

BOROUGH OF PENNDEL
BUCKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2017-3

AN ORDINANCE OF THE BOROUGH OF PENNDEL, BUCKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF PENNDEL, CHAPTER 322 *SEWERS*, BY ADDING ARTICLE IV *SERVICE LATERAL INSPECTIONS*, PROVIDING FOR THE INSPECTION AND POSSIBLE REPLACEMENT OF PRIVATE SERVICE LATERALS: (A) UPON TRANSFER OF TITLE OF THE PROPERTY TO WHICH THE PRIVATE SEWER SERVICE LATERAL IS CONNECTED; (B) WHEN THE CONVEYANCE LINE TO WHICH THE PRIVATE SEWER SERVICE LATERAL IS REPLACED OR REPAIRED; OR (C) UPON INSPECTION OF THE SANITARY SEWER SYSTEM BY THE BOROUGH, ITS PERSONNEL, OR ITS AUTHORIZED AGENT(S), FOR THE PURPOSE OF ELIMINATING THE INTRODUCTION OF PROHIBITED WATERS INTO THE SANITARY SEWER SYSTEM; PROVIDING PENALTIES FOR VIOLATION THEREOF; ALSO AMENDING CHAPTER 322 *SEWERS*, SUBSECTION 4.2(B) TO REQUIRE SEWER VENT CAPS TO BE SET A MINIMUM OF SIX INCHES ABOVE GRADE, BUT NOT LESS THAN A HEIGHT SUFFICIENT TO PRECLUDE THE FLOW OF STORMWATER INTO THE VENT; REPEALING PRIOR INCONSISTENT ORDINANCES; CONTAINING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Borough of Pennel ("Borough") has constructed, and owns, a sanitary sewer collector system for the use and benefit of the residents of the Borough of Pennel ("Borough"); and

WHEREAS, the Borough has adopted restrictions on groundwater and stormwater being introduced in the Borough's sanitary sewer system; and

WHEREAS, the Borough's Sewer Engineer has provided the Borough information that excessive stormwater inflow exists within parts of the sanitary sewer system ("Publicly Owned Treatment Works ("POTW")); and

WHEREAS, the Borough concludes that a substantial amount of the stormwater inflow which exists in the POTW is caused by the advanced age and poor condition of the private sewer service laterals connected to the POTW; and

WHEREAS, the Borough concludes that the stormwater inflow will continue to cause excessive sanitary sewer flows which may create and continue to create a direct danger to the health, safety, and welfare of the Borough residents; and

WHEREAS, the Borough concludes that the excessive stormwater inflow which has existed, and continues to exist has resulted in, and will continue to result in, increased costs for treatment and maintenance of the POTW; and

WHEREAS, the Borough is charged and obligated to enforce its Ordinances and to protect the health, safety, and welfare of its residents; and

WHEREAS, the Borough concludes that it is in the best interest of the residents of the Borough to enact a comprehensive and systematic compliance and enforcement procedure to govern the conduct of all users of the system and to require maintenance of the private sewer service laterals connected to the POTW; and

WHEREAS, in furtherance of the goals enumerated above, the Borough believes it is in the best interests of the residents of the Borough to increase the minimum required sewer vent height from 4 inches to 6 inches.

NOW THEREFORE, BE IT ENACTED, by the Borough Council of the Borough of Penndel:

ARTICLE I. RECITALS. The above recitals shall form a part of this Ordinance as though the same were set forth herein at length.

ARTICLE II.

Chapter 322 *Sewers* of the Code of the Borough of Penndel is hereby amended by adding the following new Chapter IV *Service Lateral Inspections*:

§ 322-40. DEFINITIONS.

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

“BOROUGH” means the Borough of Penndel.

“COUNCIL” means the Borough Council of the Borough of Penndel.

“COMPLIANCE” means compliance with the provisions of this Ordinance as set forth herein, and any amendments thereto; the Borough Code of the Borough of Penndel, including, but not limited to, Chapter 322 *Sewers*; all rules, regulations, and resolutions of any applicable Municipal Authority and the Pennsylvania Department of Environmental Protection; sound engineering practice; and the standard specifications governing connection to and use of sanitary sewer collection systems.

“EMPLOYEES” means such employees, agents, and designated representative or officials of the Borough of Penndel, as the Borough shall, from time to time, designate and utilize in the making of the inspection and/or tests hereafter described in carrying out the duties as prescribed herein to be performed on behalf of the Borough.

