

BOROUGH OF AVALON

ORDINANCE NO. 1284

AN ORDINANCE OF THE BOROUGH OF AVALON, ALLEGHENY COUNTY, PENNSYLVANIA, PROHIBITING THE DISCHARGE OF STORM WATER OR GROUND WATER INTO THE SANITARY SEWERS OF THE BOROUGH OF AVALON; REQUIRING THE BOROUGH TO SMOKE OR DYE TEST EXISTING STRUCTURES FOR COMPLIANCE; REQUIRING THE OWNERS, LESSEES OR OCCUPIERS OF REAL PROPERTY IN THE BOROUGH TO SUBMIT TO SUCH SMOKE AND DYE TESTING AND TO DISCONNECT ANY RAIN LEADERS AND OTHER ILLEGAL CONNECTIONS TO THE SANITARY SEWER SYSTEM OF THE BOROUGH; REQUIRING OWNERS OF REAL PROPERTY IN THE BOROUGH TO REPAIR PRIVATE SEWER LATERALS WHICH PERMIT INFILTRATION OF STORM WATER AND GROUND WATER INTO THE SANITARY SEWERS OF THE BOROUGH; PROVIDING FOR THE ISSUANCE OF BOROUGH CERTIFICATION OF THE STATUS OF RAIN LEADERS; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE AND FOR FINES FOR THE VIOLATION OF THE ORDINANCE; AND REPEALING INCONSISTENT PROVISIONS OF ALL PRIOR ORDINANCES.

WHEREAS, the Borough Council of the Borough of Avalon desires to eliminate storm water and ground water from the sanitary sewer systems of the Borough of Avalon so as to comply with federal and state laws and regulations pertaining to the discharge of pollution into the waters of the Commonwealth; and

WHEREAS, the Borough believes that the implementation of mandatory smoke and dye testing will enable it to locate and remedy storm water infiltration into the Borough's sanitary sewer system; and

WHEREAS, the discovery and remediation of such storm water infiltration is a necessary part of a comprehensive corrective action plan mandated to satisfy the criteria established, or to be established, by the United States Environmental Protection Agency, the Pennsylvania Department of Environmental Protection and the Allegheny County Health Department; and

WHEREAS, the proper maintenance and repair of private sanitary sewer laterals is also a necessary part of a comprehensive corrective action plan to prevent the infiltration of storm water and ground water into the sanitary sewers of the Borough; and

WHEREAS, the Borough has determined that it is in the best interests of the health, safety and welfare of the residents of the Borough to implement a program of mandatory inspection and reporting with regard to illegal storm water or surface water connections to the Borough's sanitary sewers to prohibit the introduction of storm water and ground water into the Borough's sanitary sewers;

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOROUGH OF AVALON, and it is hereby enacted and ordained by authority of the same:

SECTION 1. Certain Connections Prohibited. From and after the effective date of this ordinance, no person, firm, corporation, property owner, lessee, occupier, developer or contractor shall connect, or cause or permit to be connected to the sanitary sewers of the Borough of Avalon any rain leader, downspout, gutter, parking lot

drain, driveway drain, interior or exterior sump, french drain, swimming pool drain, spring or other source or device capable of carrying surface water, rain, storm water or ground water into the sanitary sewers of the Borough.

SECTION 2. (a) Certain Discharges Prohibited. From and after the effective date of this ordinance, no person, firm, corporation, real property owner, lessee, occupier, developer or contractor shall cause or permit discharge of surface water, rain, storm water or ground water into the sanitary sewers of the Borough.

(b) Affirmative Duty. From and after the effective date of this ordinance, it shall be the affirmative duty of every real property owner to repair and maintain in water-tight condition all sanitary sewer laterals from private structures located upon the owner's real property to the public sanitary sewer located in the Borough's right of way.

SECTION 3. (a) Smoke and/or Dye Tests Required. The proper officers, employees and agents of the Borough, as appointed or hired by Council from time to time, are hereby authorized and directed to conduct periodic smoke and/or dye tests and such other appropriate inspections, at public cost, of all existing structures located in Avalon Borough and all structures located in adjacent municipalities with whom the Borough has a reciprocal inspection agreement and whose sewer drains are known or reasonably suspected to be connected to Avalon's sanitary sewers. Upon prior written notice to the owner and occupant, such appropriate other inspections may include an inspection and dye testing of plumbing fixtures and traps inside any structure located in the Borough.

