

ORDINANCE NO. 01-2020

**BROWNSVILLE TOWNSHIP  
FAYETTE COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF BROWNSVILLE TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, ESTABLISHING A REQUIREMENT FOR CERTIFICATION OF SANITARY SEWER STATUS PRIOR TO SALE OF REAL ESTATE WITHIN BROWNSVILLE TOWNSHIP, AND AS CONDITION FOR THE ISSUANCE OF MUNICIPAL LIEN LETTERS AND PROPERTY TAX CERTIFICATION LETTERS.**

WHEREAS, Brownsville Township is desirous of eliminating storm and surface waters from entering into the sanitary sewer system of the Brownsville Municipal Authority (the Authority):  
and

WHEREAS, Brownsville Township is desirous of establishing procedures for the issuance of municipal liens and property tax certifications.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Township Board of Supervisors of Brownsville Township, Fayette County, Pennsylvania, and it is hereby ordained by and with the authority of the same.

**SECTION 1. TITLE.**

This Ordinance shall be known and cited as the "Brownsville Township Dye Test Ordinance of 2020".

**SECTION 2. FINDINGS AND PURPOSES.**

The Board of Supervisors of Brownsville Township find that excessive storm waters and/or surface waters are illegally routed into the Authority sanitary sewer systems within the Township, thus requiring increased and unnecessary treatment capacity and activity and thus curtailing the availability of tap-ins and treatment to other users who need sanitary sewage treatment. Board of

Supervisors finds that the procedures, fees and penalties provided for herein are necessary to achieve the purposes of this Ordinance.

### **SECTION 3. DEFINITIONS.**

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

TOWNSHIP – Township of Brownsville, Pennsylvania:

AUTHORITY – Brownsville Municipal Authority

DOCUMENT OF CERTIFICATION - An official statement from the Township stating that there are no illegal storm water or surface water connections into the sanitary sewer connections on the property to be sold which violate any section of the Ordinance of Brownsville Township.

ILLEGAL STORM OR SURFACE WATER CONNECTIONS – The discharge of basement seepage or groundwater or the connection of downspouts, roof drainage or surface or areaway drainage into the sanitary sewer system.

MUNICIPAL LIEN AND PROPERTY TAX VERIFICATION – A written letter from the Township Secretary or the Authority concerning municipal liens and property taxes.

PERSON – Any person, syndicate, association, partnership, firm corporation, institution, agency, authority or other entity recognized by law as the subject of rights and duties.

TEMPORARY DOCUMENT OF CERTIFICATION - A temporary statement of certification from the Township or the Authority issued pursuant to the terms of this Ordinance.

### **SECTION 4. SALE OF REAL ESTATE WITHOUT DOCUMENT OF CERTIFICATION PROHIBITED.**

After the effective date of this Ordinance, it shall be unlawful for any person to sell or purchase real estate within the Township on which a building or improvement exists without first delivering to the purchaser a document of certification or a temporary document of certification from

the Township, or if the Township and the Authority agree that the Authority will issue such certifications, from the Authority.

SECTION 5. DOCUMENT OF CERTIFICATION APPLICATION.

- A. Any person selling real estate located as defined in this Ordinance that is located within the Township and within the Authority's service area (hereinafter referred to as "applicant") shall make application on a form furnished by the Authority at least twenty-one (21) days before the date of closing the sale. The applicant shall then cause to have performed a dye test on the property to be sold. All dye tests shall be performed by an employee of or an inspector appointed by the Authority (hereinafter referred to as "inspector").
- B. The inspection fee shall be a uniform amount set by resolution of the Authority. The inspection fee shall be paid to the Authority at the time of making the application referred to in this Ordinance.
- C. Such inspector 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 there are no illegal stormwater or surface water connections, the Authority shall issue a document of certification upon payment of such fee as set by resolution of the Authority. When an illegal stormwater or surface water connection is discovered by means of the above-mentioned dye test, no document of certification will be issued until the illegal connections are removed and certification of such removal by an inspector is received. An additional inspection fee shall be paid by the applicant for each inspection subsequent to the first inspection referred to in Subsection A above.

**SECTION 6. DURATION OF DOCUMENT OF CERTIFICATION.**

A document of certification shall be valid for a period of one (1) year from the date of issuance. Real estate may be sold during the one-year effective life of such document without further dye testing or certification.

**SECTION 7. INSTANCES WHEN DOCUMENT OF CERTIFICATION NOT REQUIRED.**

A document of certification shall not be required in the following instances:

- A. When property is refinanced but no conveyance takes place.
- B. When an improvement to real estate has been recently constructed in accordance with a valid building permit and has been inspected by the Code Enforcement Officer and has not been formerly occupied; provided, however, that if such property is sold after one (1) year of the date of the certificate of occupancy, or the inspections referred to in this subsection, compliance with this Ordinance is mandatory.
- C. Individual apartment-type unit within a single condominium building may be sold without individual certification, provided that the building in which the units are located has been certified no longer than one-year previous to the date of the sale of the individual condominium unit.
- D. When the real estate is such that tap-in to the sanitary sewer system is not required by law or ordinance.