“NOTICE” means advisements of inspections and tests of the system to be performed by the Borough.

“PRIVATE SEWER SERVICE LATERAL” shall mean the sewer pipe extending from a building to the curb line or cartway.

“SYSTEM” shall mean all facilities for collecting, pumping, and disposing of sanitary sewage, which are owned by the Borough.

“SUMP PUMP” shall mean any pump connected to the Private Sewer Service Lateral, or to any lateral connected to the Private Sewer Service Lateral that is being used to pump ground/stormwater into the Sanitary Sewer System.

“TRANSFER” shall mean the transfer of title to real estate when sale or gift is intended, and excluding transfers that occur for the following reasons:

- A. Conversion: a change in an entity’s form or organization, place of organization, or name;
- B. Financing Transaction: when realty is transferred by the debtor solely for the purpose of serving as security for the payment of a debt, or when no sale or debt is intended;
- C. Living Trust is established.
- D. Confirmatory Deeds.

“USER” shall mean the owner, lessee, or occupant of the property on which the buildings and/or appurtenances that are connected to the system are located.

Throughout this Ordinance, references to the singular shall include the plural, and vice versa, wherever required by the context.

§ 322-41. INSPECTION REQUIRED UPON TRANSFER OF PROPERTIES.

- A. The Seller of any property (residential or commercial) located in the Borough, which is connected to the System shall be required to retain the services of a master plumber or utility contractor for the purposes of conducting an inspection of the property to ensure Compliance with the provisions of this Ordinance. Said inspections shall also require a video inspection of the Private Sewer Service Lateral from the building to the connection to the System to ensure Compliance.
- B. Should the Private Sewer Service Lateral be found not be in Compliance, the lateral pipe shall be replaced or realigned by the property owner and brought into Compliance. In the sole discretion of the Borough limited permission for spot and/or minor repairs

and maintenance may be granted. The pipe replacement/realigning/spot repair shall be performed by a master plumber or utility contractor.

- C. In the event that any transfer of title occurs without an inspection having been conducted and without the Seller obtaining a certified report, the Buyer or Purchaser of the property shall be responsible for having the aforementioned inspection conducted and for the submission of the certified result to the Borough.
- D. This Article shall not apply to the initial transfer of a newly constructed building involving a new Private Sewer Service Lateral connection.
- E. The Borough upon payment of any application and inspection fee and upon the Borough's receipt and approval of the certification set forth in Subparagraph A above, including a copy of the televised video inspection, the certification specifically certifying that there is no inflow and/or infiltration into the Private Sewer Service Lateral, nor any illegal connections, and that the clean-out vent is capped and not damaged; the Borough shall issue a Private Sewer Service Lateral inspection permit to the Seller who shall deliver said permit to the Buyer or Purchaser of the property at the time of the sale or conveyance.
- F. In the event that the property owner fails to replace the Private Sewer Service Lateral as required by Subparagraph B above, the Borough shall be authorized as permitted by law to go onto the property and replace the Private Sewer Service Lateral and charge the property owner for the cost and expenses incurred by the Borough to replace the Private Sewer Service Lateral. In the event that satisfactory payment arrangements are not agreed upon between the Borough and property owner, the Borough may file a municipal lien against the property pursuant to Pennsylvania's Municipal Claims Act and/or pursue other legal remedies for the collection of same.
- G. The property owner shall permit the designated Employees or agents of the Borough access during reasonable hours of the day to all parts of the Property to make necessary inspections and observations.

§ 322-42. **INSPECTION REQUIRED WHEN THE BOROUGH INTENDS TO REPAIR OR REPLACE CONVEYANCE LINE.**

- A. All Users of the System shall upon Notice from the Borough that it intends to replace or repair a sewer conveyance line to which the User's Private Sewer Service Lateral is connected, shall make an appointment, within thirty (30) days of being notified, with the Borough to allow the User's Private Sewer Service Lateral to be inspected in accordance

with the terms and conditions set forth herein to determine Compliance.

