

**STONYCREEK TOWNSHIP,
CAMBRIA COUNTY**

ORDINANCE NO. 657

AN ORDINANCE OF THE TOWNSHIP OF STONYCREEK, CAMBRIA COUNTY, PENNSYLVANIA, REQUIRING TESTING OF ALL REAL PROPERTY WITH STRUCTURES LOCATED THEREON TO DETERMINE IF ILLEGAL STORM OR SURFACE WATER IS CONNECTED TO THE SANITARY SEWER AND TO SET FORTH REGULATIONS RELATED THERETO AND ESTABLISHING PENALTIES FOR VIOLATION COMPREHENSIVELY AMENDING ORDINANCE 635.

WHEREAS, Stonycreek Township (the “Municipality”) believes the elimination of surface storm water inflow to the sanitary sewer system to be necessary to the health and welfare of its residents; and

WHEREAS, as a result of excessive flows monitored in the sanitary sewer system during and after rainfall events the Municipality has reason to believe that certain residential and commercial properties within the Municipality have storm water or surface water connections to the sanitary sewer system; and

WHEREAS, recent flow testing by the Johnstown Redevelopment Authority has identified exceedances in all areas of the Township during wet weather events; and

WHEREAS, the Municipality entered into a Consent Order and Agreement with the Commonwealth of Pennsylvania, Department of Environmental Protection (PADEP), on September 9, 2014 to identify the source of and reduce sanitary sewer overflows resulting from a flow in excess of the carrying capacity of sanitary sewage lines, to no more than 625 gallons per Equivalent Dwelling Unit no later than December 31, 2021; and

WHEREAS, beginning on January 1, 2022, the Consent Order provides for a penalty of \$10,000 per month for any month in which a sewer system overflow occurs; and

WHEREAS, in the interest of promoting the health and welfare of its residents and to comply with the PADEP Consent Order, the Municipality desires to institute and enforce a sewer use ordinance requiring lateral testing of all structures located on property within the Municipality to determine whether the surface storm water drains to the sanitary sewer system.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Township of Stonycreek, Cambria County, Pennsylvania, as follows:

Section 2. Definitions.

a. **Applicant:** A person applying for a Certificate of Compliance or Temporary Certificate of Compliance.

b. **Cash Security:** Cash, certified check or treasurer's check.

c. **Laterals:** A sewer line connecting a structure to the public collection or interceptor system at the property line. This includes all underground sanitary sewer pipe on an applicant's property, including under slab or basement, which conveys sewage to the municipal sanitary sewer system.

d. **Lateral Testing:** Includes Pressure Testing requirements as provided for in Section 312 of the International Plumbing Code (IPC) as contained in PA Uniform Construction Code, as from time to time amended.

e. **Improved and Sewered Real Property:** Real property on which any building, driveway or parking pad, other surface or subsurface structure or improvement has been constructed, installed or erected, where the real property or any improvement on the real property is connected to the municipal sanitary sewer system.

f. **Ordinance Compliance Officer:** The Municipal authorized representative appointed by the Township from time to time, whose duty it shall be to administer this Ordinance unless such duty is expressly conferred by this Ordinance, or action of the Board of Commissioners, upon another Municipality, official or entity.

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

h. **Pressure Test:** A method to determine any infiltration in a lateral sewer utilizing either of the following methods:

1) *Drainage and Vent Air Test:* A test made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5kPa) or sufficient to balance a 10-inch (254 mm) column of mercury. This pressure shall be held for a test period of at least 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperature or the seating of gaskets shall be made prior to the beginning of the test period.

2) *Gravity Sewer Test*: A test consisting of plugging the end of the building sewer at the point of connection with the public sewer, filling the building sewer with water testing with not less than a 10-foot (3048 mm) head of water and maintaining such pressure for 15 minutes.

i. **Private Sewer Facilities**: Sewer facilities owned and maintained by the property owner including laterals from the structure to the public right-of-way, cleanouts and building drains.

j. **Public Collection/Interceptor System**: Publically-owned and maintained sewer facilities, including:

1) *Collection Lines*: Sewer lines owned and maintained by the Municipality, collecting wastewater from tributary lateral sewers and other collection lines and conveying wastewater to the interceptor lines;

2) *Interceptor Lines*: Sewer lines owned and maintained by the Johnstown Redevelopment Authority, collection wastewater from tributary collection and lateral sewers and conveying wastewater to the wastewater treatment plant.

k. **Qualified Contractor**: A person, company, agency or partnership that holds the appropriate Pennsylvania and Stonycreek Township licenses, if any, as required to carry out appropriate residential and/or commercial construction activities.

l. **Sanitary Sewer System**: The sanitary sewer lines and related facilities maintained and operated by the Municipality to convey sewage for treatment.

m. **Sell or Transfer**: The sale, transfer, or assignment of any interest in real property, provided, however, that a refinancing of real property, without a conveyance, is not a sale or transfer under this Ordinance.

n. **Significant Defect**: A condition in a privately owned sewer system which admits or is capable of admitting non metered water, surface, ground or storm water, or which results in a smoke or dye testing violation.

o. **Surface Storm Water**: Surface water and ground water, including but not limited to roof and driveway drainage, basement seepage.