(b) Purpose of Inspections. The purpose of the inspections shall be to determine if the structure is in compliance with this Ordinance and all regulations

promulgated hereunder, and all other ordinances, laws and regulations pertaining to sewer system and structures.

(c) **Written Notice of Inspection Required.** The Borough, or its agents, shall give at least seven days written notice of the inspection program and of the approximate date that the inspection shall be conducted.

(d) **Hours of Inspection.** All inspections shall be performed between the hours of 8:00 o'clock A.M., local time, and 5:00 o'clock P.M. local time; unless the owner or occupant of the structure requests another time for the convenience of the owner or occupant and the Borough.

SECTION 4. Submission to Testing Required. Every owner, lessee or occupier of land within Avalon shall submit to smoke and/or dye testing under this ordinance.

SECTION 5. (a) Discovery of Illegal Storm Water or Surface Water Connections. When illegal storm water or surface water connections or conditions have been discovered, all necessary remedial work to correct such illegal connections shall be completed by the owner, lessee or occupier of the premises, weather permitting, within one hundred eighty (180) days of the date the party receives notification of the illegal connection or condition. Notice shall be by regular mail, postage prepaid, addressed to the party at the property or at such other address for the party maintained in the borough records. Notice shall be deemed to have been received seven days after mailing, unless returned by the Post Office.

(b) **Delay Because of Weather Conditions.** When weather conditions shall not reasonably permit either the start or the completion of the remediation within one

hundred eighty days of notice of the violation, the Borough may extend the time for start or completion of the work for a period not to exceed one hundred and eighty (180) days, provided that the owner, lessee or occupier of the premises submits to the Borough: (1) a written contract to complete the work from a licensed master plumber; and (2) a cashier's or certified check payable to the Borough in a sum equal to 110% of the cost of the work called for in the contract, to be held by the Borough as security for prompt and complete remediation once the weather permits; and (3) a written license, on a form prepared by the Borough, permitting the Borough or its authorized agents and employees to enter upon the premises to complete the work if the owner, lessee or occupier fails to do so after reasonable notice.

(c) **Severe Economic Hardship.** In the event that the necessary remedial work would create a severe economic hardship for the owner, lessee, or occupier of the premises, application may be made to the Borough for an extension of up to an additional six (6) months to complete said remedial work. A severe economic hardship shall occur when any person responsible for compliance with this Ordinance as to the particular premises has a level of income considered to be "low-moderate" under federal guidelines.

(d) **Completion of Remedial Work by the Borough.** In the event that the owner, lessee or occupier of the premises neglects, refuses or is unable to effect the necessary remedial work within the time permitted, including any extension, the Borough may undertake to have the remedial work completed at the expense of the owner, lessee or occupier of the premises, and to require the necessary arrangements for the payment of the cost of such work by the owner, lessee or occupier of the premises upon an

installment basis mutually satisfactory to the Borough and the owner, lessee or occupier of the premises. Under such circumstances, the Borough shall file a lien against such property pursuant to the Pennsylvania Municipal Claims Act, which liens shall remain in effect until payment in full.

SECTION 6. (a) Acceptable Remediation of Illegal Connections. Acceptable remediation of an illegal connection to the Borough's sanitary sewer system under this ordinance shall mean that the illegal connection is to be disconnected from the sanitary sewer system of the Borough, removed and access to the sewer at that location capped or sealed; and such source shall be discharged properly: (1) to the storm sewer of the Borough, if, in the opinion of the Borough engineer, such connection is reasonably feasible; or (2) to the curb drain in the public streets of the Borough, if, in the opinion of the Borough engineer, such connection is feasible; (3) to a surface outlet wholly upon the subject property; or (4) if none of (1), (2) or (3) is feasible in the opinion of the Borough engineer, then to a dry sump located wholly on the property. Such remediation shall be constructed in accordance with specifications prepared by the Borough engineer.

