

**BOROUGH OF THORNBURG**

**ORDINANCE NO. 409**

AN ORDINANCE OF THE BOROUGH OF THORNBURG, AMENDING THE BOROUGH CODE OF ORDINANCES, CHAPTER 18, SEWERS AND SEWAGE DISPOSAL, PART 5, TO ADD PROVISIONS REQUIRING INSPECTION OF PRIVATE SEWER LATERALS UPON SALE OR TRANSFER OF PROPERTY AND AMENDING PROVISIONS RELATING TO SANITARY SEWER DYE TESTING

WHEREAS, the Borough of Thornburg ("Borough") has entered into a Consent Order and Agreement ("COA") with the Allegheny County Health Department which allows for the Borough to comply with certain COA obligations by enacting an ordinance providing for the testing, and repair or replacement if needed, of private sewer laterals upon sale or transfer of property; and

WHEREAS, the Borough desires to administer the sewer lateral inspection program established herein with the same or similar procedures and criteria applicable to sanitary sewer dye testing.

I. NOW THEREFORE, the Council of the Borough of Thornburg does ordain that Chapter 18 of the Borough Code of Ordinances is amended by revising Part 5, Sanitary Sewer Testing Prior to Sale, as follows:

1. **§ 18-501, Definitions**, is amended by adding thereto or revising the following defined terms as follows:

**SELL OR TRANSFER.** The sale, transfer or assignment of any interest in real property, except for transactions solely between spouses and the refinancing of real property without a conveyance.

**SEWER LATERAL.** The sewer line or lateral connecting the structure served to the sanitary sewer system for the entire distance from the structure to the connection at the Borough sewer main line, including all necessary fresh air vents, traps and clean-outs.

2. **§ 18-504, Application for certificate of compliance; dye testing**, is amended to read in its entirety as follows:

**§ 18-504. Application for certificate of compliance; dye testing and televised inspection.**

1. At least 45 days prior to the date of closing or sale or transfer of any improved real property located within the Borough of Thornburg, the seller or transferor or their agent shall submit to the Borough Secretary/other designated Borough representative

an application for certificate of compliance, completed as required by Subsection 2 below. The certificate of compliance form shall be available upon request from the Borough Secretary. The fee for filing the completed application for certificate of compliance shall be established by the Council of the Borough of Thornburg from time to time by resolution.

2. Prior to the sale or transfer of any improved real property located within the Borough of Thornburg, the seller or transferor shall have a dye test of the property and a televised inspection of the sewer lateral performed by a plumber licensed by the Allegheny County Health Department to perform such tests/inspections and approved by the Borough of Thornburg. Upon completion of the dye test and televised inspection, the person who performed the test and inspection shall complete the appropriate section of the application for certificate of compliance, confirming that the property has been dye tested and the sewer lateral inspected and certifying the results of the test and inspection.
3. **§ 18-505, Issuance of certificate of compliance**, is amended to read in its entirety as follows:

**§ 18-505. Issuance of certificate of compliance.**

1. All testing shall be on a pass-fail basis. If the lateral fails, then the lateral shall be repaired or replaced in accordance with the Allegheny County Plumbing Code or relined as may be approved by the Borough.

If a spot repair of the lateral pipe is performed, the lateral must be retested and must pass.

2. If the application for certificate of compliance, properly completed and filed with the Borough Secretary, with the designated filing fee, indicates that there are no connections of surface stormwater or subsurface water to the sanitary sewer system and that the sewer lateral passed inspection, then the Borough Secretary or other Borough designee shall issue the certificate of compliance within 10 days of application therefor.
3. If the dye test reveals the existence of one or more connections of surface stormwater or subsurface water to the sanitary sewer system, or if the sewer lateral inspection reveals defects, the Borough Secretary shall not issue the certificate of compliance until the illegal or improper connections have been removed and/or lateral defects corrected and a plumber licensed by the Allegheny County Health Department and approved by the Borough of Thornburg to do so has certified that there is no

connection of surface stormwater to the sanitary sewer system from the property to be sold or transferred and/or that any sewer lateral defects have been corrected.

