

WEST PROVIDENCE TOWNSHIP MUNICIPAL AUTHORITY

A RESOLUTION

OF THE BOARD OF THE WEST PROVIDENCE TOWNSHIP MUNICIPAL AUTHORITY, AMENDING RULES AND REGULATIONS GOVERNING THE SEWER TESTING ON TRANSFER AND PROVIDING FOR THE ENFORCEMENT THEREOF.

WHEREAS; by virtue of the current Rules and Regulations of the West Providence Township Municipal Authority (the "Authority") and by virtue of Ordinance of the Township of West Providence (the "Township"), prior to the sale or transfer of improved real estate which has been provided sanitary sewer service by the Authority said property must successfully pass an air or water pressure test as hereinafter set forth. All buried and under-slab sewer piping, both outside and inside the foundation wall to the Point of Connection, (identified as the Building Sewer), must be tested for water tightness and such testing must be witnessed and approved by the Authority. In extenuating circumstances, the Authority may grant a time extension for a period not to exceed sixty (60) days; and

WHEREAS; the owner of the property shall install or cause to be installed, an observation port (if none exists) in accordance with the Authority's specification for purposes of the aforesaid testing. Observation port to be installed at the property line or at the edge of the Authority's easement. If an observation port already exists on the property but it is not visible or easily accessible, the owner shall expose said observation port. All of the foregoing shall be at the expense of the owner. Existing observation ports shall not be required to be upgraded to current standards, unless said observation port is being replaced as part of repair work to be performed as a result of the test results; and

WHEREAS; the provisions of this test on transfer regulation are applicable to both parties to a real estate transfer i.e., the owner/transferor prior to the transfer and the owner/transferee following the transfer; and

WHEREAS; acceptable testing methods include:

- A. Testing by water wherein all buried and under-slab piping (both inside and outside the foundation) is filled with water and a temporary water column is introduced to a minimum of ten (10) feet of head to the highest portion of the buried and under-slab piping, with no water loss observed during a fifteen (15) minute period; and

- B. Testing by air wherein all buried and under-slab piping is pressurized with air to a minimum of five pounds per square inch (3.5 psi) and thereafter held for a period of five (5) minutes with no noticeable pressure drop; and

WHEREAS; any sale or transfer (as hereinafter defined) without having successfully passed a test and without first obtaining a certification thereof from the Authority shall be in violation of the Authority's Rules and Regulations and subject to penalty as hereinafter set forth; and

WHEREAS; this Regulation shall be applicable to all; unless the owner (transferor/seller or transferee/buyer) can provide documentation that the property successfully passed an air or water pressure test as set forth in paragraph 4 above during the previous five (5) years and that no alterations, repairs, replacements or addition were performed on the varied buried and/or under-slab sewer piping (both inside and outside the foundation wall). The owner shall provide such documentation as required by the Authority including access to perform visual inspections as is deemed necessary by the Authority to establish that said piping had not been altered in any way since the prior testing; and

WHEREAS; in the case where both sides of a duplex are owned by the same owner and either only one or both sides thereof is being sold, both sides thereof must successfully pass a test prior to transfer. If the side being sold does not have a separate Building Sewer and a separate lateral, one must be installed, with an observation port, to enable testing set forth in paragraph 4 above. The Authority will waive a second Tap/Capacity fee. (This rule does not apply to duplexes where each side is owned by a different Owner, nor does it apply to multi-unit Apartment Buildings or Row-Houses); and

WHEREAS; requests for inspection or witnessing of the testing must be made a minimum of forty-eight (48) hours in advance of the requested time. The Authority will allow a maximum of one-half (1/2) hour per test and the witnessing shall be for the actual test itself, not for preliminary hook up or other work which precedes the actual test. In the event that the property does not pass the initial test, the Authority will charge a fee in the amount of \$25.00, paid in advance at the Authority's Office, for each and every re-test that is necessary. (NOTE: It is the intent of this Regulation that the Authority Inspector is scheduled only to witness a passing Air/Water Test.) The Authority inspector shall make the sole determination as to when the actual testing period commences and thereafter when the five (5) minute duration of the test has expired. Upon successful completion of the testing, the inspector shall signify his/her approval by affixing his/her signature and dating the completed "Inspection Record Form".

