

**BOROUGH OF CALIFORNIA
COUNTY OF WASHINGTON
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 574

AN ORDINANCE OF THE BOROUGH OF CALIFORNIA, WASHINGTON COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING ORDINANCE NO. 549 THE “DYE TEST ORDINANCE” TO REVISE SECTIONS NO. 7. “DOCUMENT OF CERTIFICATION APPLICATION” AND NO. 10. “TEMPORARY DOCUMENT OF CERTIFICATION,” SO THAT THE BOROUGH SEWAGE DEPARTMENT WILL COORDINATE THE SCHEDULING OF DYE TESTS FOR PROPERTIES SERVICED BY THE BOROUGH’S SANITARY SEWER SYSTEM RATHER THAN THE APPLICANT; REPEALING PRIOR, INCONSISTENT ORDINANCES AND/OR PORTIONS OF PRIOR, INCONSISTENT ORDINANCES; INCLUDING A SAVINGS CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Borough Council found that storm water and/or surface water may be illegally deposited into the sanitary sewer system of the Borough; and,

WHEREAS, Borough Council found that sewage may be illegally deposited into the soil and/or waters of the Commonwealth of Pennsylvania by malfunctioning on-lot individual sewage systems; and,

WHEREAS, due to these findings, on April 5, 2015, Borough Council enacted Ordinance No. 549, which required dye testing prior to the sale or purchase of real estate located in the Borough to eliminate illegal storm water and/or surface connections into the sanitary sewer system and to eliminate the illegal discharge of sewage into the soil and/or waters of the Commonwealth of Pennsylvania by malfunctioning, on-lot individual sewage systems, which would benefit the health, safety and welfare of the Borough’s residents; and,

WHEREAS, Borough Council wishes to amend Ordinance No. 549 to revise Sections No. 7 “Document of Certification Application” and No. 10 “Temporary Document of Certification,” so that the Borough Sewage Department will coordinate the scheduling of dye tests for properties serviced by the Borough’s sanitary sewer system rather than the applicant; and,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough of California, County of Washington, and the Commonwealth of Pennsylvania, and it is hereby ordained and enacted as follows:

SECTION 1. AMENDMENT OF SECTION NO. 7 - DOCUMENT OF CERTIFICATION APPLICATION.

Section 7, Subsection No. 1 of Ordinance No. 549 currently reads as follows:

1. Any person selling real estate as defined in Section 6 of this Ordinance that is located within the Borough, (hereinafter referred to as "applicant"), shall make application on a form furnished by the appropriate Enforcement Officer at least twenty-one (21) days before the date of closing on 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 inspector appointed by the Enforcement Officer (hereinafter referred to as "inspector").

After the passage of this instant Ordinance, Section 7, Subsection No. 1 of Ordinance No. 549 will now read as follows:

1. Any person selling real estate as defined in Section 6 of this Ordinance that is located within the Borough (hereinafter referred to as "applicant"), shall make application on a form furnished by the appropriate Enforcement Officer at least twenty-one (21) days before the date of closing on the sale. Within five (5) days of the receipt of the application, a representative of the Borough's sewage department will contact the applicant to schedule a dye test for any property that is serviced by the Borough's sanitary sewer system. However, the responsibility to have a dye test performed remains with the applicant. In cases where a representative of the Borough's sewage department fails to contact the applicant within the five (5) day period, the applicant shall call the Borough to schedule the dye test for any property that is serviced by the Borough's sanitary sewer system. In cases where the property is served by an on-lot individual sewerage system, 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 inspector appointed by the Enforcement Officer (hereinafter referred to as "inspector").

SECTION 2. AMENDMENT OF SECTION NO. 10 - TEMPORARY DOCUMENT OF CERTIFICATION.

Section 10, Subsection No. 1 of Ordinance No. 549 currently reads as follows:

A temporary Document of Certification may be issued by the Enforcement Officer, at his/her sole discretion, when, either:

1. The applicant proves that dye testing cannot be performed because of weather conditions. When such is the case, the applicant shall provide the Borough and/or the Enforcement Officer with security in such an amount as the Borough and/or the Enforcement Officer 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 Enforcement Officer which shall be given at such time as 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 the purchaser for any costs incurred; provided, however, that primary liability shall run with the land and no such agreement shall affect the Borough's and/or the Enforcement Officer's enforcement powers or excuse the current owner from compliance with this Ordinance; or

After the passage of this instant Ordinance, Section 10, Subsection No. 1 of Ordinance No. 549 will now read as follows:

A temporary Document of Certification may be issued by the Enforcement Officer, at his/her sole discretion, when, either:

1. The applicant proves that dye testing cannot be performed because of weather conditions. When such is the case, the applicant shall provide the Borough and/or the Enforcement Officer with security in such an amount as the Borough and/or the Enforcement Officer shall establish to guarantee that the dye test will be performed. If the property is serviced by the Borough's sanitary sewer system, a representative of the Borough's sewage department will contact the applicant to have the dye test performed within fourteen (14) days of written notification to the applicant and the sewage department from the Enforcement Officer. Said written notification shall be given at such time as weather conditions make the dye test possible. However, the responsibility to have a dye test performed remains with the applicant. In cases where a representative of the Borough's sewage department fails to contact the applicant within the fourteen (14) day period, the applicant shall call the Borough to schedule the dye test for any property that is serviced by the Borough's sanitary sewer system. If the property is serviced by an on-lot individual sewerage system, the applicant will cause to have the dye test performed within fourteen (14) days of written notification from the Enforcement Officer which shall be given at such time as 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 the purchaser for any costs incurred; provided, however, that primary liability shall run with the land and no such agreement shall affect the Borough's and/or the Enforcement Officer's enforcement powers or excuse the current owner from compliance with this Ordinance; or

SECTION 3. REPEALER.

Any and all prior Ordinances and/or any and all portions of prior Ordinances that are in conflict with this Ordinance are hereby repealed to the extent of such conflict. The remaining Ordinances and/or portions of prior Ordinances, not modified herein, shall remain the same.

SECTION 4. SAVINGS CLAUSE.

Should any section of this Ordinance be, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

The Borough Council hereby declares that it would have enacted this Ordinance, and each section thereof, irrespective of the fact that any one or more sections are subsequently declared unconstitutional.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption by Borough Council.

DULY presented and adopted at a meeting of the Borough Council of the Borough of California, Washington County, Commonwealth of Pennsylvania, this 11 day of March, 2021.

ATTEST:

BOROUGH OF CALIFORNIA

Mindy Crow
Borough Secretary

By: *Patsy Alfano*
President of Council

EXAMINED AND APPROVED by me this ___ day of _____, 2021.

BOROUGH OF CALIFORNIA

By: _____
Mayor