4. **§ 18-506, Temporary certificate of compliance**, is amended to read in its entirety as follows:

**§ 18-506. Temporary certificate of compliance.**

1. When a surface stormwater or subsurface water connection to the sanitary sewer system or a sewer lateral defect is discovered and the necessary work to remove the connection or correct the sewer lateral defect would require a length of time such as to create a hardship for the seller or applicant, the seller or applicant may apply to the Borough Secretary for a temporary certificate of compliance. The seller or applicant must submit the following with the properly completed application:
  - (a) A bona fide executed contract with a plumber registered and licensed by the Allegheny County Health Department requiring the plumber to complete the remedial work necessary for the removal of the connections of surface stormwater or subsurface water to the sanitary sewer system, or necessary to correct any sewer lateral defect, and granting the Borough of Thornburg the right and power to enforce the contract.
  - (b) Cash security in an amount equal to 120% of the price of the contract described in Subsection 1(a) above.
  - (c) The agreement of the purchaser or transferee to be responsible for all cost overruns related to the remedial work, together with a license from the purchaser or transferee to the Borough of Thornburg, its agents, contractors, and employees, to enter upon the property to complete the remedial work in case of default by the contractor or the applicant.
  - (d) The filing fee shall be established by the Council of the Borough of Thornburg from time to time by resolution
2. When dye testing or sewer lateral inspection cannot be performed because of weather conditions, the seller or

applicant may apply to the Borough Secretary/other designated Borough representative for a temporary certificate of compliance. The seller or applicant must submit the following with the properly completed application:

- (a) Cash security in the amount of \$1,000, or such other amount as is established by resolution of Borough Council. To the extent that the security is not used by the Borough, it will be refunded to the depositor.
  - (b) The written, signed agreement of the purchaser or transferee to correct, at the purchaser's or transferee's sole expense, any surface stormwater or subsurface stormwater connections to the sanitary sewer system disclosed by the subsequent dye test, or to correct any defects in the sewer lateral revealed by the subsequent televised lateral inspection, together with a license from the purchaser or transferee to the Borough of Thornburg, its agents, contractors, and employees, to enter upon the property to conduct the dye testing, and to conduct televised lateral inspection, should the applicant fail to do so. Nothing in this Subsection 2 shall prohibit any purchaser or transferee from requiring the applicant to reimburse the purchaser or transferee for any costs incurred in connection with such remedial work; provided, however, that primary responsibility for the remedial work and all costs thereof shall run with the land, and no such agreement shall affect the Borough of Thornburg's enforcement powers or excuse the current owner of the property from performance.
  - (c) The filing fee shall be established by the Council of the Borough of Thornburg from time to time by resolution.
3. The Borough Secretary or other designated Borough representative may reject the application for temporary certificate of compliance whenever, in his or her sole judgment, the conditions defined by this section do not exist or the submissions required by this section have not been made.
  4. The temporary certificate of compliance shall be effective for 60 days, and the expiration date of the temporary certificate of compliance shall be noted on the certificate. If, upon the

expiration of the temporary certificate of compliance, the seller or applicant has not applied for and received a certificate of compliance, as provided for in §§ 18-504 and 18-505 of this Part, the cash security will be forfeited, and the Borough of Thornburg may use the funds to complete the dye testing or the televised lateral inspection and any required remedial work.

5. In the event that dye testing or televising of the sewer lateral reveals the existence of improper connections to the sanitary sewer system or defects in the sewer lateral, the owner of the property shall be required to perform the necessary remedial work.

To the extent that the cost of completion of the dye testing, lateral inspection or remedial work exceeds the cash security, the Borough may file a municipal claim against the property for the cost of completion of the dye testing, lateral inspection or remedial work and any professional consultant fees incurred in connection with such completion, 6% interest per annum, plus a penalty of 5% of the amount due plus attorney's fees and costs related to filing and prosecuting the municipal claim.

6. The application for temporary certificate of compliance form shall be available upon request from the Borough Secretary.

5. **§ 18-508, Expiration of certificate of compliance**, is amended to read in its entirety as follows:

**§ 18-508. Expiration of certificate of compliance.**

A certificate of compliance issued under the article shall be valid for:

- (1) As to dye testing, a period of two (2) years from the date of issuance;
- (2) As to sewer lateral inspection, for a period of two (2) years from the date of issuance.

6. **§ 18-509, Regulations**, is amended to read in its entirety as follows:

**§ 18-509. Regulations.**

The Borough Council is hereby empowered to make reasonable rules and regulations by ordinance or resolution for the operation and enforcement of this article, including, but not limited to: establishing the form of applications, acknowledgements and certifications, establishing testing procedures and criteria for passing or failing dye

testing or lateral inspections, and limiting the time of year in which temporary certificate of compliance is available for reasons of weather.

7. **§ 18-513, Subsequent dye testing program**, is amended to read in its entirety as follows:

**§ 18-513. Subsequent dye testing program.**

This article shall not preclude the Borough of Thornburg from conducting dye testing, televising laterals or conducting other testing or inspection, or implementing a general program of dye testing or inspection, within the Borough for purposes of discovering or locating the sources of surface stormwater or subsurface water to the sanitary sewer system.