WHEREAS; in cases where complying with this regulation prior to closing would place an undue financial hardship upon the owner he/she may apply in writing for a "hardship extension" not to exceed sixty (60) days from the date of closing, providing that: a) The Air/Water Pressure Testing segment of compliance is conducted prior to closing (in order to establish the scope needed for compliance); b) A copy of a bona-fide contract is submitted which states the contractor will perform whatever work is required to bring the property into compliance, and; c) Proof that the funds required to bring the property into compliance, at 110% of the cost to complete the job, have been escrowed or otherwise set-aside to pay for the work needed.

DEFINITIONS:

- A. "Sale or transfer of real estate" shall include the sale, transfer or assignment of any interest in real property; provided however, that a refinancing of real property without a conveyance of an interest in the real property is not a sale or transfer under this Regulation. A transfer from an individual or individuals into an ordinary grantor trust as that term is commonly accepted is likewise not a sale or transfer under this Regulation. A transfer between spouses or former spouses pursuant to a bona fide Marriage Settlement Agreement in a Divorce Action shall not be a sale or transfer hereunder. A transfer arising from a Sheriff's Sale, where the purchaser at the Sale is a mortgage holder or lien creditor, shall be exempted from this Regulation. However, once the mortgage holder or lien creditor becomes the record owner pursuant to a recorded deed from the Sheriff to the mortgage holder or lien creditor, a subsequent transfer of the property shall be subject to this Regulation. In addition, a transfer from a record owner to a mortgage holder/lien creditor pursuant to a "Deed in Lieu of Foreclosure" shall also be exempted from this Regulation. However, when the mortgage holder or lien creditor transfers the property, that transfer shall be subject to this Regulation.
- B. "Inflow and Infiltration (I&I)" shall be any surface water and/or groundwater which enters the sanitary sewer system by any means. This regulation expressly prohibits any person from causing, allowing or permitting any quantity of I & I to enter the sanitary sewer system.

WHEREAS; any violation of this Rule and Regulation is hereby declared to be a summary offense in accordance with *5607(d)(17) of the Municipality Authorities Act and shall be punishable for a fine of up to Three Hundred (\$300.00) Dollars for each offense. Each and every day that a violation of the Regulation exists shall be a separate and distinct offense. The

requirements of this Regulation may be enforced by the Authority in an action in Equity brought in the Court of Common Pleas of Bedford County, Pennsylvania.

WHEREAS; the Authority's previous resolution dated May 20th, 2013, which provided the waiver for under-slab pressure testing with respect to existing structures that otherwise complied to the Authority's rules and regulations, hereby allows any previously executed waivers described as Exhibit "A" Acknowledgement to now be transferred to the buyer provided the buyer also executes the Exhibit "A" Acknowledgement.

NOW THEREFORE, The Authority hereby amends its Rules and Regulations by adopting the following Article XVI which shall be annexed to the Rules and Regulations and shall be an integral part thereof:

ARTICLE XVI

SECTION 16.01 Prior to the sale or transfer of improved real estate which has been provided sanitary sewer service by the Authority said property must successfully pass an air or water pressure test as hereinafter set forth. All buried and under-slab sewer piping, both outside and inside the foundation wall to the Point of Connection, (identified as the Building Sewer), must be tested for water tightness and such testing must be witnessed and approved by the Authority. In extenuating circumstances, the Authority may grant a time extension for a period not to exceed sixty (60) days.

