

**ORDINANCE NO. 5-05**

**AN ORDINANCE ESTABLISHING THAT A DYE TEST AND  
CERTIFICATION BE REQUIRED PRIOR TO THE SALE OF REAL  
ESTATE IN CROSS CREEK TOWNSHIP, WASHINGTON COUNTY,  
PENNSYLVANIA, APPOINTING THE INDEPENDENCE-CROSS CREEK  
JOINT SEWER AUTHORITY AS ADMINISTRATOR,  
AND SETTING PENALTIES FOR VIOLATION THEREOF**

WHEREAS, the Board of Supervisors of Cross Creek Township, Washington County, Pennsylvania, finds that excessive storm and/or surface waters which may be routed to sanitary sewer systems within the Township require increased and unnecessary treatment capacity thus curtailing the availability of tap-ins and treatment to other users who need sanitary sewage treatment.

NOW, THEREFORE, be it ordained and enacted by the Board of Supervisors of Cross Creek Township, Washington County, Pennsylvania, that:

**Section 1. Sale of Real Estate Without Document of Certification Prohibited.**

1. It shall henceforth be unlawful for any person or other legal entity selling real estate located as defined by this Ordinance that is located within Cross Creek Township on which a building or improvement exists that is connected to the Independence-Cross Creek Joint Sewer Authority (hereinafter "Authority") sewer line without first delivering to the purchaser a Document of Certification or a Temporary Document of Certification issued by the Authority.

2. Any person selling real estate located as defined in Section 1 of this Ordinance that is located within Cross Creek Township (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 or other tests deemed appropriate by the Authority on the property to be sold. All tests shall be performed by an inspector appointed by the Authority (hereinafter referred to as "inspector").

3. The inspection fee shall be in an 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 Section.

4. Such inspector shall complete the appropriate portions on the form and certify that the property has been tested and certify the results of such test. In the event there are no illegal storm 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 storm or surface water connection is discovered by means of the above-mentioned tests, 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.

5. The Board of Supervisors hereby authorizes the Independence-Cross Creek Township Joint Sewer Authority and/or its employees to enter upon private property at all reasonable times for the purpose of conducting inspections and investigations to assure compliance with the rules and regulations of the Authority and this part.

**Section 2. 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 (1) year effective life of such document without further testing or certification.

**Section 3. Instances When Document of Certification Not Required.** A Document of Certification shall not be required in the following instances:

1. When property is refinanced but no conveyance takes place.
2. Individual apartment-type units 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 (1) year previous to the date of the sale of the individual condominium unit.
3. When the real estate is such that tap-in to the sanitary sewer system is not required by law or ordinance.

**Section 4. Temporary Document of Certification.** A Temporary Document of Certification may be issued by the Authority at its sole discretion, when, either:

1. The applicant proves that weather conditions or other circumstances would pose an undue hardship. In that event, the applicant shall provide a signed, written

acknowledgement from the purchaser agreeing to correct, at purchaser's sole cost and expense, any violations that may be discovered as a result of subsequent 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 Authority's enforcement powers or excuse the current owner from compliance with this part; or

2. When an illegal storm 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:

(i) A bona fide, executed contract between the applicant and a contractor to complete the necessary remedial work with the Authority listed herein as a third party beneficiary; and

(ii) Cash security in the amount of said contract is posted with the Authority; and

(iii) A written agreement by the purchaser to be responsible for all cost over-runs and extras related to the remedial work together with a written license to enter upon the property to complete work in case of default of the contractor referred to above. The Authority's Manager or other individual authorized by the Authority's Board of Directors shall determine when such Temporary Document of 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 5. Regulations.** The Authority is hereby empowered to undertake the duties imposed by this Ordinance, including but not limited to:

- A. Establishing acceptable forms of security or guarantees.
- B. Establishing the form of:

- (i) Applications,
- (ii) Purchaser's acknowledgements, and
- (iii) Inspector certifications.

**Section 6. Adjustment of Fees.** The Authority may, by resolution, change from time to time the fees authorized in this Ordinance.

**Section 7. Conflict with General Police Powers.** Nothing in this Ordinance shall limit in any fashion whatsoever the Authority's or Township'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 or the Commonwealth pursuant to any other law or ordinance.

**Section 8. Penalties and Enforcement.**

1. Any person who violates any of the provisions of this Ordinance may be charged with such violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) for each violation, plus costs, 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.

2. Whenever any person violating any of the provisions of the Ordinance is notified of such violation in writing by the Authority, each day or portion thereof a violation occurs or continues to occur shall constitute a separate violation.

3. In addition to and not in lieu of the foregoing, the Township and/or Authority may seek equitable and legal relief to compel compliance with this Ordinance.

**Section 9. Effective Date.** The Ordinance shall become effective five (5) days after its enactment and adoption.

If any provision or part of this Ordinance is adjudged to be invalid or unconstitutional, such adjudication shall not effect the validity of this Ordinance as a whole or any part or provision not adjudged to be invalid or unconstitutional.

ORDAINED AND ENACTED by the Board of Supervisors of Cross Creek Township, Washington County, Pennsylvania, this 20th day of December, 2005.

ATTEST:

CROSS CREEK TOWNSHIP

\_\_\_\_\_  
Rachel Warner Blosser, Secretary

By \_\_\_\_\_  
Dean F. Casciola, Chairman

By \_\_\_\_\_  
Tim Paris, Supervisor

By \_\_\_\_\_  
John Rush, Supervisor