

ORDINANCE NO. 02-2022

**HOPEWELL TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA**

AN ORDINANCE OF HOPEWELL TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA, ESTABLISHING A REQUIREMENT FOR CERTIFICATION OF SANITARY SEWER STATUS PRIOR TO THE SALE OF REAL ESTATE WITHIN HOPEWELL TOWNSHIP AND AS CONDITION FOR THE ISSUANCE OF MUNICIPAL LIEN LETTERS AND PROPERTY TAX VERIFICATION LETTERS.

WHEREAS, the Pennsylvania Department of Environmental Protection (“DEP”) has directed municipalities to take such steps as are necessary to eliminate sanitary sewer overflows or face civil penalties and other sanctions; and

WHEREAS, Hopewell Township is desirous of establishing certain procedures for the issuance of municipal liens and property tax certifications; and

WHEREAS, Hopewell Township believes it to be in the best interest, safety and welfare of its residents to adopt this Ordinance.

NOW THEREFORE, Hopewell Township, under and by virtue of, and pursuant to the authority granted by the Second-Class Township Code, as amended, does hereby enact and ordain as follows:

SECTION 1. TITLE.

This Ordinance shall be known and cited as the “Hopewell Township Dye Test Ordinance of 2022”.

SECTION 2. FINDINGS AND PURPOSES.

The Board of Supervisors of Hopewell Township find that malfunctioning private septic systems are in violation of Act 537 and constitute a public hazard for the residents of Hopewell Township. Board of Supervisors finds that the procedures, fees and penalties provided for herein are necessary to achieve the purposes of this Ordinance.

SECTION 3. DEFINITIONS.

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

CERTIFICATE OF COMPLIANCE – An official statement from the Township stating that there are no illegal stormwater or surface water connections into the sanitary sewer connections on the property to be sold which violates any section of the Ordinance of Hopewell Township.

DYE TEST – Any dye test performed by a Certified Sewage Enforcement Officer appointed by the Township and/or local government cooperative organization as allowed for by PA Act 537 of 1965 appointed by the Township whereby dye is introduced into the water collection system of a property to determine whether basement seepage, groundwater, downspout drainage, roof drainage, driveway drainage or other surface water drainage is entering the sanitary sewer system.

ILLEGAL STORM OR SURFACE WATER CONNECTIONS – The discharge of basement seepage or groundwater or the connection of downspouts, roof drainage or surface or areaway drainage into the sanitary sewer system.

MUNICIPAL LIEN CERTIFICATION – A written letter from the Township Secretary concerning municipal liens or claims filed with the municipal office for grading, paving, curbing or any other municipal installations or improvements not including tax liens of any kind, sewage or water liens filed with the Prothonotary or any other type of liens filed with the Prothonotary of Washington County, Pennsylvania.

PERSON – Any person, syndicate, association, partnership, firm, corporation, institution, agency, authority or other entity recognized by law as the subject of rights and duties.

PROPERTY TAX CERTIFICATION – A written letter from the Township Property Tax Collector concerning Township Property Taxes.

SEO – An official of the Township or local agency who reviews permit applications and sewage facilities planning modules and issues permits as authorized by the Sewage Facilities Act (Act 537) and conducts the investigations and inspections that are necessary to implement the Act and the Pennsylvania Code Title 25, Environmental Protection Chapters 72 and 73 regulations thereunder.

SEWAGE AUTHORITY – A local agency who reviews permit applications and sewage facilities planning modules and issues permits as authorized by the Sewage Facilities Act (Act 537) and conducts the investigations and inspections that are necessary to implement the Act and the Pennsylvania Code Title 25, Environmental Protection Chapters 72 and 73 regulations thereunder.

TEMPORARY CERTIFICATE OF COMPLIANCE – A temporary statement of certification from the Township issued pursuant to the terms of this Ordinance.

TOWNSHIP – Hopewell Township, Pennsylvania.