SECTION 16.02 The owner of the property shall install or cause to be installed, an observation port (if none exists) in accordance with the Authority's specification for purposes of the aforesaid testing. Observation port to be installed at the property line or at the edge of the Authority's easement. If an observation port already exists on the property but it is not visible or easily accessible, the owner shall expose said observation port. All of the foregoing shall be at the expense of the owner. Existing observation ports shall not be required to be upgraded to current standards, unless said observation port is being replaced as part of repair work to be performed as a result of the test results.

SECTION 16.03 The provisions of this test on transfer regulation are applicable to both parties to a real estate transfer i.e., the owner/transferor prior to the transfer and the owner/transferee following the transfer.

SECTION 16.04 Acceptable testing methods include:

- A. Testing by water wherein all buried and under-slab piping (both inside and outside the foundation) is filled with water and a temporary water column is introduced to a minimum of ten (10) feet of head to the highest portion of the buried and under-slab piping, with no water loss observed during a fifteen (15) minute period; and
- B. Testing by air wherein all buried and under-slab piping is pressurized with air to a minimum of five pounds per square inch (3.5 psi) and thereafter held for a period of five (5) minutes with no noticeable pressure drop.

SECTION 16.05 Any sale or transfer (as hereinafter defined) without having successfully passed a test and without first obtaining a certification thereof from the Authority shall be in violation of the Authority's Rules and Regulations and subject to penalty as hereinafter set forth.

SECTION 16.06 This Regulation shall be applicable to all properties; unless the owner (transferor/seller or transferee/buyer) can provide documentation that the property successfully passed an air or water pressure test as set forth in paragraph 4 above during the previous five (5) years and that no alterations, repairs, replacements or addition were performed on the varied buried and/or under-slab sewer piping (both inside and outside the foundation wall). The owner shall provide such documentation as required by the Authority including access to perform visual inspections as is deemed necessary by the Authority to establish that said piping had not been altered in any way since the prior testing.

SECTION 16.07 In the case where both sides of a duplex are owned by the same owner and either only one or both sides thereof is being sold, both sides thereof must successfully pass a test prior to transfer. If the side being sold does not have a separate Building Sewer and a separate lateral, one must be installed, with an observation port, to enable testing set forth in paragraph 4 above. The Authority will waive a second Tap/Capacity fee. (This rule does not apply to duplexes where each side is owned by a different Owner, nor does it apply to multi-unit Apartment Buildings or Row-Houses).

SECTION 16.08 Requests for inspection or witnessing of the testing must be made a minimum of forty eight (48) hours in advance of the requested time. The Authority will allow a maximum of one-half (1/2) hour per test and the witnessing shall be for the actual test itself, not for preliminary hook up or other work which precedes the actual test. In the event that the property does not pass the initial test, the Authority will charge a fee in the amount of \$25.00,

paid in advance at the Authority's Office, for each and every re-test that is necessary. (NOTE: It is the intent of this Regulation that the Authority Inspector is scheduled only to witness a

passing Air/Water Test.) The Authority inspector shall make the sole determination as to when the actual testing period commences and thereafter when the five (5) minute duration of the test has expired. Upon successful completion of the testing, the inspector shall signify his/her approval by affixing his/her signature and dating the completed "Inspection Record Form".

SECTION 16.09 In cases where complying with this regulation prior to closing would place an undue financial hardship upon the owner he/she may apply in writing for a "hardship extension" not to exceed sixty (60) days from the date of closing, providing that: a) The Air/Water Pressure Testing segment of compliance is conducted prior to closing (in order to establish the scope needed for compliance); b) A copy of a bona-fide contract is submitted which states the contractor will perform whatever work is required to bring the property into compliance, and; c) Proof that the funds required to bring the property into compliance, at 110% of the cost to complete the job, have been escrowed or otherwise set-aside to pay for the work needed.

