

Bill No. 07-04A
Introduced: June 28, 2004
By Commissioner: Ely
Amended: September 13, 2004
Enacted September 27, 2004

Mt. Lebanon, Pennsylvania
Ordinance No. 3099

An Ordinance of Mt. Lebanon, Pennsylvania, Amending the Mt. Lebanon Code, Chapter XIII (Sewers and Sewage Disposal), to Add New Provisions Prohibiting the Connection of Roof Leaders, Yard Drains, Driveway Drains or Other Connections Conveying Surface Stormwater Into the Municipality's Sanitary Sewer System and Mandating Dye Testing of Storm Water Collection Systems Prior to Property Transfers.

Introduction

The United States Environmental Protection Agency, the Pennsylvania Department of Environmental Protection and the Allegheny County Health Department (the "Agencies") threatened the Municipality, along with other municipalities and authorities within the Allegheny County Sanitary Authority ("ALCOSAN") service area, with enforcement actions in connection with the alleged discharge of raw sewage into local waterways. As the result of negotiations among the Agencies, representatives of the Municipality and representatives of the other municipalities and authorities within the ALCOSAN service area, the Municipality and several other municipalities and authorities have entered into an Administrative Consent Order ("ACO") with the Agencies. The ACO seeks to eliminate inflow and infiltration from sanitary sewer mains and requires the Municipality to determine if surface storm water drains to the sanitary sewer system. One of the requirements under the ACO is that the Municipality, prior to property transfers, institute and enforce an ordinance prohibiting illegal surface stormwater connections to the sanitary sewer system. The purpose of this ordinance is to comply with these requirements.

Mt. Lebanon, Pennsylvania hereby ordains as follows:

Section 1. Chapter XIII (Sewers and Sewage Disposal) of the Mt. Lebanon Code shall be amended to add the following new Part 2 (new language is underlined).

Part 2: Prohibition of Illegal Surface Stormwater Connections; Dye Testing

201. Definitions

201.1 Blocked Drain: A drain, which when Dye Tested, does not discharge to the sanitary sewer, and which also cannot be observed to discharge to the surface or subsurface drainage system.

201.2 Dye Test: A plumbing test conducted according to professional plumbing standards in which dye is introduced into the stormwater collection system of real property to determine if surface stormwater is entering the sanitary sewer system.

201.3 Evidence of Compliance: An official written statement issued by the Municipality that it has on file a written certification from a plumber registered and licensed by Allegheny County that there are no Illegal Surface Stormwater Connections into the sanitary sewer system such as roof leaders, yard drains or driveway drains, and no Blocked Drains.

201.4 Interim Evidence of Compliance: A statement from the Municipality issued pursuant to the terms of Section 205 of this Chapter.

201.5 Illegal Surface Stormwater Connections: The connection of roof leaders, yard drains, driveway drains or other connections conveying surface stormwater into the Sanitary Sewer System.

201.6 Person: Any natural person, association, partnership, corporation, syndicate, institution, agency, authority, or other entity recognized by law as the subject of rights and duties.

201.7 Sanitary Sewer System: A system of pipes which carries sewage and is maintained and operated by the Municipality.

201.8 Improved Property: Real property on which any building, driveway or parking pad, or other surface or subsurface improvement has been constructed, installed or erected.

201.9 Sale or Conveyance: The sale, transfer or conveyance of any interest in real property, provided, however, that a refinancing of real property, without a conveyance, is not a Sale or Conveyance under this Ordinance.

202. The connection of roof leaders, yard drains, driveway drains or other connections conveying surface stormwater from an Improved Property into the Sanitary Sewer System is prohibited.

203. Sale or Conveyance without Evidence of Compliance is Prohibited. After the effective date of this Ordinance, it shall be unlawful for any persons to sell or convey, or to purchase or accept the conveyance of, any Improved Property within the Municipality without seller first delivering to the purchaser Evidence of Compliance or Interim Evidence of Compliance issued by the Municipality.

204. Procedure for Evidence of Compliance

Any person (hereinafter "Applicant") selling or conveying any Improved Property located within the Municipality shall make application for Evidence of Compliance on a form furnished by the Municipality. The Applicant shall then have a plumber who is registered and licensed by Allegheny County perform a Dye Test on the Improved Property to be sold or conveyed. The plumber shall complete the appropriate portions of the form certifying that the Improved Property has been Dye Tested and certifying the results of such Dye Test. If there are no Illegal Surface Stormwater Connections or Blocked Drains, the Municipality shall issue Evidence of Compliance. If the Dye Test reveals the existence of an Illegal Surface Stormwater connection and/or Blocked Drain, no Evidence of Compliance will be issued until the illegal connections are removed and/or the Blocked Drain cleared. Correction of any deficiencies and certification of such correction shall be completed by a plumber registered and licensed by Allegheny County and the certification conveyed to the Municipality.