- B. If upon completion of an inspection, the Private Sewer Service Lateral is found not to be in Compliance, the lateral pipe shall be replaced or realigned and brought into Compliance by the property owner. At the sole discretion of the Borough, limited permission for spot and/or minor repairs and maintenance may be granted. The pipe replacement/realigning/spot repair shall be performed by a master plumber or utility contractor.
- C. The purpose of the inspection required by this Ordinance is to locate any inflow and infiltration into the Private Sewer Service Lateral; to make sure that there are no holes or damage in or to the Private Sewer Service Lateral; to verify that all clean-outs and/or vents are properly capped and not damaged; and to identify any clay or older Private Sewer Service Laterals.
- D. The Borough shall not charge the User for the inspection required by this Article IV.
- E. In the event that the property owner fails to replace the Private Sewer Service Lateral as required by Subparagraph B above, the Borough shall be authorized as permitted by law to go onto the property and replace the Private Sewer Service Lateral and charge the property owner for the cost and expenses incurred by the Borough to replace the Private Sewer Service Lateral. In the event that satisfactory payment arrangements are not agreed upon between the Borough and property owner, the Borough may file a municipal lien against the property pursuant to Pennsylvania's Municipal Claims Act and/or pursue other legal remedies for the collection of same.
- F. The property owner shall permit the designated Employees or agents of the Borough access during reasonable hours of the day to all parts of the Property to make necessary inspections and observations.

§ 322-43. INSPECTION REQUIRED WHEN THE BOROUGH IDENTIFIES PROBLEM LATERALS DURING ROUTINE INSPECTION OF THE SANITARY SEWER SYSTEM.

- A. All Users of the System shall upon Notice from the Borough that it intends to perform inspections of the sanitary sewer system in their area make an appointment, within thirty (30) days of being notified, with the Borough to allow the User's Private Sewer Service Lateral to be inspected to determine Compliance.
- B. If upon completion of an inspection the Private Sewer Service Lateral is found not to be in Compliance, the lateral pipe shall be replaced or realigned by the Property owner and brought into Compliance. In the sole discretion of the Borough, limited permission for spot and/or minor repairs and maintenance may be granted. The pipe

replacement/realigning/spot repair shall be performed by a master plumber or utility contractor.

- C. The purpose of the inspection required by this Ordinance is to locate any inflow and infiltration into the private sewer service lateral; to make sure that there are not any holes or damage in or to the private sewer service lateral; to verify that all clean -outs and/or vents are properly capped and not damaged; and to identify any clay or older private sewer service laterals.
- D. The Borough shall not charge for the User for the inspection required by this Article V.
- E. In the event that the property owner fails to replace the private sewer service lateral as required by Subparagraph B above, the Borough shall be authorized as permitted by law to go onto the property and replace the private sewer service lateral and charge the property owner for the cost and expenses incurred by the Borough to replace the private sewer service lateral. In the event that satisfactory payment arrangements are not agreed upon between the Borough and property owner, the Borough may file a municipal lien against the property pursuant to Pennsylvania's Municipal Claims Act and/or pursue other legal remedies for the collection of same.
- F. The property owner shall permit the designated employees or agents of the Borough access during reasonable hours of the day to all parts of the Property to make necessary inspections and observations.

§ 322-44. MAINTENANCE, REPAIR, AND REPLACEMENT OF CLEAN-OUTS.

At all times, it shall be the responsibility of the User to maintain, repair, and replace all the clean-outs along his/her private sewer service lateral , including the clean-out at the right-of-way, or curb line, or the edge of the pavement, whichever applies.

§ 322-45. NON-COMPLIANCE.

- A. In the event a User refuses to comply with any of the terms or conditions of Article III through Article VI, above, a surcharge of Twenty-Five Dollars (\$25.00) per month shall be imposed in addition to all other charges authorized and imposed under law. Should a User continue to refuse to comply for a period of sixty (60) days after the Final Notice of Non-Compliance, the surcharge shall be increased to Fifty Dollars (\$50.00) per month.
- B. In the event a User complies with the inspection requirements of Article III through Article VI, above, and the Borough determines that the buildings and/or appurtenances of

said User are not in Compliance, then and in such event, the Borough by its designated employee shall provide written notice to the User, who shall be required to commence corrective work and achieve Compliance within forty-five (45) days of the date of the Notice.