SECTION 16.10 Definitions:

- A. "Sale or transfer of real estate" shall include the sale, transfer or assignment of any interest in real property; provided however, that a refinancing of real property without a conveyance of an interest in the real property is not a sale or transfer under this Regulation. A transfer from an individual or individuals into an ordinary grantor trust as that term is commonly accepted is likewise not a sale or transfer under this Regulation. A transfer between spouses or former spouses pursuant to a bona fide Marriage Settlement Agreement in a Divorce Action shall not be a sale or transfer hereunder. A transfer arising from a Sheriff's Sale, where the purchaser at the Sale is a mortgage holder or lien creditor, shall be exempted from this Regulation. However, once the mortgage holder or lien creditor becomes the record owner pursuant to a recorded deed from the Sheriff to the mortgage holder or lien creditor, a subsequent transfer of the property shall be subject to this Regulation. In addition, a transfer from a record owner to a mortgage holder/lien creditor pursuant to a "Deed in Lieu of Foreclosure" shall also be exempted from this Regulation. However, when the mortgage holder or lien creditor transfers the property, that transfer shall be subject to this Regulation.
- B. "Inflow and Infiltration (I&I)" shall be any surface water and/or groundwater which enters the sanitary sewer system by any means. This regulation expressly prohibits any person from causing, allowing or permitting any quantity of I & I to enter the sanitary sewer system.

SECTION 16.11 Any violation of this Rule and Regulation is hereby declared to be a summary offense in accordance with *5607(d)(17) of the Municipality Authorities Act and shall be punishable for a fine of up to Three Hundred (\$300.00) Dollars for each offense. Each and every day that a violation of the Regulation exists shall be a separate and distinct offense. The requirements of this Regulation may be enforced by the Authority in an action in Equity brought in the Court of Common Pleas of Bedford County, Pennsylvania.

SECTION 16.12 The Authority's previous resolution dated May 20th, 2013, which provided the waiver for under-slab pressure testing with respect to existing structures that otherwise complied to the Authority's rules and regulations, hereby allows any previously executed waivers described as Exhibit "A" Acknowledgement to now be transferred to the buyer provided the buyer also executes the Exhibit "A" Acknowledgement. A revised Exhibit "A" Acknowledgment to allow for both the signature of the seller as well as the buyer is included in this Resolution.

I, the undersigned, have requested a waiver of the pressure testing requirement for my under-slab plumbing. I represent to the Authority that I do not have a sump pump, foundation drain or other source of stormwater or groundwater connected to my under-slab plumbing. Should, at any time, stormwater or groundwater enter into my under-slab plumbing (from any source), I will immediately notify the Authority and make any and all connection required to eliminate all stormwater or groundwater from under-slab plumbing and will bring the under-slab plumbing into compliance with the Authority's Rules and Regulations. In addition, the Authority has the right to access our observation port for the purpose of monitoring and illegal discharges, including any stormwater or groundwater entering into their wastewater system. I acknowledge that by leaving our under-slab plumbing tied into the wastewater system, I am doing so at my own risk. I acknowledge that the Authority has the right to require me to completely eliminate my under-slab plumbing in the event of infiltration of storm water or groundwater.

SELLER:

WITNESS:

BUYER:

WITNESS:


_____ adopted by affirmative vote of a majority of all members of the Board of the Authority at a meeting of said Board duly convened and held according to law on March 16, 2020, at which meeting a quorum was present; said Resolution duly has been recorded in the minutes of the

CERTIFICATE

I, the undersigned, Secretary of the West Providence Township Municipal Authority (the "Authority"), certify: that the foregoing is a true and correct copy of a Resolution which duly was Authority; and that said Resolution is in full force and effect, without amendment, alteration or repeal, as of the date of this Certificate.

I further certify that the Board of the Authority met the advance notice requirements of the Sunshine Act No. 1986-84 of the General Assembly of the Commonwealth of Pennsylvania, by advertising said meeting and by posting prominently a notice of said meeting at the principal office of the Authority or at the public Building in which said meeting was held, all in accordance with such Act.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Authority, this 16th day of March, 2020.


Secretary

(SEAL)