204.1 Valid Evidence of Compliance shall expire three (3) years following the date of issuance of the Evidence of Compliance. If any additions to the Improved Property are made within the three (3) year period, certification that the addition has no Illegal Surface Stormwater Connections and no Blocked Drains shall be provided by a plumber registered and licensed by Allegheny County to the Municipality.

205. Interim Evidence of Compliance

205.1 Interim Evidence of Compliance may be issued at the Municipality's sole discretion upon application to the Municipality when either:

205.1.1 The Applicant demonstrates that Dye Testing cannot be performed because of weather conditions; or

205.1.2 When an Illegal Surface Stormwater Connection and/or Blocked Drain is discovered and the necessary remedial activities to correct such connection are so complex and time consuming that they create a practical hardship for the Applicant.

205.2 Requirements for Applicant to Obtain Interim Evidence of Compliance

205.2.1 The Applicant shall provide the Municipality with security in form of a certified check in the amount of two hundred dollars (\$200.00) to guarantee that the Dye Test will be performed. The Applicant or a purchaser of the Improved Property will cause the Dye Test to be performed within fourteen (14) days following written notification from the Municipality. The notification will be given at such time as the Municipality determines, in its sole discretion, that weather conditions make the Dye Test possible.

205.2.2 The Applicant shall provide the Municipality with a signed, written agreement with the purchaser in a form provided by the Municipality in which the purchaser agrees to conduct the Dye Test and to correct, at the purchaser's sole expense, any violations discovered as a result of the Dye Test. Nothing in this section shall prohibit any purchaser from requiring the Applicant to reimburse the purchaser for any costs incurred.

205.2.3. Interim Evidence of Compliance may be issued only when the Applicant provides the Municipality with an executed contract between the Applicant or the purchaser and a plumber registered and licensed by Allegheny County requiring the plumber to conduct the Dye Test and/or complete the necessary remedial work and granting the Municipality the legal power to enforce the contract, and a license granted by Applicant and purchaser for the Municipality to enter upon the Improved Property to complete the work in case of default by the parties, and a certified check in the amount of said contract, posted as security with the Municipality. Any required remedial work must be completed and certified by a plumber registered and licensed by Allegheny County.

205.2.4 The Interim Evidence of Compliance shall expire six (6) months from the date of issuance. The Applicant and the purchaser shall be advised of the expiration of the Interim Evidence of Compliance, the security shall be forfeited, and the Municipality may use the security to have the necessary testing and/or remedial work completed and pursue any other remedies or penalties pursuant to this Part 2. The Municipal Manager, in his sole discretion, may extend the Interim Evidence of Compliance for one additional six (6) month period.

206. All costs incurred by the Municipality for correction of any Illegal Surface Stormwater Connection and/or Blocked Drain shall be a municipal lien on the Improved Property, and collectible pursuant to applicable law, and no agreement between the Applicant and the purchaser shall affect the Municipality's enforcement powers or excuse the Applicant or purchaser of Improved Property from performance of its obligations.

207. Promulgation of Forms

The Municipality shall establish the form of applications, Applicant/purchaser agreements and plumber certifications for the operation and enforcement of this Part 2.

208. Fees

The following application fees are hereby established:

Evidence of Compliance: \$20.00

Interim Evidence of Compliance: \$20.00

The Commission shall be empowered to re-evaluate the required fee amount from time to time to make necessary alterations to it. Such alterations shall not be considered an amendment to this Chapter, and may be adopted at any public meeting by resolution.

209. Penalties

209.1 Any person violating the provisions of this Part 2 shall, upon conviction, be punished by a fine not to exceed the sum of three hundred dollars (\$300) for each offense, recoverable with costs. Each day a violation is continued shall constitute a separate offense.

209.2 In addition to the penalties and other remedies provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Part 2 will be deemed a public nuisance and may be abated by the Municipality with the costs of such abatement charged to the person or entity owning the property upon which such condition may exist. Such costs will be collected for the use of the Municipality as provided by law, including without limitation by a municipal claim or lien.

209.3 In addition to the enforcement provisions set forth herein, the Municipality may institute an appropriate action or proceeding at law or in equity against a person responsible for violation of any of the provisions of this Part 2 and request either or both of the following remedies:

209.3.1 to cease, correct or remove the violation

209.3.2 to enforce the penalty provisions of this Part 2 or to seek other remedies as are just and reasonable.

210. Effective Date

210.1 This ordinance shall take effect on November 1, 2004.

ORDAINED AND ENACTED into an Ordinance and passed by the Commission of Mt. Lebanon, Pennsylvania on this 27th day of September, 2004.

ATTEST:

MT. LEBANON COMMISSION



Manager/Secretary



President, Mt. Lebanon Commission