

ORDINANCE NO. 261 OF 2009

AN ORDINANCE OF THE BOROUGH OF SUGARCREEK, VENANGO COUNTY, PENNSYLVANIA, PROVIDING STANDARDS FOR THE MAINTENANCE OF PRIVATE SEWER LATERALS AND CLEANOUTS, ADDRESSING PRIVATE SEWER LATERALS DECLARED TO BE PUBLIC NUISANCES, PROVIDING FOR THE CORRECTION OR ABATEMENT OF THE SAME, REQUIRING A CERTIFICATE OF COMPLIANCE PRIOR TO THE SALE, CONVEYANCE, ASSIGNMENT OR TRANSFER OF ANY OWNERSHIP INTEREST IN ANY REAL PROPERTY ON WHICH A BUILDING IS ERECTED AND CONNECTED, OR REQUIRED TO BE CONNECTED, TO THE PUBLIC SANITARY SEWER SYSTEM, CERTIFYING COMPLIANCE WITH ALL APPLICABLE LAWS, ORDINANCES, RULES AND REGULATIONS RELATING TO THE TAPPING INTO, DISCHARGING INTO AND/OR CONNECTION WITH THE PUBLIC SANITARY SEWER SYSTEM; MAKING LEGISLATIVE FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR INSPECTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS; CONTAINING A REPEALER PROVISION; CONTAINING A SAVINGS CLAUSE; AND SETTING THE EFFECTIVE DATE OF THE ORDINANCE.

BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained, by the Council of the Borough of Sugarcreek, Venango County, Pennsylvania as follows:

SECTION 1. TITLE. This Ordinance shall be known as the "Sugarcreek Borough Sewer Lateral Inspection and Compliance Ordinance".

SECTION 2. AUTHORITY. This Ordinance is enacted pursuant to the Borough Code, including, but not limited to, 53 P.S. §§ 46202, 47001, and 47504.

SECTION 3. LEGISLATIVE FINDINGS. Certain areas of Sugarcreek Borough, Venango County, Pennsylvania, (the "Borough") are served by a public sanitary sewer system owned by the Borough. The Borough Council finds that the lack of a proper functioning connection to the said sewer system and/or unpermitted discharges into or outside of the said sewer system pose a threat to the public health, safety and/or welfare of, inter alia, the residents, citizens, trade, commerce and manufacturers of the Borough, and that such public health, safety and/or welfare would be enhanced by requirements for inspections of buildings that are connected to, or required to be connected to, said sewer system prior to the conveyance of any interest in the real property on which any such building is located.

SECTION 4. DEFINITIONS. The following words and phrases, when used in this Ordinance, will have, unless the context clearly indicates otherwise, the meanings given to them in this Section.

- (a) "Certificate of Compliance" - The written certification required by this Ordinance that certain real property complies with all applicable laws, ordinances, rules and regulations relating to the tapping into, discharging into and/or

connection with the Sewer System.

- (b) "Owner" - Any Person, alone or together with one or more other Persons, holding any ownership interest, legal or equitable, in any real property located in the Borough.
- (c) "Person" - Any natural person, fiduciary, firm, partnership, association, corporation, company, club, society or any other entity of any kind.
- (d) "Private Sewer Lateral" is the portion of a building sanitary sewer from the building drain to the Sewer System. When a building sanitary sewer connects to a rear yard sewer main, the entire building sanitary sewer line, including the connection to the main sewer, shall be considered a Private Sewer Lateral.
- (d) "Sewer System" - The public sanitary sewer system owned by the Borough, as said system may from time to time exist.

SECTION 5. STANDARDS FOR MAINTENANCE OF PRIVATE SEWER LATERALS. The standards for maintenance of Private Sewer Laterals are as follows:

- (a) The Private Sewer Lateral shall be kept free from roots, grease deposits, and other solids, which may impede the flow or obstruct the transmission of waste;
- (b) All joints shall be tight and all pipes shall be sound;
- (c) The Private Sewer Lateral shall be free of any structural defects such as cracks, breaks, openings, rodent holes or missing portions, and the grade shall be uniform without sags or offsets;
- (d) The Private Sewer Lateral constructed, repaired or replaced after the effective date of this Ordinance shall have cleanouts. All cleanouts shall be securely sealed with a proper cap at all times; and
- (e) All non-sanitary sewer connections shall be disconnected and such connections shall be rerouted in accordance with local, state and other applicable standards.