Section 2. Unlawful Connections. It shall be unlawful for any person to connect any rain leader, roof drain, downspout gutter, parking lot drain, interior and exterior sump, French drain, spring or other collector or source of surface storm water, including but not

limited to through a fresh air vent of the improved and sewer property's sanitary sewer, to the sanitary sewer system.

Section 3. Repair of Private Sewer Facilities. Persons owning property within the Municipality are required to maintain all private sanitary sewer laterals and sanitary sewer service connections in a watertight condition and good repair, free of significant defects.

Section 4. Lateral Testing by Municipality. The Ordinance Compliance Officer is authorized to require and review lateral testing and carry out inspections within the Municipality for purposes of discovering or locating the inflow of surface storm water to the public collection/interceptor system for qualifying events described in Section 6. Upon notice given by the Compliance officer that there is a reasonable belief the property is admitting surface or ground water to the sanitary sewer system, the property owner, as per Cambria County Real Estate Tax Records, shall either (a) retain the services of a qualified contractor to perform the lateral testing with inspection by the Ordinance Compliance Officer or (b) carry out the lateral testing on his/her subject property(ies) under the inspection by the Ordinance Compliance Officer. Persons owning property connected to the sanitary sewer system, within the Municipality are required to grant access to the Ordinance Compliance Officer and/or the lateral testing contractor and to permit lateral testing or other testing or inspection. It is unlawful for any person to refuse access to property for purposes of lateral testing or other testing or inspection or to refuse to conduct such testing.

Section 5. Notice to Property Owners. In the event the Ordinance Compliance Officer identifies any illegal connections, significant defects or leaking, deteriorating or poorly constructed private sanitary sewer lateral and/or sanitary sewer service connections, the Ordinance Compliance Officer shall give written notice of same to the property owner that such illegal connections be eliminated and/or service connections be, at the property owner's expense, repaired, replaced, or rehabilitated within thirty (30) days of the date of the notice. If the condition does not create a health hazard, the Ordinance Compliance Officer, upon request of the property owner, may extend the deadline to sixty (60) days from the date of the notice.

Section 6. Qualifying Events for Property Owners to Conduct Testing. Owners of property shall be responsible to satisfactorily complete pressure testing and obtain a Certificate of Compliance:

- a) at the time of any transfer of ownership of property or at the time of any significant repair or alteration to the private sewer system, or
- b) at the time of notice provided by the Ordinance Compliance Officer pursuant to sections 4 or 5 above, or

- c) at the time of any significant repair, reconstruction or alteration to the public sewer system receiving sewage from affected properties, or
- d) At the time of receipt of notice from the Township that the property or group of properties has been identified as contributing excessive flow to the sanitary sewer system.

Properties which have previously been certified that all underground pipes are watertight (including under slab or basement), will not have to repeat testing until such time as there is a change in ownership as set forth in paragraph 7 below.

Section 7. Proof of Compliance on Sale or Transfer. It shall be unlawful for any person to sell or transfer an interest in improved and sewered real property located within the Municipality without having obtained and delivered to the buyer or transferee, at or prior to closing or transfer, a current Certificate of Compliance or Temporary Certificate of Compliance for the property being sold or transferred.

Section 8. Application for Certificate of Compliance.

(a) At least 21 days prior to the date of closing or transfer of any improved real property located within the Municipality, the seller or transferor or its agent shall submit to the Ordinance Compliance Officer an Application for Certificate of Compliance, completed as required by Section 7(b) below. The Certificate of Compliance form shall be available upon request from the Ordinance Compliance Officer. The fee for filing the completed Application for Certificate of Compliance shall be established by the Governing Body from time to time by resolution.

(b) Prior to the sale or transfer of any improved real property located within the Municipality, the seller or transferor shall either perform the lateral test or have a lateral test of the property performed by a qualified contractor. Upon completion of the lateral test, the person who performed the test shall complete the appropriate section of the Application for Certificate of Compliance, confirming that the property has been lateral tested and certifying the results of the test.

