

BOROUGH OF SOUTHMONT

ORDINANCE NO. 501

AN ORDINANCE OF THE BOROUGH OF SOUTHMONT, CAMBRIA COUNTY, PENNSYLVANIA, ESTABLISHING A REQUIREMENT FOR CERTIFICATION OF SANITARY SEWER STATUS PRIOR TO THE SALE OF REAL ESTATE WITHIN THE BOROUGH OF SOUTHMONT, AND, AS A CONDITION FOR THE ISSUANCE OF MUNICIPAL LIEN LETTERS AND PROPERTY TAX VERIFICATION LETTERS.

WHEREAS, Borough of Southmont (hereafter "Southmont") has entered into a Consent Order and Agreement (hereafter "COA") with the Pennsylvania Department of Environmental Protection (hereafter "DEP") which requires Southmont to take steps to eliminate inflow and infiltration from entering into the sanitary sewer system; and

WHEREAS, Southmont and its engineers are implementing a comprehensive abatement plan to comply with the COA in which Southmont will repair and replace the public sanitary sewer and private sewer-laterals by way of a two-phase construction project; and

WHEREAS, part of Southmont's plan to eliminate inflow and infiltration from the sanitary sewer is the inspection and testing of private sewer laterals connected to the public sanitary sewer; and

WHEREAS, Southmont is desirous of establishing procedures for the testing of private sewer laterals and issuance of Sewage Certifications in Southmont.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of Southmont, Cambria County, Pennsylvania, and it is hereby ordained by and with the authority of the same:

SECTION 1: PURPOSE

The purpose of this Ordinance shall be to protect and promote the public health, safety and welfare of Southmont's citizens and to establish the rights and obligations of owners of real property with respect to the transfer of real property. This Ordinance is further meant to assist Southmont with meeting its obligations under the COA and to eliminate surface water inflow and infiltration into its sanitary sewer system.

SECTION 2: DEFINITIONS

1. Comprehensive Sewer Lateral Inspection: The inspection of a sewer lateral to determine the integrity of the sewer lateral by way of a low-pressure air test or the use of other acceptable methods, as deemed appropriate by the Borough of Southmont, and inspection of the real property and the interior and exterior of the building and/or structure thereon to determine if there are illegal connections to sewer lateral.
2. Illegal Storm or Surface Water Connections: Includes but is not limited to the discharge of ground or surface water or the connection of down spouts, roof drainage, surface areaway drainage, sub-pumps connected to the sanitary sewer system, foundation or basement drainage into the sanitary sewer system.
3. Limited Sewer Lateral Inspection: The inspection of real property and the interior and exterior of any structure thereon to determine if there are illegal connections to sewer lateral.
4. Owner: People, person or other legal entity who either owns real property or has charge, care or control of real property on behalf of the owner; this includes an executor, executrix, administrator, trustee or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provision of this chapter to the same extent as if that person was the owner.
5. Phase-One Owner: An Owner whose property address is contained within sewer drainage areas referred to as M-5, M-6 and a small portion of M-2 located along the western section of Carrot Alley north of State Street and west of Diamond Boulevard as set forth on the map attached as Appendix A to this Ordinance.
6. Phase-Two Owner: An Owner whose property address is contained within sewer drainage areas referred to as M-1, M-3, M-4, portions of M-2, and several minor sections of the system not previously included in a metered sub-basin as set forth on the map attached as Appendix A to this Ordinance.
7. Property Transfer: A sale, foreclosure, sheriff's sales, tax sale or other legal action resulting in the transfer of ownership of real property.
8. Real Property: Any structure, building, or vacant land being privately or publicly owned.
9. Sewage Certificate: An official document from Southmont stating that the sewer lateral on the property being transferred has passed a Sewer Lateral Inspection or is exempt from said Inspection and can be transferred.

10. Sewer Lateral: The pipe or conduit which extends from the foundation of private or commercial building or structure to the curb-line or right-of-way and generally includes the cleanout and sewer vent and connects to the publicly owned sanitary sewer system.
11. Temporary Easement Agreement: A written agreement wherein an Agent or Applicant grants a temporary non-exclusive access right to go on, over, under, upon, and across the Agent's or Applicant's Real Property for the purposes set forth in the Agreement.
12. Temporary Sewer Certification: A temporary statement of certification from the proper officer of Southmont, issued pursuant to the terms of Section IV of this Ordinance, and Resolution.

SECTION 3: SEWAGE CERTIFICATE REQUIRED

1. No owner shall be permitted to effectuate a property transfer of real estate located within Southmont without first receiving a Sewage Certificate from Southmont.
2. Southmont shall issue a Sewage Certificate to owner only after all of the following have been completed:
 - a) An owner has made application to Southmont for the issuance of a Sewage Certificate;
 - b) Southmont determines that the real property being transferred has passed either a Comprehensive or Limited Sewer Lateral Inspection as defined herein;
 - c) Southmont determines that the real property being transferred has failed either a Comprehensive or Limited Sewer Lateral Inspection, but has since been repaired and/or replaced and passed a subsequent Comprehensive or Limited Sewer Lateral Inspection;
 - d) Southmont determines that the real property being transferred is exempt from a Comprehensive Sewer Lateral Inspection.