SECTION 6. CLEANOUT REQUIRED. Each Private Sewer Lateral shall (i) have a standard two-way cleanout located in the Borough sewer right-of-way or easement, and (ii) have a privately maintained cleanout within 30 inches of the building or as may be required by the Uniform Construction Code, whichever is more restrictive, unless otherwise approved by the Borough. All cleanouts shall be installed by the property owner after obtaining all applicable permits from the Borough.

SECTION 7. PUBLIC NUISANCE. A Private Sewer Lateral constitutes a public nuisance when either of the following conditions exists:

(a) The piping and fittings have leaks or breaks, or it is otherwise subject to exfiltration or leakage of sewage; or

(b) The piping and fittings incorporated into the Private Sewer Lateral are contrary to those permitted by this chapter and/or the Uniform Construction Code as adopted by the Borough, or is otherwise subject to inflow and infiltration, whether accidentally, negligently, or intentionally.

A cleanout constitutes a public nuisance if it:

(a) Is uncapped or improperly capped;

(b) Has leaks or breaks or is otherwise subject to exfiltration, or leakage of sewage; or

(c) Has non-sanitary sewer connections or is otherwise subject to inflow and infiltration, whether accidentally, negligently or intentionally.

SECTION 8. DETERMINATION OF PUBLIC NUISANCE BY BOROUGH. The Borough may require the testing and/or inspection of any Private Sewer Lateral, and may determine and declare that a Private Sewer Lateral or cleanout is a public nuisance as defined in Section 7 of this Ordinance. Testing and/or inspection shall be conducted as set forth in Sections 12 of this Ordinance. If the Borough determines and declares that a Private Sewer Lateral or cleanout is a public nuisance, the Borough shall issue a written notice ordering the Owner to make whatever repairs the Borough reasonably deems necessary, within six (6) months from the date of notice unless a reduced amount of time is specified in the notice.

SECTION 9. CORRECTION OR ABATEMENT. An Owner shall obtain a building permit from the Borough prior to making repairs to correct or abate a Private Sewer Lateral deemed a public nuisance by the Borough, and shall obtain a Certificate of Compliance issued in accordance with Sections 11 and 13 of this Ordinance after repairs are completed. In the event an Owner does not comply with a written notice under Section 8 of this Ordinance, the Borough may correct or abate the public nuisance and recover all costs associated with the correction or abatement, including reasonable attorney's fees and repair costs.

SECTION 10. CERTIFICATE OF COMPLIANCE. It shall be unlawful for any Owner of real property located in the Borough on which a building is erected that is connected, or required to be connected, to the Sewer System to sell, convey, assign or transfer any ownership interest in such real property by deed, agreement of sale or otherwise without first securing a Certificate of Compliance with respect to such real property that is valid on the date of such sale, conveyance, assignment or transfer.

SECTION 11. APPLICATION FOR CERTIFICATE. An application for a required Certificate of Compliance shall be made to the Borough, or its designee, on a form or forms

furnished by or for the Borough and must be accompanied by a fee or fees in such amount(s) as set by the Borough Council, from time to time, by resolution. Such initial fee or fees will be for the application and initial inspection(s). Should an additional inspection or inspections be required, an additional fee or fees, also set by the Borough Council from time to time by resolution, may be required.

SECTION 12. INSPECTIONS. Issuance of a Certificate of Compliance will require the satisfactory completion and verification with respect to the subject real property of: (a) an internal inspection of each sanitary sewer lateral line from its connection with the main sewer conduit to the point at which the lateral emerges from the basement/building floor, by means of a closed circuit internal television recording unit or substantially similar device (the "Internal Inspection"); and (b) an external inspection of each sanitary sewer lateral line and/or the area where same is located, both outside and inside buildings (the "External Inspection"). The Internal Inspection and External Inspection are for the purposes of, inter alia, determining points and sources of connection and needed repairs or replacements.

Section 12.1. Internal Inspection. The Internal Inspection may be performed by or at the direction of the Borough or by an inspector retained by or on behalf of the applicant for the Certificate of Compliance. The applicant must indicate on the application referred to in Section 11 of this Ordinance whether or not the applicant wants the Borough to perform the Internal Inspection. The Borough will perform any Internal Inspection that it is to so perform as soon as practicable after receipt of the properly completed application and the initial fee(s) referred to in Section 11 of this Ordinance. If the applicant elects to retain an inspector other than the Borough for the Internal Inspection: (a) the inspector must be qualified by training, experience and, if appropriate, licensing to conduct the Internal Inspection; (b) the Borough must receive not less than ten (10) days prior written notice of the date that the Internal Inspection is to be conducted so that one or more representatives of the Borough, if the Borough so elects, can be present during the Internal Inspection; and (c) a video tape or DVD record of the Internal Inspection must be submitted to the Borough within ten (10) days after the completion of the Internal Inspection in such format as the Borough may from time to time require.

