

BOROUGH OF SEWICKLEY

ORDINANCE NO. 1385

AN ORDINANCE OF THE BOROUGH OF SEWICKLEY, ALLEGHENY COUNTY, PENNSYLVANIA, PROHIBITING ILLEGAL CONNECTIONS TO THE SANITARY SEWER SYSTEM, PROVIDING FOR THE INSPECTION OF ALL CONNECTIONS TO THE SANITARY SEWER SYSTEM TO IDENTIFY AND ELIMINATE ILLEGAL CONNECTIONS, SETTING FORTH DEFINITIONS RELATED THERETO, ESTABLISHING REQUIREMENTS FOR FEES, NOTICES, INSPECTIONS, CERTIFICATIONS, AND APPEALS, AND SETTING FORTH PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

WHEREAS, the Borough of Sewickley (the “Borough”) is a political subdivision established pursuant to the Borough Code, 8 Pa.C.S.A. § 101, *et seq.*; and

WHEREAS, the Borough Code, at 8 Pa.C.S.A. § 2001, *et seq.*, provides that the Borough may adopt reasonable rules and regulations governing connections to the sanitary sewer system and may require that property owners provide means other than the public sanitary sewers for disposal of storm, surface, and roof water originating or accumulating upon their property; and

WHEREAS, the Borough Council finds that it is in the best interests of the health, safety, and welfare of the public to inspect all connections to the sanitary sewer system to identify and eliminate illegal connections to reduce the infiltration and inflow of storm, surface, and roof water into the Borough’s sanitary sewer system; and

WHEREAS, the Borough Council finds that it is reasonable and necessary to require dye testing at the time of sale of any property located within the Borough for the purpose of routinely identifying and eliminating illegal connections to the sanitary sewer system, and in addition, to provide for areawide and/or targeted dye testing at any time as may be required in the Borough’s discretion to systematically identify and eliminate illegal connections to the sanitary sewer system.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Sewickley, as follows:

1. **Definitions.** The following words and phrases shall have the meanings prescribed hereunder when used in this ordinance, except for where context clearly denotes otherwise.
 - a. **BOROUGH** - The Borough of Sewickley, the Sewickley Borough Council, and/or the Borough's employees, agents, and authorized representatives.
 - b. **BOROUGH CUSTOMER** - Any natural person, syndicate, association, firm, corporation, institution, agency, authority, partnership/partner, or any other entity responsible for making payment to the Borough for routine user rates and charges for sewer service to property connected to the sanitary sewer system.
 - c. **DYE TEST** - A test conducted on, in, or about real property by using innocuous colored substances that will reveal the direction, flow, and/or discharge point of an input source/location to identify connections to the Borough's sanitary or storm sewer systems, or any similar/substitute testing method as may be deemed to be acceptable at the discretion of the Borough.
 - d. **ILLEGAL CONNECTION** - Any connection or source that discharges into the sanitary sewer system and/or permits the infiltration and inflow into the sanitary sewer system of storm water, surface water, groundwater, roof water, or basement seepage, including but not limited to connections and sources such as roof drains/leaders/downspouts, yard drains, foundation drains, driveway drains, outdoor surface area drains, sump pumps, or sewer cleanouts and vents that are not properly elevated above grade and/or secured with a watertight cap.
 - e. **MUNICIPAL LIEN LETTER** - An official Borough letter certifying that there are no municipal claims, liens, or delinquent charges for water, sewage, sewer assessment, or for other public services against the property being sold, or otherwise indicating the amount necessary to satisfy any such claims or charges prior to transfer of the property.
 - f. **NOTICE** - Reasonable advance notification of the Borough's intention to inspect a property which is provided to the occupant and/or owner by means which may include, without limitation, mailed written notice, posting of the property with a door hanger or placard, verbal confirmation, or electronic mail communication.