**SECTION 8. TEMPORARY DOCUMENT OF CERTIFICATION.**

A temporary document of certification may be issued at the sole discretion of the Authority when, either:

- A. The applicant proves that dye testing cannot be performed because of weather conditions. When such is the case, the applicant shall provide the Authority with security in such uniform amount as Board of the Authority by resolution shall establish to guarantee that the dye test will be performed. The applicant will cause to have the dye test performed within fourteen (14) days of written notification from the Authority, which will be given when weather conditions make the dye test possible. In addition, the applicant shall provide a signed, written acknowledgment from the purchaser agreeing to correct, at purchaser's sole cost and expense, any violations that may be discovered as a result of subsequent dye tests. Nothing in this subsection shall prohibit any purchaser from requiring the applicant to reimburse purchaser for any costs incurred; provided, however, that primary liability shall run with the land and no such agreement shall affect Township's or the Authority's enforcement powers or excuse the current owner from compliance with this Ordinance: or
- B. When an illegal stormwater or surface water connection is discovered and the necessary remedial activities to correct such connection would require a length of time such as to create a practical hardship for the applicant, applicant may apply to the Authority for a temporary document of certification, which may only be issued when the applicant provides the Authority with all of the following: A bona fide executed contract between the applicant and an inspector to complete the necessary remedial work with the Authority listed therein as a third-party beneficiary; cash security in the amount of said contract is posted with the Authority; and a written agreement by the purchaser to be responsible for all cost overruns and extras related to the remedial work together with a written license to enter upon the property to complete work in case of default by the

contractor referred to above. The Authority shall determine when such temporary document certification shall expire. Upon expiration, the security shall be forfeited and the Authority may use the security to have the necessary remedial work completed.

#### **SECTION 9. MUNICIPAL LIEN AND TAX LETTERS.**

- A. A request for a municipal lien or tax certification letter must be accompanied by a valid document of certification and payment of the required fees, which shall be delivered to the Township Secretary or the Authority at least seven (7) days before such letters are to be provided. The amount of the fee for each item shall be established by resolution of Township Board of Supervisors and the Board of the Authority.
- B. Where requested by a property owner or his agent and subject to time availability as determined solely by the Township or the Authority, the Township or the Authority may issue their respective municipal lien and tax certification letters on two (2) days' notice upon the payment of an expedited fee in addition to the fees set forth above. The amount of the expedited fee shall be established by resolution of the Board of Supervisors of Brownsville Township and the Board of the Authority.

#### **SECTION 10. REGULATIONS.**

The Township Secretary or the Authority, if the Authority is authorized to do so by a resolution of the Township Supervisors, is hereby empowered to undertake the duties imposed by this Ordinance, including, but not limited to:

- A. Establish acceptable forms of security or guarantees.
- B. Establish the form of applications, purchaser acknowledgment and inspector certifications.

- C. Limit the times of year in which the temporary document of certification is available for reasons of weather.

**SECTION 11. ADJUSTMENT OF FEES.**

The Board of Supervisors of the Township may, by resolution, change from time to time any fees charged by it as authorized in this Ordinance, and the Board of the Authority may, by resolution, change from time to time, the uniform fees charged by it as authorized in this Ordinance.

**SECTION 12. CONFLICT WITH GENERAL POLICE POWERS.**

Nothing in this Ordinance shall limit in any fashion whatsoever the Township's and the Authority's right to enforce its ordinances or the laws of the Commonwealth. Nothing in this Ordinance shall be a defense to any citation issued by any municipal corporation of the Commonwealth pursuant to any other law or ordinance.

**SECTION 13. VIOLATIONS AND PENALTIES ENFORCEMENT.**

- A. Any person who violates any of the provisions this Ordinance may be charged with such a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than Five Hundred (\$500) Dollars for each violation or, alternatively, sentenced to pay a fine of not more than the maximum permitted under Pennsylvania law as the same may be from time to time amended and in effect as of the date of conviction. In default of payment of imposed fines, the offender may be imprisoned for a term not to exceed thirty (30) days.
- B. Whenever any person violating any of the provisions of this Ordinance is notified of such violation in writing by the Township Secretary or the Authority, each day or portion thereof a violation occurs or continues to occur shall constitute a separate violation.

C. In addition to and not in lieu of the foregoing, the Township, or the Authority if it is authorized by the Township in accordance with Section 10, may seek equitable and legal relief to compel compliance with this Ordinance.

**SECTION 14. SEVERABILITY.**

The provisions of this Ordinance are hereby declared severable, and if any of its provisions shall be held to be invalid or unconstitutional, or otherwise void for any reason, such decisions shall not affect or impair any of the remaining provisions hereof; it is hereby declared to be the intent of the Township that this Ordinance would have been adopted is such a invalid, unconstitutional, or otherwise void provision had not been included herein.

**SECTION 15. REPEALER.**

Any Ordinance containing any provision inconsistent herewith to the extent that such provisions are inconsistent, those provisions are also hereby repealed.

**SECTION 16. EFFECTIVE DATE.**

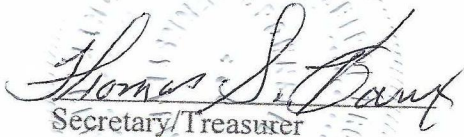
This Ordinance shall become effective immediately and upon final enactment.

**ORDAINED AND ENACTED INTO LAW** by the Board of Supervisors of Brownsville Township in lawful session assembled this 6<sup>th</sup> day of April, 2020.

ATTEST:

**BROWNSVILLE TOWNSHIP**

**BOARD OF SUPERVISORS**

  
Secretary/Treasurer

By: H. G. Gule  
Chairman

By: Ronald M Zuper  
Vice Chairman

(SEAL)

By: \_\_\_\_\_