TOWNSHIP LIEN LETTER – a written letter from the Township certifying that the property is free from municipal liens.

SECTION 4. ILLEGAL CONNECTIONS.

Illegal connections are prohibited.

SECTION 5. REPAIR PRIVATE SEWER FACILITIES.

Persons owning property are required to maintain all private sanitary sewer laterals and sanitary sewer connections in good repair.

SECTION 6. DYE TESTING UPON SALE OF PROPERTY.

It is unlawful for any person to sell property without first delivering to the purchaser a certificate of compliance or a temporary certificate of compliance. For purposes of this Ordinance, a "Sale of Property" shall include any conveyance or transfer whereby title is transferred from one (1) person to another.

SECTION 7. SALE OF REAL ESTATE WITHOUT A CERTIFICATE OF COMPLIANCE PROHIBITED.

After the effective date of this Ordinance, it shall be unlawful for any person to sell or purchase real estate within the Township on which a building or improvement exists without first delivering to the purchaser a certificate of compliance or a temporary certificate of compliance from the Township.

SECTION 8. CERTIFICATE OF COMPLIANCE APPLICATION.

- A. Any person selling real estate located as defined in this Ordinance that is located within the Township (hereinafter referred to as "applicant") shall make application on a form furnished by the Township at least twenty-one (21) days before the date of closing the sale. The applicant shall then cause to have performed a dye test on the property to be sold. All dye tests shall be performed by an SEO or Sewage Authority appointed by Hopewell Township (hereinafter referred to as "inspector").
- B. The inspection fee shall be in an amount set by resolution of Board of Supervisors. The inspection fee shall be paid to the Township. In the case that the Township has appointed a Sewage Authority, the inspection fee will be set by the Sewage Authority and shall be paid to the Sewage Authority at the time of making the application referred to in this Ordinance.
- C. Such inspector shall complete the appropriate portions on the form and certify that the property has been dye tested and certify the results of such test. In the event

there are no illegal stormwater or surface water connections, the Township Secretary or his/her designate shall issue a certificate of compliance upon payment of such fee as set by resolution of Township Board of Supervisors. When an illegal stormwater or surface water connection is discovered by means of the above-mentioned dye test, no certificate of compliance will be issued until the illegal connections are removed and certification of such removal by an inspector is received. An additional inspection fee shall be paid by the applicant for each inspection subsequent to the first inspection referred to in Subsection A above.

SECTION 9. DURATION OF CERTIFICATE OF COMPLAINECE.

A certificate of compliance shall be valid for a period of three (3) year from the date of issuance. Real estate may be sold during the three-year effective life of such document without further dye testing or certification.

SECTION 10. INSTANCES WHEN A CERTIFICATE OF COMPLIANCE IS NOT REQUIRED.

A certificate of compliance shall not be required in the following instances:

- A. When property is refinanced but no conveyance takes place.
- B. When an improvement to real estate has been recently constructed in accordance with a valid building permit and has been inspected by the Code Enforcement Officer and has not been formerly occupied. If such property is sold after one (1) year of the date of the certificate of occupancy, or the inspections referred to in this subsection, compliance with this Ordinance is mandatory.
- C. Conveyances between immediate family members. (i.e., a parent, spouse, child, brother, sister, grandparent)

SECTION 11. TEMPORARY CERTIFICATE OF COMPLIANCE.

A temporary certificate of compliance may be issued at the Township's sole discretion when, either:

- A. The applicant proves that dye testing cannot be performed because of weather conditions. When such is the case, the applicant shall provide the Township with security in such amount as Board of Supervisors by resolution shall establish to guarantee that the dye test will be performed. The applicant will cause to have the dye test performed within fourteen (14) days of written notification from the Township, which will be given at such time as weather conditions make the dye test possible. In addition, the applicant shall provide, on a form furnished by the Township, a Notarized, signed, written acknowledgment from the purchaser agreeing to correct, at purchaser's sole cost and expense, any violations that may be discovered as a result of subsequent dye tests. Nothing in this subsection shall prohibit any purchaser from requiring the applicant to reimburse purchaser for any costs incurred; provided, however, that primary liability shall run with the land and no such agreement shall affect Township's enforcement powers or excuse the current owner from compliance with this Ordinance; or
- B. When an illegal stormwater or surface water connection is 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, applicant may apply to the Township Secretary for a temporary certificate of compliance, which may only be issued when the applicant provides the Township with all of the following: A bona fide executed contract between the applicant and the Township inspector to complete the necessary remedial work with the Township listed therein as a third-party beneficiary; and cash security in the amount of said

contract is posted with the Township; and a written agreement by the purchaser to be responsible for all cost overruns and extras related to the remedial work together with a written license to enter upon the property to complete work in case of default of the contractor referred to above. The Township Secretary shall determine when such temporary document certification shall expire. Upon expiration, the security shall be forfeited and the Township may use the security to have the necessary remedial work completed.

SECTION 12. MUNICIPAL LIEN AND TAX LETTERS.

- A. A request for a municipal lien or tax certification letter must be accompanied by a valid certificate of compliance and payment of the required fees, which shall be delivered to the Township Secretary at least seven (7) days before such letters are to be provided. The amount of the fee for each item shall be established by resolution of Township Board of Supervisors.
- B. Where requested by a property owner or his agent and subject to time availability as determined solely by the Township, the Township may issue municipal lien and tax certification letters on two (2) days' notice upon the payment of an expedition fee in addition to the fees set forth above. The amount of the expedition fee shall be established by resolution of the Board of Supervisors of Hopewell Township.

SECTION 13. REGULATIONS.

The Township Secretary is hereby empowered to undertake the duties imposed by this Ordinance, including, but not limited to:

- A. Establishing acceptable forms of security or guarantees.

- B. Establishing the form of applications, purchaser acknowledgment and inspector certifications.
- C. Limiting times of year in which the temporary certificate of compliance is available for reasons of weather.

SECTION 14. ADJUSTMENT OF FEES.

Board of Supervisors of the Township may, by resolution, change from time to time the fees authorized in this Ordinance.

SECTION 15. 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 of the Commonwealth pursuant to any other law or ordinance.

SECTION 16. VIOLATIONS AND PENALTIES; ENFORCEMENT.

- A. Any person who violated any of the provisions this Ordinance may be charged with such violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars for each violation or, alternatively, sentenced to pay a fine of not more than the maximum permitted under Pennsylvania law as the same may be from time to time amended and in effect as of the date of conviction. In default of payment of imposed fines, the offender may be imprisoned for a term not to exceed thirty (30) days.
- B. Whenever any person violating any of the provisions of this Ordinance is notified of such violation in writing by the Township Secretary, each day or portion thereof a violation occurs or continues to occur shall constitute a separate violation.

C. In addition to and not in lieu of the foregoing, the Township may seek equitable and legal relief to compel compliance with this Ordinance.

SECTION 17. SEVERABILITY.

The provisions of this Ordinance are hereby declared severable, and if any of its provisions shall be held to be invalid or unconstitutional, or otherwise void for any reason, such decision shall not affect or impair any of the remaining provisions hereof; it is hereby declared to be the intent of the Township that this Ordinance would have been adopted is such invalid, unconstitutional, or otherwise void provision had not been included herein.

SECTION 18. REPEALER.

Any Ordinance containing any provision inconsistent herewith to the extent that such provisions are inconsistent, those provisions are also hereby repealed.

SECTION 19. EFFECTIVE DATE.

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED INTO LAW by the Board of Supervisors of Hopewell Township in lawful session assembled this 12th day of September, 2022.


ATTEST:

**HOPEWELL TOWNSHIP
BOARD OF SUPERVISORS**



Andrea White, Secretary/Treasurer

(SEAL)


Mary Rush, Chairperson
Donald Kearns, Vice Chairman
John D. Miller, Supervisor