8. A new **§ 18-514, Sewer lateral inspection standards**, is added to read as follows:

**§ 18-514. Sewer lateral inspection and lateral replacement/relining standards.**

- A. NASSCO (National Association of Sewer Service Companies) pipe assessment standards will be used to determine the presence of pipe defects. Any defect found to have a Level 3 or higher shall be deemed to fail inspection. Multiple Level 2 defects in a lateral may also be deemed a failure, if there are more than two such defects.
- B. 1. All third party registered plumbers must comply with the requirements of the Lateral Testing Ordinance. The plumber shall provide personnel certified through the NASSCO Lateral Assessment and Certification Program and thoroughly knowledgeable with the NASSCO Condition Grading System. All defects found in the laterals shall be rated in accordance with the NASSCO Condition Rating System.
2. It is recommended that inspections be conducted in the following manner:
- a. A property inspection shall include, but it not necessarily implemented to inspection of roof leaders, driveway drains, stairwell drains, all other area drains and interior sump pumps. If the discharge point of these facilities is not evident, the plumber shall insert dye into the drain, roof leader or sump pump to determine the ultimate discharge point. Should an illegal connection to the lateral be confirmed, the test shall be deemed as a fail and the illegal connection(s)

must be removed and rerouted in a matter satisfactory to the Borough.

- b. Sump pumps will be operated with dye colored water to verify discharge location. The test shall be considered a failure if the water enters the sanitary sewer system and the discharge pipe must be removed and rerouted in a matter satisfactory to the Borough.
  - c. The general location of the lateral pipe on the ground surface shall be determined by means of site investigation or televising and locating. Once the location is determined, the ground surface over the lateral shall be injected with dye colored water in order to saturate the earth. Following the dye injection process, a camera shall be inserted into the lateral through a cleanout, interior floor drain, or excavation. The pipe shall be evaluated per the NASSCO Condition Grading System. Any lateral that has a structural defect rating of three (3) or higher, shows signs of any infiltration, or has roots present shall require repair, replacement or relining. Other deficiencies observed but not listed herein, as determined by the Borough and at their discretion, may also constitute a failure.
  - d. If it is necessary to excavate an access point for the camera insertion, the plumber shall install a cleanout at this location to facilitate future maintenance of the lateral. The cleanout shall be provided with a cast iron frame and cover in paved areas and other areas subject to vehicular traffic.
  - e. The Borough reserves the right to reject any tests or test results which it has reason to believe are inconclusive or inaccurate. In such cases, the Borough may require further testing at the property owner's expense.
  - f. Foundation drains connected into the sanitary sewer lateral are illegal connections. The Borough reserves the right to require further testing if it is suspected that the building foundation drain is connected to the lateral.
3. Lateral Replacement/Relining Standards
- a. All work must be completed within sixty (60) days of notification of failure unless otherwise extended by the Borough.

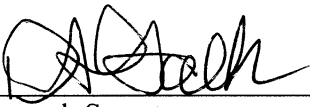
b. Liners must be televised after installation. A copy of the post lining CCTV video shall be provided to the Borough.

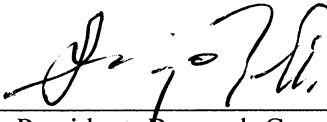
- II. This Ordinance shall be effective ninety (90) days after enactment.
- III. Should any part or provision of this Ordinance be declared invalid by a court of competent jurisdiction, it is the intention of the Borough Council that all remaining parts and provisions of this Ordinance shall be in effect to the full extent permitted by law.
- IV. Any ordinance or resolution inconsistent with this ordinance is repealed to the extent of such inconsistency.
- V. This ordinance is to be construed and applied so as to be consistent in all respects with the Borough's obligations under the COA.

This Ordinance adopted by the Council of the Borough of Thornburg at a duly assembled public meeting held this 13<sup>th</sup> day of March, 2017.

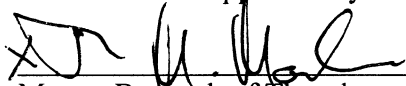
ATTEST:

BOROUGH OF THORNBURG

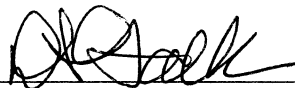
  
\_\_\_\_\_  
Borough Secretary

By:   
\_\_\_\_\_  
President, Borough Council

Reviewed and Approved by the Mayor

  
\_\_\_\_\_  
Mayor, Borough of Thornburg

Recording Certification. The undersigned certifies that this Ordinance was recorded in the Borough Ordinance Book on March 14, 2017.

  
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