- g. OCCUPANT - Any person or entity who occupies, inhabits, or enjoys the right of possession of property subject to this ordinance.
- h. SALE - The transfer or assignment of any interest in real property that is benefitted by connection to the sanitary sewer system.
- i. SANITARY SEWER CERTIFICATION - An official Borough letter certifying that there are no illegal connections to the sanitary sewer system.
- j. SANITARY SEWER SYSTEM - The wastewater collection system that is intended to convey sanitary sewage flows for treatment separately from storm water flow, and specifically excluding combined sewers that are intended to convey both sanitary sewage and storm water collectively.
- k. OWNER - Any natural person, syndicate, association, firm, corporation, institution, agency, authority, partnership/partner, entity, or other owner of record with direct or indirect ownership interest in real property that is benefitted by connection to the sanitary sewer system, regardless of whether the owner is also the occupant or borough customer.

2. **Prohibition of Illegal Connections.** No borough customer, owner, or occupant shall make an illegal connection to the sanitary sewer system, nor allow an illegal connection to remain connected thereto.

3. **Dye Test Inspections Required.** Dye test inspections shall be required prior to the time of sale of any interest in real property connected to the sanitary sewer system to routinely identify and eliminate illegal connections, or at any other time that the Borough deems it necessary to conduct areawide and/or targeted dye test inspections of any property connected to the sanitary sewer system as may be required in the Borough's discretion to systematically identify and eliminate illegal connections to the sanitary sewer system. It is recognized that time of sale dye testing is intended as a reasonable means to routinely further ongoing compliance with this ordinance for most properties in the Borough, but that additional dye testing measures are necessary to ensure that certain properties and types of properties that may be held or owned in such a manner that makes the sale of the property an unlikely or rare occurrence, and that the Borough nonetheless has an interest in testing such properties from time to time for illegal connections to the sanitary sewer system. Such properties may include, without limitation, property held in trust, multi-family properties, property held in common in connection with condominiums or a homeowners' association, and commercial, industrial, institutional, religious, and nonprofit properties. Nothing in this ordinance shall be construed as limiting the authority of the Borough to dye test properties only at the time of sale, and this ordinance shall instead be

interpreted broadly to allow targeted dye testing at any time as may be required in the Borough's discretion to systematically identify and eliminate illegal connections to the sanitary sewer system, and as may be necessary to give effect to this ordinance against any one property, any types of property throughout the Borough, or any group of properties in a particular area of the Borough. Targeted enforcement of this ordinance may be commenced by the Borough by providing notice to the owner that a sanitary sewer certification shall be required for the subject property in accordance with this ordinance within thirty (30) days of such notice.

4. **Sanitary Sewer Certification Application and Inspection Report.** Any owner selling real property connected to the sanitary sewer system shall make application to the Borough for a sanitary sewer certification at least ten (10) days prior to sale by submitting a completed inspection report in a form to be prescribed by the Borough. Any owner in receipt of a notice of targeted enforcement requiring that a sanitary sewer certification be obtained for the subject property shall make application to the Borough for a sanitary sewer certification within thirty (30) days of such notice by submitting a completed inspection report in a form to be prescribed by the Borough. Whenever a sanitary sewer certification is required, the owner must contact a properly licensed plumber who shall perform a dye test and visual inspection to certify, if appropriate, that no illegal connections exist at the subject property. The licensed plumber shall attest to the inspection results under the penalty of perjury by signing the fully completed inspection report form and including all supplemental information and documentation required by the prescribed form. All costs of inspection and certification shall be the sole obligation of the owner.

5. **Sanitary Sewer Certification Issuance.** If no illegal connections exist and the same is certified by a properly licensed plumber, the Borough shall issue a sanitary sewer certification upon payment of a fee in the amount of Fifty (\$50.00) Dollars, or as otherwise may be amended from time to time by resolution or in conjunction with the Borough's fee schedule. Issuance of a sanitary sewer certification shall be a condition precedent to a borough customer/owner receiving a municipal lien letter, except as otherwise provided herein.