SECTION 4: APPLICATION FOR OBTAINING SEWAGE CERTIFICATE

1. An owner shall fully complete and submit the required application for a Sewage Certificate to Southmont along with the required fees associated with said application as established by Southmont. Southmont shall provide an application to any owner upon request.

2. An owner or agent shall submit its application with any required documentation for a Sewage Certificate to Southmont at least thirty (30) days before the scheduled date of transfer (closing date).
3. Upon receipt of an application for a Sewage Certificate, Southmont shall confirm and/or determine the type of sewer lateral inspection required for the issuance of a Sewage Certificate for the real property in question.

In the case of an owner whose property requires a Comprehensive Sewer Lateral Inspection, owner shall advise Southmont of the time and date when the low-pressure air test will be performed at the real property. Thereafter, owner shall provide all documentation related to the low-pressure air test performed, the results of the test and the qualifications of the contractor who performed the test. Thereafter, owner shall schedule a time and date with Southmont to perform its inspection of the exterior and interior building and/structure on the real property. portion of the Comprehensive Sewer Lateral Inspection.

In the case of an owner whose property requires only a Limited Sewer Lateral Inspection, owner shall schedule a time and date when Southmont can perform said inspection.

SECTION 5: SEWER LATERAL INSPECTIONS

1. Southmont shall perform a Limited Sewer Lateral Inspection at all real property pursuant to the regulations and standards adopted by Southmont and, thereafter, shall provide a written record of deficiencies or defects, if any, to the owner.
2. An owner or its agent shall be present to grant its contractor and/or Southmont access to the real property, including the building or structure being transferred, to permit its designated contractor to perform a low-pressure air test and to permit Southmont to perform a Limited Sewer Lateral Inspection.
3. The designated plumber and/or contractor of owner shall perform its low-pressure air test pursuant to applicable regulations and industry standards for said testing and, thereafter, shall provide a written record of the testing results.
4. If Southmont determines that the real property has failed either a Comprehensive or Limited Sewer Lateral Inspection, it will be the responsibility of the owner or agent of the real property to repair and/or replace all or a portion of the sewer lateral that was found to be deficient or defective, in compliance with the requirements and specifications of Southmont within a time frame set by Southmont.

5. If repairs to the sewer lateral are required, a subsequent Comprehensive or Limited Sewer Lateral Inspection (whichever is applicable) will be required to determine if the sewer lateral is in compliance with the requirements and specifications of Southmont.
6. Southmont shall issue a Sewage Certificate upon the real property passing a Comprehensive and/or Limited Sewer Lateral Inspection as applicable to the real property in question.

SECTION 6: TEMPORARY SEWAGE CERTIFICATION

1. A Temporary Sewage Certification may be issued by Southmont to an owner at the sole discretion of Southmont. No owner shall have a right to a Temporary Sewage Certification or an explanation for the denial of same.
2. If Southmont determines in its sole discretion that a Temporary Sewage Certification may be issued, Southmont shall require that the parties to the transaction, both buyer and seller of the real property, to enter into a written agreement with Southmont setting forth the following prior to the issuance of the Temporary Sewage Certification:
 - a) Identification of the party who shall be responsible for curing the defects to the sewer lateral;
 - b) A written estimate of repair or replacement of the sewer lateral from a certified plumber and/or contractor and the approximate date the plumber/contractor will perform the repair and/or replacement.
 - c) The parties' mutual agreement to place into an escrow account sufficient funds to cover the cost of any repair or replacement of the sewer lateral, plus an additional amount equal to 10% of such cost.
 - d) The parties' mutual agreement that the funds held in escrow shall be released upon completion of the repair/replacement of the sewer lateral and the subsequent Comprehensive or Limited Sewer Lateral Inspection (as applicable) to confirm that the repair/replacement is in compliance with the requirements and specifications of Southmont. Any escrow funds remaining after repair/replacement shall be returned to the buyer or seller as agreed.

- e) The parties' mutual agreement that, if the repair or replacement of the sewer lateral is not completed within one year of the property transfer, that the parties shall forfeit over to Southmont all escrow monies without further action by Southmont and Southmont shall have the right enter onto the real property in question and repair/replace sewer lateral.

