

ORDINANCE NO. 785

THE BOROUGH OF DARBY, DELAWARE COUNTY

AN ORDINANCE REQUIRING THE INSPECTION AND CERTIFICATION OF
SANITARY SEWERS UPON THE SALE OF REAL ESTATE WITHIN THE BOROUGH
OF DARBY

BE IT ORDAINED BY THE COUNCIL OF THE BOROUGH OF DARBY AND IT IS
HEREBY ORDAINED BY AND WITH THE AUTHORITY OF THE SAME AS
FOLLOWS:

SECTION 1
DEFINITIONS

As used in this article, the following terms shall have the meanings indicated:

DYE TEST

A test conducted on real property by the use of colored innocuous substances that will reveal the direction and flow of stormwater or surface water.

ILLEGAL STORMWATER OR SURFACE WATER CONNECTIONS

The discharge of basement seepage or groundwater of the connection of downspouts, roof drainage, driveway drainage or surface or areaway drainage into the sanitary sewer system.

MORTGAGE

The transfer, assignment, pledge or hypothecation of any interest in real property to a lender for value, which transfer, assignment, pledge or hypothecation is evidenced by a mortgage, deed of trust or other security instrument.

PERSON

Any person, syndicate, association, partnership, firm, corporation or the chief executive officer of any corporation, institution, agency, authority, partnership or member of such partnership or other lawful entity.

SALE

The transfer or assignment, with or without consideration, of any interest in real property situate within the Borough, whether or not the same is to a person or persons related by blood to the transferor.

SANITARY SEWER CERTIFICATION

An official statement from the Borough stating that there are no illegal storm sewer or surface water connections to the sanitary sewer lines on the real property to be sold, transferred, assigned or mortgaged.

TEMPORARY SANITARY SEWER CERTIFICATION

A temporary statement of certification from the Borough issued pursuant to the provisions of this Ordinance.

VIDEO CAMERA INSPECTION

Any commonly accepted method of testing whereby a video camera is inserted into and travels throughout the private lateral sewer line of real property to determine if any illegal stormwater, groundwater, or surface wetter is entering the sanitary sewer system.

SECTION 2

SANITARY SEWER CERTIFICATION

After the effective date of this article, any person or persons selling or mortgaging any interest in real property situate within the Borough of Darby, as those terms are defined herein, shall be required to provide to the purchaser and to the appropriate Borough officials, designated hereafter a sanitary sewer certification, which certification shall be provided to the purchaser or designated Borough officials on the time or times designated in this Ordinance.

SECTION 3

APPLICATION; DYE TEST; FEE

Any person selling or mortgaging real property (hereinafter "applicant") located within the Borough shall make application on a form furnished by the Plumber or other certified inspector at least 21 days before the date of sale or mortgage. The applicant shall then have a plumber who is registered and licensed perform a dye test on the property to be sold, transferred, assigned, mortgaged or refinanced. Such plumber 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 that there are no illegal stormwater or surface water connections or discharges, the Borough Secretary, or his or her designate, shall issue a sanitary sewer certification upon payment of a fee of \$25. When an illegal stormwater or surface water connection or discharge is discovered by means of the above-mentioned dye testing, it shall be deemed a substantial violation and no sanitary sewer certification will be issued until the illegal connections or discharges are removed and certification of such removal by a registered licensed plumber is received.

SECTION 4
TEMPORARY CERTIFICATE

A. A temporary sanitary sewer certification may be issued at the Borough's sole discretion when either:

(1) The applicant proves that dye testing cannot be performed because of weather conditions. When such is the case, the applicant shall provide the Borough with security in the amount of \$200 to guarantee that the dye test will be performed. The applicant will cause to have performed the dye test within 14 days of written notification from the Borough which will be given at such time as weather conditions make the dye test possible. In addition, the applicant shall provide a signed, written acknowledgment from the purchaser agreeing to correct, at the purchaser's sole expense, any violations that may be discovered as a result of such subsequent dye tests. Nothing in this subsection shall prohibit any purchaser from requiring the applicant to reimburse the purchaser for any costs incurred; provided, however, that the primary responsibility shall run with the land and no such agreement shall affect the Borough enforcement powers or excuse the seller, mortgagor or purchaser from performance hereunder.

(2) Illegal stormwater or surface water connection or discharge.

(a) When an illegal stormwater or surface water connection or discharge is discovered and the necessary remedial activities to correct such connection or discharge would require a length of time such as would create a practical hardship for the applicant, the applicant may apply to the Borough Secretary for a

temporary sanitary sewer certificate which may only be issued when the applicant provides the Borough with all of the following:

[1] A bona fide, executed contract between the applicant and a registered licensed plumber to complete the necessary remedial work with the Borough listed therein as a third party beneficiary.

[2] Cash security in the amount of said contract posted with the Borough.

[3] An agreement by the purchaser to be responsible for all cost overruns related to the remedial work, together with a license to enter upon the property to complete work in case of default of the contractor.

B. The temporary sanitary sewer certification shall expire within 30 days after its issuance, and at the expiration of the same the security thus posted shall be applied by the Borough to have the necessary remedial work completed. Any excess of funds remaining as security shall be refunded to the applicant, but in the event that, the security posted is insufficient to complete the remedial work, the purchaser, or, in the case of a refinance, the property owner, shall be charged for the same and shall be responsible for payment thereof.

SECTION 5

ADOPTION OF RULES AND REGULATIONS BY BOROUGH COUNCIL

A. The Borough Council may from time to time adopt reasonable rules and regulations for the operation and enforcement of this article as the same may become necessary, which shall include, but not be limited to:

(1) Establishing acceptable forms of security or guaranties.

(2) Establishing the form of applications, purchaser acknowledgments and plumber certifications.

(3) Limiting the times of year in which a temporary sanitary sewer certificate is available for reasons of weather.

B. Such rules and regulations shall be adopted at a regular meeting of the Borough Council and shall be posted in the offices of the Borough Secretary.

SECTION 6
EXCEPTIONS

A property occupied for a continuous period of 12 months prior to the sale or which has been constructed in accordance with a valid building permit and has been inspected by the Borough Building Inspector may be sold or conveyed without evidence of compliance as required by the article; provided, however, that if such property is sold after five years from the date of its original occupancy, compliance is mandatory. A sanitary sewer certificate granted under this article shall be valid for a period of five years, and any sale taking place after said five-year period shall be subject to the provisions of this article, and a new sanitary sewer certificate shall be required.

SECTION 7
SEVERABILITY

The provisions of this Ordinance shall be severable and if any of its provisions are found to be unconstitutional or illegal the validity of any of the remaining provisions of this Ordinance shall not be affected thereby.


SECTION 8
EFFECTIVE DATE

This Ordinance shall take effect in sixty (60) days.


SECTION 9
PENALTIES

The violation of this Ordinance shall constitute a summary offense. Any purchaser failing to comply with the requirements of this Ordinance shall be held personally liable for the costs of repairs or demolition and a criminal fine of \$1,000 per violation or imprisonment, as allowed by law for the punishment of a summary offense, plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings. A separate violation shall arise for each day of the violation and for violation of each applicable section of this Ordinance.

ENACTED AND ORDAINED this 15th day of February, 2017 by the
Borough of Darby, Delaware County, in law session, duly assembled.



COUNCIL PRESIDENT
BOROUGH OF DARBY



MAYOR
BOROUGH OF DARBY

ATTESTED:



BOROUGH SECRETARY