6. **Borough Authority.** The Borough Manager, Borough Code Enforcement Officer, and/or the Borough's designated agents are hereby authorized to: (a) determine when a violation of this ordinance has occurred, which may be based upon information and belief; (b) issue a notice of violation, which may include a directive to achieve compliance with this ordinance; (c) conduct independent inspections to confirm that an illegal connection has or has not been corrected; (d) have the discretion to make exceptions to the enforcement of this ordinance and/or issue time extensions to eliminate illegal connections when conditions warrant such exceptions and/or extensions in the opinion of the Borough, including but not limited to when a dye test has been performed on the property within one (1) year prior; (e) to take reasonable additional action as they deem necessary or appropriate to effectuate the purpose and intent of this ordinance; and (f) to prosecute violations of this ordinance.

7. **Correction of Violations.** In any event in which the Borough determines that an illegal connection exists or that a violation of this ordinance has occurred, then the Borough may provide the owner with written notice of the violation and allow the owner the opportunity to comply with this ordinance by making application to the Borough for a sanitary sewer certification within thirty (30) days of the notice of violation by submitting a completed inspection report in accordance with the requirements set forth above in Section 4. If the owner fails to comply with the notice of violation prior to the expiration of the thirty (30) day period, then the Borough may proceed with prosecution as provided herein. If reasonable circumstances exist that prevent the elimination of identified violations within the prescribed thirty (30) day period, then the Borough may in its discretion grant a reasonable extension of time to facilitate compliance, and may require that satisfactory monies be escrowed to guarantee such repairs when appropriate.

8. **Inspection Rights.** The Borough shall, upon notice to the occupant and/or owner, have the right to enter property to conduct any inspections necessary to identify illegal connections to the sewer system or confirm the elimination of the same. Any restraint or hindrance to such entry on behalf of the Borough may be referred for prosecution as a summary offense pursuant to the Borough Code, 8 Pa.C.S.A. § 3321, *et seq.*

9. **Penalties.** Any person found by the Borough to be in violation of this ordinance or who permits a violation of this ordinance shall be subject to prosecution under the Borough Code, 8 Pa.C.S.A. § 3321, *et seq.*, and upon being found liable therefor, shall pay a fine of not less than Fifty (\$50.00) Dollars and not more than Six Hundred (\$600.00) Dollars, plus costs, including but not limited to, the costs of abatement of the violation, court costs, and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings and in the abatement of the violation. Each day a violation exists shall constitute a separate offense, and each section of this ordinance that is violated shall also constitute a separate offense. If the penalties and costs provided by this ordinance, or the penalties and costs allowed by any other remedy in law or equity, are not paid by the person(s) found to be liable, the Borough may initiate a civil action for collection of any penalty, cost, claim, judgment, or lien against persons or property in accordance with the Pennsylvania Rules of Civil Procedure and/or the Municipal Claim and Tax Lien Law, 53 P.S. § 7101, *et seq.* The remedies provided herein shall be cumulative, and nothing shall preclude the Borough from enforcing this ordinance in equity in the Court of Common Pleas of Allegheny County, or in any other manner allowed by law.

10. **Repealer and Savings Clause.** If any section, subsection, paragraph, sentence or phrase of this ordinance is for any reason held to be invalid by a court of law, such holding shall not affect the validity of the remaining portions, it being the intent of the Borough Council that the same would have been enacted without such section, subsection, paragraph, sentence or phrase. Any ordinance or part thereof in conflict with this ordinance or any of its terms are hereby repealed.

11. **Effective Date.** This ordinance shall take effect immediately upon enactment, or as soon thereafter as allowed by law.

ORDAINED AND ENACTED into law this 10TH day of OCTOBER, 2023.

ATTEST:


THE BOROUGH OF SEWICKLEY



Donna Kaib, Borough Manager

By: 

Cynthia Mullins, President of Council

By: 

George Shannon, Mayor