
ARTICLE V, Certification of Sanitary Sewer Status [Adopted 6-28-2004 by Ord. No. 806]

§ 224-29. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DOCUMENT OF CERTIFICATION, EVIDENCE OF COMPLIANCE -- An official statement from BASA^{EN(1)} stating that there was, at the time of inspection and testing, no evidence of any illegal stormwater and surface water connections and infiltration of groundwater or subsurface waters on the specific property which is being sold, transferred, assigned, mortgaged or refinanced.

ILLEGAL STORMWATER AND SURFACE WATER CONNECTIONS AND INFILTRATION OF GROUNDWATER OR SUBSURFACE WATERS -- The connection or presence of any basement seepage, stormwater, surface water, drains, down spouts, roof drainage, or infiltration of ground or subsurface waters into the sanitary sewer system.

MUNICIPAL LIEN LETTER -- A written letter from officials of BASA^{EN(2)} concerning municipal liens for public sanitary sewer service and charges related thereto.

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

SEWAGE -- As defined under the Pennsylvania Sewage Facilities Act, 35 P.S. § 750.2, any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic supply or for recreation, or which constitutes pollution under the Act of June 22, 1937 (P.L. 1987, No. 394, also known as the Clean Streams Law, as amended, 35 P.S. § 691.1 et seq.).

TELEVISIONING DYE AND/OR SMOKE TESTING AND INSPECTION -- Any commonly accepted method of testing and inspection wherein a television camera, dye and/or smoke is introduced into the stormwater, surface water, groundwater or subsurface water collection system, down spouts or sanitary sewer lateral connection of real estate property to determine if any illegal stormwater or surface water or infiltration of groundwater or subsurface water is entering the sanitary sewer system.

§ 224-30. Designation of BASA as agents.

The Township has, by Ordinance No. 783,^{EN(3)} designated BASA,^{EN(4)} its officers, employees and agents, as agents for the Township to identify, report and require the disconnection of any illegal stormwater and surface water connections and infiltration of groundwater or subsurface waters, at any time prior to or from the effective date of this article, to the BASA sanitary sewer system, and for such purpose, BASA, its officers, employees and agents are authorized to enforce, consistent with this article and the ordinances in effect within the Township with respect to illegal stormwater and surface water connections and infiltration of groundwater or subsurface water to the sanitary sewers. BASA shall report to the Township all enforcement measures undertaken within the Township which are directed to an owner, lessee or occupier of realty situate in the Township.

§ 224-31. Sale, transfer, mortgaging or refinancing without evidence of compliance prohibited.

After the effective date set forth in § 224-42 of this article, it shall be unlawful for any person: (a) to sell or transfer any real estate within the Township of Butler on which a building or improvement exists which is connected to the BASA sanitary sewer system, when such sale or transfer is subject to taxation under the Realty Transfer Tax Act, 72 P.S. § 810 1-C et seq., and the corresponding regulations of the Department of Revenue, or (b) to mortgage or refinance any real estate within the Township of Butler on which a building or improvement exists which is connected to the BASA sanitary sewer system when such mortgage or refinancing is for the purpose of acquiring title to, or improving, modifying, repairing or rehabilitating any such real estate which requires a building permit under the Township's Building Code,^{EN(5)} without first delivering to the purchaser, transferee mortgagee or person or institution providing financing or refinancing, a document of certification from the proper officials of BASA.

§ 224-32. Evidence of compliance; document of certification; application.

A. Any person selling, transferring, mortgaging or refinancing real estate located within the Township of Butler (hereinafter "applicant") and subject to the requirements set forth in § 224-31 above shall make application on a form furnished by the BASA at least 14 days before the date of sale, transfer, mortgaging or refinancing, together with payment of a fee to be set by the Township by resolution of the Board of Commissioners. BASA shall schedule, within 14 days of receipt of the application, an inspection and televising, dye and/or smoke test on the property to be sold, transferred, mortgaged or refinanced, said televising, dye or smoke testing to involve the use of nontoxic, nonstaining dye or smoke. BASA shall complete the appropriate portions on the form that the property lateral and facilities have been inspected,

televised, dye and/or smoke tested and certify the results of such test. In the event that there was, at the time of inspection and testing, no evidence of illegal connections, devices, or conditions causing or permitting stormwater or surface water, or infiltration of groundwater or subsurface waters, to enter the sanitary sewer system, BASA shall issue a document of certification.

- B. When an illegal connection, device, or condition which causes or permits stormwater or surface water or the infiltration of groundwater or subsurface water to enter into the BASA sanitary sewer system is discovered by the means of the above-mentioned inspection and testing, no document of certification will be issued until the illegal connections, devices, or conditions are removed, inspected and approved by BASA. BASA shall have the authority to permit BASA and the applicant, purchaser, transferee, mortgagor, mortgagee and any other appropriate person to enter into an escrow agreement to provide adequate assurance to BASA that the necessary actions will be taken to remove the illegal connection, device, or condition and to eliminate the illegal stormwater and surface water connections and infiltration of groundwater or subsurface waters from entering into the BASA sanitary sewer system.
- C. Testing will not be required when the application process reveals that a valid document of certification with respect to the specific tax parcel has been issued by BASA in accordance with this article within a period of five years from the date of application.

