the Borough, through the issuance of municipal lien and property tax certifications; and

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

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of Avalon Borough, Allegheny County, Pennsylvania, and it is hereby ORDAINED AND ENACTED by and with the authority of the same:

SECTION 1: DEFINITIONS:

- A. Dye and/or Smoke Test: Any commonly accepted method of testing wherein dye and/or smoke is introduced into the storm, surface or subsurface water collection system and downspouts of real estate property to determine if illegal storm water or surface water is entering the sanitary sewer system.
- B. Document of Certification, Evidence of Compliance: An official statement from the Building Inspector of the Borough of Avalon stating that there are no illegal storm or surface water connections into the sanitary sewer system on the specific property which is being sold.
- C. Illegal Storm or Surface Water Connections: The connection of any basement seepage, surface water, subsurface drains, downspouts, roof drainage or surface areaway drainage into the sanitary sewer system.
- D. Municipal Lien and Property Tax Verification Letter: A written letter from the proper official of the Borough of Avalon concerning municipal liens and property taxes.

- E. Person: Any person, syndicate, associate, partnership, firm, corporation, institution, agency, Authority or other entity recognized by law as the subject of rights and duties.
- F. Temporary Document of Certification: A temporary statement of certification from the proper officer of the Borough of Avalon, issued pursuant to the terms of Section 4 of this Ordinance.

SECTION 2: SALE WITHOUT EVIDENCE OF COMPLIANCE PROHIBITED. That after the effective date of this Ordinance, it shall be unlawful for any person to sell any real estate within the Borough of Avalon on which a building or improvement exists, without first delivering to the purchaser a Document of Certification or a Temporary Document of Certification from the proper officers of the Borough of Avalon.

SECTION 3: EVIDENCE OF COMPLIANCE, DOCUMENT OF CERTIFICATION, APPLICATION. Any person selling real estate located within the Borough of Avalon (hereinafter "APPLICANT") shall make application on a form furnished by the Borough of Avalon at least fourteen (14) days before the date of sale. The person selling real estate shall then have a certified plumber or approved testing agency perform a dye test and/or a smoke test on the property to be sold, said smoke test to involve the use of nontoxic, nonstaining smoke, which is forced through the real estate sewer system by the use of air blowers. The certified plumber or approved testing agency shall complete the appropriate portions on the form that the property has been dye tested and /or smoke tested, and certify the results of such test. In the event that there are no illegal storm or surface water connections, the Building Inspector or his designate shall issue a Document of Certification upon the payment of Twenty-Five (\$25.00) Dollars. When an illegal storm or surface water connection is discovered by the means of the above-mentioned testing, no Document of Certification will be issued until the illegal connections are removed, inspected and approved by the Borough.

SECTION 4: TEMPORARY DOCUMENT OF CERTIFICATION. A Temporary Document of Certification may be issued at the Borough's sole discretion only under the following circumstances:

- A. When such testing cannot be performed because of weather conditions, the APPLICANT shall provide the Borough with security in the amount of Two Hundred (\$200.00) Dollars to guarantee that the appropriate test will be performed. The Borough will make the appropriate test 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 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 of excuse the current owner from performance.

- B. When illegal storm water or surface water connections have 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 Building Inspector for a Temporary Document of Certification which may only be issued when the APPLICANT provides the Borough with all of the following:
 - (i) Cash security in amount of the contract for the completion of the necessary remedial work is posted with the Borough; and

 - (ii) 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 such 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.

SECTION 5. RULES AND REGULATIONS. The Building Inspector is hereby authorized, empowered and directed to make reasonable rules and regulations for the operation and enforcement of this Ordinance as he deems necessary, which shall include, but not be limited to:

- A. Establishing acceptable forms of security or guarantees;
- B. Establishing the forms of application, fees and purchaser acknowledgments;
- C. Limiting the times of year in which Temporary Documents of Certification are available for reasons of weather;
- D. Such other rules and regulations as are necessary for the operation and enforcement of this Ordinance.

All rules and regulations issued pursuant to this Section shall be in writing and be approved by the Council of Avalon Borough prior to such rules and regulations being effective.

SECTION 6: NO CONFLICT WITH GENERAL POLICE POWERS. Nothing in this Ordinance shall limit, in any fashion whatsoever, the Borough's right to enforce its Ordinances or the laws of the Commonwealth of Pennsylvania. 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 7: VIOLATION AND PENALTIES. 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 issuing authority, be sentenced to pay a fine of one thousand (\$1,000.00) Dollars and costs of prosecution, and in default of

payment thereof, to imprisonment for a term not to exceed ninety (90) days.

SECTION 8: 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 9: REPEALER. Any Ordinance or part of Ordinance conflicting with the provisions of this Ordinance be and the same are hereby repealed to the extent of such conflict.

SECTION 10: EFFECTIVE DATE. This Ordinance shall become effective this 16th day of February, 1999.

ORDAINED AND ENACTED INTO LAW, this 16th day of February, 1999.

ATTEST

BOROUGH OF AVALON

Janet Strachey
Asst Secretary

Henry W. D'Amore
President
Avalon Borough, Council

This Ordinance examined and approved by me this

16th day of February, 1999.

Daniel Bricmont
Daniel K. Bricmont, Mayor