Section 9. Issuance of Certificate of Compliance. If the Application for Certificate of Compliance, properly completed and filed with the Ordinance Compliance Officer with the designated filing fee, indicates that there are no connections of surface or ground water to the sanitary sewer system, then the Ordinance Compliance Officer shall issue the Certificate of Compliance within ten (10) days of application therefore.

Section 10. Temporary Certificate of Compliance.

(a) When a surface or ground water connection to the sanitary sewer system is discovered and the necessary work to remove the connection or 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 Ordinance Compliance Officer for a Temporary Certificate of Compliance. The seller or applicant must submit the following with the properly completed Application:

(i) A bona fide executed contract with a qualified contractor requiring the contractor to complete the remedial work necessary to the removal of the connections of surface or ground water to the sanitary sewer system within 90 days and granting the Municipality the right and power to enforce the contract.

(ii) Cash security in an amount equal to one hundred ten (110%) percent of the contract described in Subsection (a)(i) above.

(iii) 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 Municipality, 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.

(iv) The filing fee established by the Governing Body from time to time by resolution.

(b) When lateral testing cannot be performed because of weather conditions, the seller or applicant may apply to the Ordinance Compliance Officer for a Temporary Certificate of Compliance. The seller or applicant must submit the following with the properly completed Application:

(i) Cash security in the amount of One Thousand (\$1,000.00) Dollars.

(ii) The written, signed agreement of the purchaser or transferee to correct, at the purchaser's or transferee's sole expense, any surface or ground water connections to the sanitary sewer system disclosed by the subsequent lateral test, within 180 days, together with a license from the purchaser or transferee to the Municipality, its agents, contractors and employees, to enter upon the property to conduct the lateral testing should the applicant fail to do so. Nothing in this subsection 9(b) 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 Municipality's enforcement powers or excuse the current owner of the property from performance.

(iii) The filing fee established by the Governing Body from time to time by resolution.

(c) The Ordinance Compliance Officer shall reject the Application for Temporary Certificate of Compliance whenever, in his or her sole judgment, the conditions defined by this Section 10 do not exist or the submissions required by this Section 10 have not been made.

(d) The Temporary Certificate of Compliance shall be effective for 90 or 180 days, as specified above, 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 Section 9 of this Ordinance, the cash security shall be forfeited, and the Municipality may use the funds to hire a contractor to complete the remedial work for the lateral testing.

Section 11. Municipal Lien and Tax Verification Letters. A request to the Municipality for a municipal lien letter or tax verification letter must be accompanied by a valid Certificate of Compliance or Temporary Certificate of Compliance and by the appropriate fee, which shall be established by the Municipal Governing Body from time to time by resolution. The Municipality shall issue the municipal lien letter or tax verification letter within seven (7) days of receipt of the appropriately documented request and the applicable fee.

Section 12. Expiration of Certificate of Compliance. A Certificate of Compliance issued under this Ordinance shall be valid indefinitely while there is no transfer of interest in the property, or for 12 months from the date of issuance of a Certificate of Compliance in the event the property is subject to a subsequent transfer of interest.

Section 13. Regulations. The Ordinance Compliance Officer, subject to review and approval of the Board of Commissioners is hereby empowered to make reasonable rules and regulations for the operation and enforcement of this Ordinance, including but not limited to: establishing the form of applications, acknowledgments and certifications; and limiting the time of year in which Temporary Certificate of Compliance is available for reasons of weather.

Section 14. Conflict with General Police Powers. Nothing in this Ordinance shall limit in any fashion whatsoever the Municipality's right to enforce its ordinances or laws of the Commonwealth. Nothing in this Ordinance shall be a defense to any citation issued by any municipal corporation or the Commonwealth pursuant to any other law or ordinance, including nuisance or property maintenance violations.

Section 15. Penalties. Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance shall be subject to a penalty of not more than One Thousand (\$1,000.00) Dollars for each violation. Once a person is notified of a violation of this Ordinance, each day that violation occurs or continues shall constitute a separate violation. In addition to and not in lieu of the foregoing, the Municipality or the public sewage provider may seek equitable relief to compel compliance with this Ordinance.

Section 16. Severability. In the event that any section or provision of this Ordinance is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

Section 17. Repealer. Any other Ordinance provisions or regulation of the Municipality inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.

Section 18. Effective Date. This Ordinance shall take effect five (5) days after adoption.

ORDAINED AND ADOPTED into an Ordinance this 9 day of June 2020 09
2020.

Stonycreek Township
Cambria County, Pennsylvania

By: David Berkebile
David Berkebile, President

ATTEST:

Jennifer D. Wagner
Jennifer D. Wagner, Township Administrator