- C. In the event that the building and/or appurtenances of the User is still determined not to be in Compliance following the time period for corrective work set forth in paragraph B of this subpart expires, and the User refuses or fails to bring the buildings and/or appurtenances into Compliance, a surcharge of Fifty Dollars (\$50.00) per month as per paragraph A per billing account for such User shall be imposed, in addition to all other charges authorized and imposed under any applicable law, commencing at the next billing period following the date of the inspection or testing by the Borough or such non-compliance was determined, for permitting such violation to continue to exist.
- D. The surcharge referred to herein shall be removed only upon the following conditions:
1. The User utilizing the System executes a Grant of Inspection to the Borough; and
 2. The Borough or its authorized agent inspects and/or performs tests on the building and/or appurtenances connected to the System and determines that the buildings and/or appurtenances connected to the System to be in Compliance; or
 3. Under any of these conditions, surcharges will continue to be billed to the User until the date when the buildings and/or appurtenances in question are determined to be in Compliance.
- E. In the event a User is found to be in Compliance and subsequent inspections and/or tests determine that non-compliance now exists, the terms and provisions of Article VII, shall be applicable, except that in addition to the surcharge being charged in accordance with Article VII Paragraph C, if any, the User shall also be liable for the payment of a sum equal to the number of the months since the original determination of Compliance was made, multiplied by the monthly surcharge amount provided for in Article VII, Paragraph C, for knowingly, willfully and/or intentionally creating or permitting such violation to commence and continue. A non-compliance re-occurs when a reconnection of a Sump Pump or other prohibited connection is discovered with the performance of a subsequent inspection.

§ 322-46. PENALTY FOR NON-COMPLIANCE.

In the event a user is found to be in a state of non-compliance of a second or subsequent time, then the User shall be liable for the payment of a sum equal to One Thousand Dollars (\$1,000.00) per day, plus an amount equal to the sum of the months since the original non-compliance was corrected (and if never corrected, from the date of such non-compliance determination), multiplied by the monthly surcharge amount provided for in Article VII, Paragraphs A or C, for knowingly, willfully, and/or intentionally permitting such violation to commence and continue.

§ 322-47. VIOLATIONS.

Any User violating any of the provisions of this Ordinance shall be liable to the Borough for any expenses, costs, and fees including, but not limited to, reasonable attorney's fees, occasioned or caused to the Borough by reason of seeking enforcement of such Ordinance against the violator, as well as for any losses or damages occasioned or caused to the Borough by reason of such violation.

§ 322-48. REMEDIES.

The Borough shall have full power and authority to invoke any legal, equitable, or special remedy for the enforcement of this Ordinance.

ARTICLE III.

Chapter 322 *Sewers*, subsection 4.2(B) is hereby repealed in total, and replaced with the following language:

- B. All private building sewer laterals shall be fitted with vent caps which are manufactured to fit the type and size of vent pipe affixed to the lateral, and which shall provide a tight seal against the inflow of stormwater under high precipitation conditions. Vent caps must be set a minimum of six inches above grade, but not less than a height sufficient to preclude the flow of stormwater into the vent.

ARTICLE IV. SUPPLEMENTAL ORDINANCE.

This Ordinance shall be deemed supplemental to all other Ordinances and provisions thereof for enforcement and compliance purposes, and shall not be deemed to amend or rescind said other Ordinances and provisions; further that any fines, fees, charges, or penalties levied or imposed pursuant to this Ordinance shall be in addition to any fines, fees, charges, or penalties levied or imposed pursuant to all other Ordinances and provisions thereof.

ARTICLE V. SEVERAL PROVISIONS.

The provisions of this Ordinance shall be deemed severable, and should any section or part hereof be deemed invalid or unenforceable by the Courts of the Commonwealth of Pennsylvania, such section, clause, sentence, or provision shall be deemed stricken and the invalid or unenforceable part shall not affect the validity or enforceability of any other part or parts of this Ordinance which can be given effect without such part or parts as may be so deemed invalid or unenforceable.

ARTICLE VI. EFFECTIVE DATE.

The Ordinance shall be effective August 7, 2017.

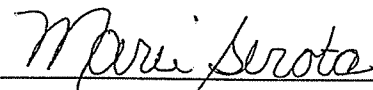
ORDAINED and ENACTED this 7th day of August, 2017.

PENNDDEL BOROUGH:



Kali Sodano
Council President

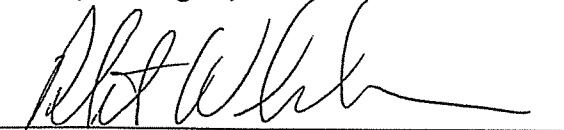
ATTEST:



Marie Serota
Borough Secretary/Treasurer

EXAMINED and APPROVED by me this

7th day of August, 2017.



Robert Winkler, Mayor