

Introduced by: C. Johnson

FIRST READING October 12th, 2021
SECOND READING waived
THIRD READING waived

RESOLUTION AMENDING SECTION 125 OF THE RULES AND REGULATIONS
OF THE VILLAGE OF BURTON BOARD OF PUBLIC AFFAIRS REQUIRING A
POINT OF SALE INSPECTION FOR ALL PROPERTIES
AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Resolution No. 2020-28, the Board of Trustees of the Board of Public Affairs of the Village of Burton, enacted Section 125 of the Board of Public Affairs Rules and Regulations, which established a Point of Sale Inspection of the water and sewer systems of any property prior to any transfer, sale, or conveyance of such property to ensure for the safe, economical, and efficient management and protection of its public utilities; and

WHEREAS, the Board of Public Affairs desires to amend Section 125 of the Rules and Regulations of the Board of Public Affairs to include the issuance of a certificate of compliance (conditional or otherwise) as well as a procedure for an administrative search warrant should any property owner not consent to the inspection.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Public Affairs:

SECTION 1. Section 125 of the Rules and Regulations shall be deleted and amended to read in full as follows:

“SECTION 125 – POINT OF SALE INSPECTION

“A. It shall be unlawful for the owner of any real property in the Village to transfer legal or equitable ownership of such real property without having first obtained a Point of Sale Inspection of the property’s water and sewer systems. The Point of Sale Inspection will enable the Village to work toward achieving the safe, economical, and efficient management of the Village’s System, which consists of its Water Works and Wastewater Treatment Works, by listing any repairs necessary to eliminate any: (a) infiltration in a sewer and/or water line; (b) roots in a sewer and/or line; (c) cracks in a sewer and/or water line; and/or (d) improper connection of a downspout, sump pump, and/or other method of surface water infiltration to the sanitary sewer. Such Point of Sale Inspection shall be part of the process of issuing the required Certificate of Compliance.

1. Point of Sale Inspection. Prior to any transfer of legal or equitable ownership of any real property in the Village, the owner of the property must obtain the Point of Sale Inspection which requires:

(a) an inspection of the sewer lines, including a televised camera check, and an inspection of any downspout, sump pump, and/or other method of surface water infiltration to ensure proper connection to the storm sewer, performed by an independent contractor at the cost and expense of the owner of such property;

(b) an inspection of the water lines and water meter conducted by the Village of Burton Utilities Operator and or his/her designee; provided however, that the Village of Burton Utilities Operator is provided at least 48 hours' notice in advance of any request to have such water lines and water meter inspected, as provided in Section 126 of the Rules and Regulations of the Village of Burton Board of Public Affairs; and

(c) payment of the \$150 inspection fee to the Village of Burton.

2. Sewer Inspection Report. The owner of the property shall cause a copy of the video of the televised camera check of the sewer lines, as well as a copy of the report (in a form substantially similar to the Village of Burton's Sewer Inspection Report) executed by the independent contractor as referenced in section 1(a) to be provided to the Village of Burton Utilities Operator for review.

3. Point of Sale Inspection Report. Once the sewer inspection report as referenced in section 2 is reviewed by the Village of Burton Utilities Operator, and the inspection of the water lines and water meter is performed by the Village of Burton Utilities Operator, the Point of Sale Inspection Report shall be issued by the Village of Burton Utilities Operator and/or his/her designee to the owner of the property and a copy shall be maintained by the Village of Burton for record keeping purposes.

(a) The Point of Sale Inspection Report shall indicate the passage, failure or incompleteness of the property's water and sewer systems.

(b) The Village of Burton Utilities Operator shall issue a Certificate of Compliance to the owner for passage of the property's water and/or sewer systems based on the Point of Sale Inspection Report. A Certificate of Compliance is valid for one (1) year from the date of issuance.

(c) If the Point of Sale Inspection Report indicates failure for either or both of the property's water and/or sewer systems, then the Village of Burton Utilities Operator shall list on the Point of Sale Inspection Report any violations to be corrected

and brought up to the current standards of the Village of Burton Board of Public Affairs Rules and Regulations so as to eliminate any: (a) infiltration in a sewer and/or water line; (b) roots in a sewer and/or line; (c) cracks in a sewer and/or water line; and/or (d) improper connection of any downspout, sump pump, and/or other method of surface water infiltration to the sanitary sewer.

- (d) Upon the failure of either or both of the property's water and/or sewer systems, the Village of Burton Utilities Operator shall issue a Conditional Certificate of Compliance which shall be deemed a notice that the owner and the property are in violation of the Village of Burton Board of Public Affairs Rules and Regulations until such time as the repairs listed on the Point of Sale Inspection Report for the property's water and/or sewer systems is/are brought up to the current standards for the Village of Burton by correcting and eliminating any: (a) infiltration in a sewer and/or water line; (b) roots in a sewer and/or line; (c) cracks in a sewer and/or water line; and/or (d) improper connection of any downspout, sump pump, and/or other method of surface water infiltration to the sanitary sewer.
- (e) The responsibility for making repairs to any violations or completing such work as may be necessary to correct any infiltration in a sewer and/or water line, roots in a sewer and/or line, cracks in a sewer and/or water line, and/or improper connection of any downspout, sump pump, and/or other method of surface water infiltration to the sanitary sewer of a property shall rest upon the person who was the owner immediately prior to the Point of Sale Inspection which was the basis for the issuance of the Conditional Certificate of Compliance. Such responsibility may be shifted to a new owner by a written agreement in which that new owner assumes the responsibility, after having been given a copy of the Conditional Certificate of Compliance including the list of violations. A signed copy of such an agreement shall be provided to the Village of Burton.
- (f) A written assumption by the new owner shall release the previous owner from responsibility to the Village of Burton. If responsibility is so assumed, the new owner shall be obligated to comply with the requirements of the Conditional Certificate of Compliance within ninety (90) days of becoming the new owner of the property.
- (g) A new owner who does not assume such responsibility but