SECTION 7: SEWER LATERALS EXEMPT IN CERTAIN CIRCUMSTANCES

All real property located in Southmont is subject to a Limited Sewer Lateral Inspection. The exemptions listed below relate to a Comprehensive Sewer Lateral Inspection and are as follows:

1. Phase-One Owners: Phase-One Owners, who have executed a Temporary Easement Agreement with Southmont prior to February 1, 2016, shall be exempt from complying with this Ordinance until such time that a new sewer lateral is constructed and completed on the real property of the Phase-One Owner as part of Southmont's comprehensive abatement plan. After the new sewer lateral is constructed and completed, Phase-One Owner shall no longer be exempt from this Ordinance except as provided for herein. Any Phase-One Owner, who has not executed a Temporary Easement Agreement by February 1, 2016, shall not be exempt from obligations and requirements of this Ordinance.
2. Phase-Two Owners: Phase-Two Owners, who have executed a Temporary Easement Agreement with Southmont prior to February 1, 2016, shall be exempt from complying with this Ordinance until such time that a new sewer lateral is constructed and completed on the real property of the Phase-Two Owner as part of Southmont's comprehensive abatement plan. After the new sewer lateral is constructed and completed, Phase-Two Owner shall no longer be exempt from this Ordinance except as provided for herein. Any Phase-Two Owner, who has not executed a Temporary Easement Agreement by February 1, 2016, shall not be exempt from obligations and requirements of this Ordinance.
3. New Construction of Sewer Lateral: Any owner who had a new lateral constructed on its real property as part of the comprehensive abatement plan and executed a Temporary Easement Agreement, shall be exempt from a Comprehensive Sewer Lateral Inspection for a period of ten (10) years from the date construction was completed.

4. Prior Issuance of Sewer Certification after Comprehensive Inspection: If a Sewer Certification was issued for real property after passing a Comprehensive Sewer Lateral Inspection and the property transfer at issue is within a ten (10) year period immediately preceding the proposed property transfer date, a Comprehensive Sewer Lateral Inspection shall not be required to obtain a Sewer Certification. However, the owner must still have a Limited Sewer Lateral Inspection performed to obtain a Sewage Certification.

SECTION 8: RULES & REGULATIONS

Southmont shall make rules and regulations for the operation and enforcement of this Ordinance as it deems necessary, which shall include, but not be limited to:

1. Establishing acceptable requirements and standards for Comprehensive and Limited Sewer Lateral Inspections;
2. Establishing the forms for applications, reports and certifications;
3. Establishing a fee schedule for application(s) and inspections;
4. Establishing an agreement related to the Temporary Sewage Certificate;

All rules and regulations issued pursuant to this Section shall be in writing and be approved by Southmont prior to such rules and regulations being effective.

SECTION 9: RESERVATION OF OTHER RIGHTS

Nothing contained herein shall be deemed to waive any and all other remedies available to Southmont, at law or in equity, relating to violations of Southmont's Property Maintenance Code, Zoning Code, or any and all other relevant ordinances of the Southmont. Southmont's right to enforce any other ordinance or regulation of Southmont is expressly retained by the Southmont.

SECTION 10: VIOLATIONS & PENALTIES

1. Violations of this chapter and/or failure to comply with the provisions of this Ordinance shall result in fines of not less than \$1,000, and not to exceed \$10,000, plus the costs of prosecution, and in default of payment thereof, to imprisonment for a term not to exceed ninety (90) days.
2. Each day that a violation hereunder continues shall constitute a separate offense.

3. In addition to fines and/or imprisonment for violations or failure to comply with this Ordinance, Southmont shall have the right to obtain equitable relief.

SECTION 11: EFFECTIVE DATES

The initial effective date of this Ordinance and/or Regulations related thereto shall be sixty (60) days after same is approved by the Council of Southmont. After the effective date, it shall be unlawful for any person to sell or transfer real estate within Southmont on which a building or improvement exists, without first delivering unto the purchaser a Sewer Certification or Temporary Sewer Certification from Southmont. However, after the initial approval of this Ordinance and/or Regulations related thereto, any subsequent amendment to either this Ordinance or Regulation shall be effective upon their approval.

SECTION 12: SEVERABILITY & REPEAL

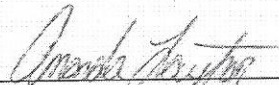
The provisions of this Ordinance are severable, and if any section, sentence, clause or phrase shall be held by a court of competent jurisdiction to be illegal, invalid or unconstitutional, the remaining portions of this ordinance shall not be affected or impaired thereby.

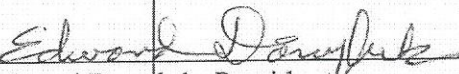
All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

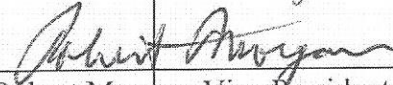
ORDAINED AND ENACTED THIS 21st day of September, 2015.

ATTEST:

BOROUGH OF SOUTHMONT:


Amanda Layton, Secretary

BY: 
Edward Danyluk, President

BY: 
Robert Morgan, Vice President

Approved this day of Sept. 21, 2015:

BY: 
Mark Yonko, Mayor

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**SOUTHEAST BOROUGHT
SANITARY SEWER SYSTEM
REIMACHMENT PROJECT**

EXHIBIT

[illegible]

SANITARY SEWER
DRAINAGE BASINS
MAP

PROJECT NO.	130126
DESIGNED BY	JKK
DESIGNED BY	HK
CHECKED BY	TW
SCALE	GRAPHIC
DATE	

EX4