(b) Written Plan Required. Prior to beginning remediation of an illegal connection, the owner, lessee or occupant shall prepare and file with the Borough a written plan documenting to the satisfaction of the Borough the proposed remediation including: (1) a measurement of the surface area drained by each outlet to be remedied; (2) a list of materials to be used; and (3) the disposition of the water for each outlet. The plan shall be subject to review and approval by the Borough prior to the commencement of any remedial work. Upon plan approval, the Borough shall certify its approval upon the plans.

A copy of the approved plans shall be kept on file with the Borough. Upon rejection of the plan, the Borough shall return the plan to the applicant and shall state the reason(s) for the rejection.

(c) **Site Inspection Required.** Prior to covering any work to remediate an illegal connection under this Ordinance, the owner, lessee or occupant shall submit the site to inspection by the Borough. The Borough shall have the right to reject any work which does not conform to an approved plan, the Borough's specifications or this Ordinance. Rejected work shall be promptly removed by the owner, lessee or occupant and promptly replaced by conforming work.

(d) **Certain Discharges of Water Prohibited.** In no event shall any owner, lessee, occupier, developer or contractor either directly or indirectly permit water to be discharged upon or across any public or private sidewalk or discharged onto any adjacent property causing a safety hazard or public nuisance. Should the owner, lessee, occupier, developer or contractor fail to maintain the discharged water in a safe and attractive manner, following due notice from the borough to correct the problem within the specified time frame, the owner, lessee, occupier, developer or contractor shall be subject to all applicable fines and shall be responsible for any costs incurred by the Borough and/or the affected adjacent property owners to remediate the problem.

(e) **Certification of Compliance.** Upon completion of smoke or dye testing, and remediation of any illegal connections in accordance with an approval plan filed with the Borough, the Borough shall issue a certificate of compliance as to that property.

SECTION 7. Pre-Sale Inspection of Real Estate Required. A pre-sale inspection of real estate for illegal sewer connections shall be performed by the Borough. The inspection of real estate for illegal sewer connections may be conducted by an inspection service appointed by the Borough. Said inspections may include a smoke or dye test. Any remediation of an illegal connection shall be completed in the manner set forth herein, including a filed plan, inspection by the Borough and issuance of a final compliance certificate. The owner of real estate subject to a pre-sale inspection shall pay for the cost of the inspection. The issuance of a pre-sale certificate by the Borough shall be a condition precedent to the issuance of a lien or tax certificate by the Borough and the Borough is hereby prohibited from issuing a municipal no-lien letter unless the pre-sale inspection is conducted. The Borough may fix the fee for the cost of the pre-sale certificate by Resolution of Council. A certificate issued under Section 6(e) of this Ordinance, or a pre-sale certificate issued under this section, shall be valid in lieu of a pre-sale inspection for a period of one year after issuance.

SECTION 8. Promulgation of Rules and Regulations. The Borough shall promulgate such reasonable rules and regulations, as approved by the Borough Council for the operation and enforcement of this Ordinance, which shall include but not limited to establishing the form of:

- (a) applications;
- (b) purchaser acknowledgments; and
- (c) plumber certifications.

SECTION 9. Penalty. Any person, firm or corporation who shall fail, neglect or refuse to comply with, or who shall otherwise violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not to exceed Six Hundred (\$600.00) Dollars.

SECTION 10. Each Calendar Day Is a Separate Violation. Every calendar day after the owner, lessee or occupier of premises has received written notice of the violation shall constitute a separate violation of this ordinance.

SECTION 11. Repealer. Any other ordinance, or part of an ordinance, of the Borough in conflict with this ordinance is hereby repealed to the extent of said conflict.

SECTION 12. Provisions Severable. 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 unconstitutional, the remaining portions of this ordinance shall not be affected or impaired.

ENACTED AND ORDAINED this 30th day of December 2003.

ATTEST:

BOROUGH OF AVALON



Harry W. Dilmore
Secretary



Edward R. Klicker
President of Council

SEAL

EXAMINED AND APPROVED BY ME
this 30th day of December, 2003.



Daniel K. Bricmont, Mayor