§ 224-33. Inspection of sanitary sewer status prior to sale, transfer, mortgage, or refinancing of real estate.

In addition to the requirements set forth in §§ 224-31 and 224-32 of this article of the Township, any person selling, transferring, mortgaging or refinancing real estate located within the Township which is connected to the BASA sanitary sewer system must subject such person's real property to prior inspection, including inspection of interior premises of any building or residence, by authorized representatives of BASA, between the hours of 7:00 a.m. and 9:00 p.m., prevailing time, and upon seven days' written advance notice to the person selling such real estate, to determine the presence of any illegal connection, device (e.g., a sump pump), or condition, which causes or permits stormwater or surface water or the infiltration of groundwater or subsurface water to enter into the BASA sanitary sewer system. Such person shall not be issued a document of certification until (a) such inspection and testing has been performed and has revealed no evidence that a connection, device, or condition exists which causes or permits storm or surface water or the infiltration of groundwater or subsurface water to enter into the BASA sanitary sewer system and a follow-up inspection verifies that such connection, device or condition found to be previously in operation or existence has been disconnected and removed, or (b) an escrow agreement satisfactory to BASA has been executed and a follow-up inspection of the illegal connection, device or condition identified in such agreement verifies that such connection, device or condition found to be previously in operation or existence has been disconnected and removed.

§ 224-34. Written reports of and required repairs of deteriorating laterals and sewer service connections.

BASA is authorized in the course of its program of inspection and testing privately and publicly owned facilities within the Township, when it identifies deteriorating sewer service laterals or other connections, devices or conditions which cause or permit inflow of stormwater and surface waters or infiltration of groundwater or subsurface waters into the publicly owned facilities of the BASA sanitary sewer system, to provide written notice to the property owner or owners as to the condition of such laterals and sewer service connections, devices or conditions, together with a statement that such deteriorating laterals and sewer service connections, devices or conditions, must, at the property owner's expense, be promptly repaired, replaced or rehabilitated. A copy of all written reports of deteriorating laterals and sewer service connections shall be kept on file and shall be used in determining whether certificates can issue.

§ 224-35. Powers of BASA.

- A. BASA, its officers, employees and agents, in performing its duties and authorized functions under this article, shall be empowered, subject to the requirements set forth below, to enter upon any private property at all reasonable times between the hours of 7:00 a.m. and 9:00 p.m., prevailing time, with seven days' written advance notice to the owner, lessee or occupier (unless exigent circumstances require otherwise) for the purpose of obtaining information, conducting routine or systemic inspections, and televising, dye and/or smoke testing, and/or enforcing this article, and shall have only those powers expressly set forth in this article and in other ordinances of the Township or provided by law to perform its functions consistent with such ordinances and laws. BASA shall first seek permission from the owner, lessee or occupier of such real estate to enter upon the property to obtain information, conduct inspections and/or enforce this article. In the event that permission is not granted by the owner, lessee or occupier of the property, BASA shall make appropriate application to the Court of Common Pleas for authorization to enter upon the property for such purposes.
- B. In the event the owner of the premises is unable or fails to effect the necessary remedial work within the time permitted, including any extension thereof, or BASA determines that a public health hazard exists, BASA may undertake to have the necessary remedial work completed by its employees or a third party at the expense of the owner, lessee or occupier of the premises, and to make any necessary arrangements for the payment of such work by the owner, lessee or occupier of the premises on an installment basis, which arrangements shall be mutually satisfactory to the owner, lessee or occupier. Under such circumstances, in the event satisfactory arrangements are not agreed upon by the BASA and the owner, lessee or occupier, the BASA may file a lien against such property.

- C. BASA is hereby authorized to conduct, by written advance notice, random and/or periodic inspection and televising, dye and/or smoke testing, and any other appropriate test or inspection, without cost to the residents of the Township, of all existing sanitary sewer systems and structures in the Township for compliance with this article and other laws pertaining to sanitary sewer systems and structures. Such testing will not be required when the owner, lessee or occupier of the land produces a valid document of certification issued by BASA in accordance with this article, which document of certification shall be sufficient proof of compliance for purpose of this article, for a period of two years from the date of issuance.
- D. When illegal stormwater or surface water connections or infiltration of groundwater or subsurface water or conditions have been discovered, all necessary remedial work to correct such connection shall be completed by the owner, lessee or occupier of the premises, weather permitting, within 60 days of the date such party receives notification of the illegal device, connection or condition.
- E. In the event the necessary remedial work would create extraordinary economic hardship for the owner, lessee or occupier of the premises, application may be made to BASA for an extension of up to an additional six months to complete said remedial work. An extraordinary economic hardship shall be determined by the Board of BASA, upon consideration of the cost of the remedial work, the financial means of the owner(s) and other factors which the Board may determine to be relevant.
- F. BASA shall also have the power to institute suit in equity to restrain, prevent, remove or correct any connection, device, or condition from and/or to the sanitary sewer system.

§ 224-36. Powers conferred herein are in addition to all other powers and responsibilities of BASA.