Section 12.2. External Inspection. The External Inspection will be performed by or on behalf of the Borough. The Borough will endeavor to have the External Inspection performed at the same time as the Internal Inspection; however, if that is not feasible, the Borough will arrange for the External Inspection to be performed as soon as practicable after completion of the Internal Inspection by or on behalf of the Borough or receipt of the video tape or DVD of the Internal Inspection, as the case may be.

SECTION 13. ISSUANCE OF CERTIFICATE OF COMPLIANCE. Not later than ten (10) days after the later of: (a) the date of completion of the Internal Inspection by or on behalf of the Borough or the receipt by the Borough of the required video tape or DVD, as the case may be; and (b) the date of completion of the External Inspection; and if the Internal Inspection and the External Inspection evidence to the satisfaction of the Borough that the subject real property is in compliance with all applicable laws, ordinances, rules and regulations relating to the tapping into, discharging into and/or connection with the Sewer System; and if all fees required by this Ordinance have been paid in full, the Borough will cause a Certificate of Compliance to be

issued pursuant to the application referred to in Section 11 of this Ordinance. The Certificate of Compliance will be valid for a period of ninety (90) days after the date set forth on the Certificate of Compliance.

SECTION 12. NONCOMPLIANCE AND REMEDIAL ACTION. If the Borough determines that, as a result of the Internal Inspection and/or the External Inspection, the subject real estate is not in compliance with all applicable laws, ordinances, rules and regulations relating to the tapping into, discharging into and/or connection with the Sewer System, the Borough will issue, or caused to be issued, to the applicant for the Certificate of Compliance a written notice or statement of the remedial action required to bring the real property into such compliance. Upon receipt of written notification of the commencement of the remedial action, one or more representatives of the Borough will inspect the remedial work while it is in progress or will, within seven (7) days of receipt of written notice that the remedial actions have been completed, conduct an Internal Inspection and/or External Inspection. At such time as the Borough is satisfied that the subject real estate is in compliance with all applicable laws, ordinances, rules and regulations related to the tapping into, discharging into and/or connection with the Sewer System, it will, subject to the other provisions of this Ordinance, cause a Certificate of Compliance to be promptly issued.

SECTION 13. ENFORCEMENT OFFICER. This Ordinance may be enforced by the Zoning Officer of the Borough.

SECTION 14. PENALTIES.

- (a) This Ordinance is intended to, and will be, enforced in accordance with 53 P.S. § 48301 et seq. as same may be from time to time amended, supplemented or replaced and in accordance with the following provisions of this Ordinance.
- (b) Any Person that violates any provision of this Ordinance will upon conviction thereof be sentenced to pay a fine of not less than \$300.00 nor more than \$1,000.00 per violation or to imprisonment for a term not to exceed ninety (90) days, or both.
- (c) A separate offense will arise for each section of this Ordinance which is found to have been violated, and each day or portion thereof that a violation continues will constitute a separate offense as to each section of this Ordinance which is found to have been violated.
- (d) The Borough may also enforce this Ordinance through an action in equity brought in the Court of Common Pleas of Venango County, Pennsylvania, as an alternative to, or in addition to, any other enforcement actions or proceedings.
- (e) The Zoning Officer of the Borough is hereby designated as the officer or agent of the Borough with respect to this Ordinance.

SECTION 15. SAVINGS CLAUSE. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity will not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included

therein or herein.

SECTION 17. REPEALER. All ordinances or parts of ordinances which are inconsistent with this Ordinance are hereby repealed to the extent necessary to give effect to the provisions of this Ordinance.

SECTION 18. EFFECTIVE DATE. This Ordinance will take effect five (5) days after the date of adoption.

ENACTED AND ORDAINED, this 15th day of April, 2009.

BOROUGH OF SUGARCREEK

By _____
President of Council

ATTEST:

By _____
Mayor

Borough Secretary

Voting For: _____

Voting Against: _____