instead relies upon the prior owner being obligated to correct violations identified during a Point of Sale Inspection of the property takes the risk that the prior owner may fail to do so as and when required. If that occurs, the new owner is at risk because the Conditional Certificate of Compliance constitutes notice that the water and/or sewer systems are in violation of the Village of Burton's Board of Public Affairs Rules and Regulations and the Village Board of Public Affairs shall be authorized to shut off water service to the property if any violation noted on the Conditional Certificate of Compliance is not corrected within ninety (90) days of the issuance of the Conditional Certificate of Compliance and such water may remain shut off until the violations are corrected to the satisfaction of the Village of Burton Utilities Operator.

- (h) Once the violations are corrected pursuant to the Conditional Certificate of Compliance to the satisfaction of the Village of Burton Utilities Operator, the Village of Burton Utilities Operator shall issue a Certificate of Compliance to the owner.
- (i) If the Point of Sale Inspection Report indicates incompleteness for either the property's water and/or sewer systems, the reason for such incompleteness shall be clearly described. The Village of Burton Utilities Operator may issue a Conditional Certificate of Compliance to the owner requiring re-inspection of the property's water and/or sewer systems until such systems conclusively pass or fail the Point of Sale Inspection.

B. Administrative Search Warrant. If the owner does not consent to the Point of Sale Inspection, the Village of Burton may appear before any judge in a court of competent jurisdiction in Geauga County and seek an administrative search warrant to allow such inspection. Any such application for an administrative search warrant shall be made within ten (10) calendar days after a property owner's non-consent to the Point of Sale Inspection. The application for the administrative search warrant shall specify the basis upon which the administrative search warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the Village of Burton Codified Ordinances and/or the Village Burton Board of Public Affairs' Rules and Regulations as it relates to a property's water and/or sewer systems.

1. If an administrative search warrant is issued, no owner shall fail or neglect, upon presentation of such administrative search warrant, to properly permit entry therein by the Village of Burton Utilities Operator or his/her duly authorized designee for the purpose of inspection and examination pursuant to this Point of Sale

Inspection procedure and consistent with the terms of the administrative search warrant. In addition, if the court issues the administrative search warrant, the owner shall be responsible for all court costs and fees incurred by the Village of Burton to seek such administrative search warrant.

2. Limited-Scope Inspection. If the court declines to issue a warrant, or if no warrant is sought, and the property owner does not consent to the Point of Sale Inspection, such Point of Sale Inspection shall still take place but the scope thereof shall be limited to such areas as are in plain view. A Limited-Scope Inspection conducted pursuant to this paragraph shall be considered an “inspection” for purposes of this section and all other provisions pertaining to the Point of Sale Inspection. No criminal penalty shall attach, nor shall any Certificate of Compliance be denied, solely by reason of the owner’s refusal to consent to a full inspection.
 3. A Certificate of Compliance signed by the Village of Burton Utilities Operator shall be evidence that the property complies with the requirements of this section and all other applicable Village of Burton Board of Public Affairs’ Rules and Regulations; provided however, that if a Limited-Scope Inspection is conducted, the Certificate of Compliance (conditional or otherwise) shall note that fact and shall not constitute evidence of compliance with the Village of Burton’s Board of Public Affairs’ Rules and Regulations as to any uninspected portions of the property.
- C. Account Current. All water and/or sewer accounts associated with the property must be or come current with the Village of Burton prior to any sale, transfer, or conveyance of any property.
- D. No Occupancy. It shall be unlawful for any person who acquires legal or equitable title to real property to occupy or to use it without having obtained from the Village of Burton Utilities Operator or the previous owner a valid Certificate of Compliance or Conditional Certificate of Compliance for that real property.
- E. No Transfer with Outstanding Violations. It shall be unlawful for the owner of any property upon whom a notice of violation has been served (in the form of a list violations included in the Conditional Certificate of Compliance, the Point of Sale Inspection Report, or as a result of violations otherwise noted by the Village of Burton) to transfer legal or equitable ownership of the property to another until the violations listed in that notice have been corrected, or until the owner has entered into a written contract to make the corrections, or until such owner furnishes the proposed new owner a true copy of that notice and obtains a signed receipt that the owner has provided the notice and that the proposed new owner is aware of the pending notice and its requirement of corrective work.

- F. Public Record. A copy of the Point of Sale Sewer Inspection, the Point of Sale Inspection Report, any Certificate of Compliance and any Conditional Certificate of Compliance shall be maintained by the Village of Burton and hereby constitutes a public record subject to the record retention policy set forth by the Village of Burton.”

SECTION 2. It is hereby found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting, and that all deliberations of this Board and of any of its Committees, on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the Village of Burton and to provide for the safe, economical, and efficient management and protection of its public utilities. Wherefore, provided it receives two-thirds (2/3) of the votes of all members elected to this Board, this Resolution shall be in full effect from and immediately upon its passage by this Board; otherwise, it shall take effect and be in force after the earliest period allowed by law.

Passed this 12th day of October, 2021.

Curt Johnson, BPA Chairman
Village of Burton

Clerk