The powers conferred by the within article of the Township shall be in addition to and not in substitution for any other powers conferred upon BASA to enforce and require the elimination of illegal stormwater and surface water connections or infiltration of groundwater or subsurface water to the BASA sanitary sewer system.

§ 224-37. Rules and regulations.

- A. BASA is hereby authorized, empowered and directed to make rules and regulations for the operation and enforcement of this article as it deems necessary, which shall include, but not be limited to:
 - (1) Establishing acceptable forms of security, guarantees, and escrow agreements;

- (2) Establishing the form of application; and
 - (3) Establishing such other rules and regulations, consistent with this article, as are necessary for the operation and enforcement of this article.
- B. In the event that BASA determines that any rule or regulation is required, it shall give the Township at least 60 days' written notice prior to its adoption and implementation by the BASA Board.

§ 224-38. No conflict with general police powers.

Nothing in this article shall limit, in any fashion whatsoever, the Township's rights to enforce its ordinances or the laws of the Commonwealth of Pennsylvania. Nothing in this article shall be a defense to any citation issued by any municipal corporation or the commonwealth pursuant to any other law or ordinance.

§ 224-39. Violations and penalties; appeals.

- A. Any person, firm, corporation or entity which is found to have violated any sewage-related Township ordinance enforced by BASA and/or the Township or who willfully violated or failed to comply with any provision of this article and the orders, rules, regulations and permits issued hereunder, shall pay a fine of not less than One Hundred (\$100) Dollars or no more than the maximum penalty set forth in the Pennsylvania Sewage Facilities Act, 35 P.S. § 750.13, following adjudication by a Judge of the Court of Common Pleas for each violation. Each day on which a violation shall occur or continue to occur shall be deemed a separate and distinct violation. In addition to the penalties provided herein, BASA and the Township may recover penalties, damages, costs, reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person or user found to have violated this article or the orders, rules, regulations and permits issued hereunder.
- B. BASA shall also have the power to institute suit in equity to restrain, prevent or correct any illegal connection, device, or condition which causes or permits stormwater or surface water or the infiltration of groundwater or subsurface water to enter into the BASA sanitary sewer system.
- C. Upon final adjudication that a violation of this article exists and refusal or failure to act by the property owner to undertake the repair, replacement or rehabilitation identified by written notice as herein provided, BASA shall have the right to enter onto the subject property to conduct the necessary work to bring the property into compliance with this article at the expense of the property owner, and further, upon failure of the property owner to pay said expense, BASA shall have the right to file a lien against the subject property for the amount of

said expense, together with the costs of filing and perfecting such lien.

- D. Any applicant, purchaser, transferee, mortgagor, mortgagee or other person aggrieved by an initial determination by BASA personnel that an illegal connection, device or condition exists on real estate shall be permitted to file a request for a hearing before the Butler Area Sewer Authority's Board of Appeals. Any request for a hearing must be received by BASA within 30 days of the date of BASA's notification to the applicant, purchaser, transferee, mortgagor, mortgagee or other person that an illegal connection, device or condition exists. The hearing before the Board of Appeals shall be governed by applicable provisions of the Local Agency Law, 2 Pa.C.S.A. § 101 et seq. 2 Pa.C.S.A. § 751 et seq., and a right of appeal from the determination of the Board of Appeals shall be permitted in accordance with the Local Agency Law.
- E. The Board of Appeals shall be empowered solely to determine whether or not any illegal connection, device or condition exists on the property. The Board of Appeals shall consist of two available members of the BASA Board and a third member appointed to the Board of Appeals by the governing body of the municipality wherein the property which is the subject of the appeal is situated. If any municipality does not appoint a member to the Board of Appeals, a vacancy exists in any such appointment, or a member appointed is otherwise not available, the third member of the Board of Appeals shall be a member appointed by another municipality within the service area of BASA, or if no such member is available, the third member of the Board of Appeals shall be an available member of the BASA Board. No appointee of any municipality to the Board of Appeals shall be involved in any inspection of property on behalf of the municipality or be engaged in the business, trade or occupation of performing plumbing or sewer line installation or repairs.

§ 224-40. Severability.

The provisions of this article 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 article shall not be affected or impaired hereby.

§ 224-41. Repealer.

Any ordinance or part of any ordinance conflicting with the provisions of this article be and the same are hereby repealed to the extent of such conflict.

§ 224-42. Effective date.

Sections 224-31, 224-32 and 224-33 of this article shall take effect September 1, 2004. The

remaining Sections of this article shall take effect immediately.

Endnotes

1 (Popup)

Editor's Note: Per the title of Ord. No. 806, which ordinance adopted this article, "BASA" refers to the Butler Area Sewer Authority.

2 (Popup)

Editor's Note: Per the title of Ord. No. 806, which ordinance adopted this article, "BASA" refers to the Butler Area Sewer Authority.

3 (Popup)

Editor's Note: See § 224-28.

4 (Popup)

Editor's Note: Per the title of Ord. No. 806, which ordinance adopted this article, "BASA" refers to the Butler Area Sewer Authority.

5 (Popup)

Editor's Note: See Ch. 138, Construction Codes, Uniform.