

**PENN TOWNSHIP  
CUMBERLAND COUNTY, PENNSYLVANIA  
ORDINANCE NUMBER 1998-2**

**SEWAGE FACILITIES MANAGEMENT**

**SECTION 1** Title, Purpose, and Legislative Intent

- 1.1 **Short Title** – This ordinance shall be known and may be cited as the “Penn Township Sewage Facilities Management Ordinance”
  
- 1.2 **Authority** – This ordinance is being prepared to establish a management program as empowered by the Commonwealth of Pennsylvania, Department of Environmental Protection Rules and Regulations, Title 25, Chapter 71, Subchapter E “Sewage Management Programs”; to authorize Penn Township to regulate, inspect and assure the proper design, installation, operation, and maintenance of all existing and future sewage facilities and/or alternative systems; and to set forth charges and fees for such services, pursuant to statutory authority of Penn Township.
  
- 1.3 **Intent** – Penn Township recognizes that on-lot sewage disposal systems constitute a valid and approved manner of preserving the quality of the water and other natural resources of the Township through the proper treatment of wastes generated by development within the Township. The use of on-lot sewage systems must be regulated in accordance with the regulations promulgated by the Department of Environmental Protection which pertain to the location and permitted types of on-lot sewage systems. In addition, the Township has determined that should the on-lot system installed by the landowner fail, the water quality and other natural resources of the Township may be polluted. It is especially of concern to the Township that such pollution may occur when a system fails and there is no suitable area on the lot for the installation of a replacement system.

Therefore, in order to protect the water quality and other natural resources of the Township, thereby protecting the health and welfare of the residents and visitors, Penn Township desires to require that all landowners provide and set aside areas for the installation of replacement on-lot sewage disposal system. As further implementation of this policy for lots on which on-lot disposal systems are not feasible, the Township desires to establish procedures for the use and maintenance of privately owned and operated sewage treatment facilities.

SECTION 2 Reserved

SECTION 3 Definitions - See official Ordinance located in the Municipal Office for the definitions associated with this Ordinance

SECTION 4 Applicability and Permits Required

- 4.1 General – The owner of any building or property serviced by a subsurface waste disposal system, alternative system, or any other sewage facility or system within Penn Township shall be subject to all the requirements contained herein. These requirements shall apply to all lots within the Township, regardless of the size of the lot, except as specifically exempted herein.
- 4.2 Permits Required – A permit shall be obtained from the Sewage Enforcement Officer in accordance with the Act, the Regulations of the Department, and this Ordinance prior to the installation of any on-lot, alternative, or other sewage facility or system.

SECTION 5 Testing Required

- 5.1 General – After the effective date of this Ordinance, no requests for approvals of Planning Modules for Land Development and no revision, exceptions to revision, or supplements to the Official Plan shall be granted by the Township unless the applicant presents evidence satisfactory to the Township that each lot or lot to be created contains a suitable location for the installation of an initial on-lot sewage system.
- 5.2 Exception – Lots which are to be served by a community sewage system may be exempted from this requirement, upon the provision of a certified capacity agreement from a DEP approved community sewage system. However, testing is required for the immediate area of any proposed community on-lot sewage disposal system.
- 5.3 Procedure – The Sewage Enforcement Officer (SEO) shall perform or observe all tests required by this Ordinance for the location of an on-lot sewage system and confirm the suitability of the location. The applicant shall provide a plot plan which identifies the location of the deep probe, the percolation holes, and the type of, and area for, the waste water disposal system approved by the SEO.

SECTION 6 Replacement Location for On-Lot Sewage System Required

- 6.1 General – After the effective date of this Ordinance, A Replacement Location for an on-lot sewage system shall be required for all lots or lots to be created which are not serviced by a community sewage system, or

for which a valid permit for installation of an on-lot sewage system has not been issued. Lots existing prior to the effective date of this Ordinance shall be exempt from the requirements of this Section.

- 6.2 Compliance – The Replacement Location shall comply with all provisions of this Ordinance and any other applicable Township ordinances and shall be located in a manner which complies with all isolation distances required by the Department for an on-lot sewage disposal system

## SECTION 7 Identification Of Replacement Location

- 7.1 General – Each applicant who shall submit a plan for the subdivision or development of land or who shall apply for a permit for the installation of an on-lot sewage system, or who shall request approval of a planning module for Land Development or the adoption of a revised exception to revision, of supplement to the Official Plan shall demonstrate to the satisfaction of the SEO that a suitable area exists on the lot or on each lot to be created for an initial on-lot sewage system and for the Replacement Location. The SEO shall perform or observe all tests required by this Ordinance for the location of an on-lot sewage system to confirm the suitability of the Replacement Location. Allowance of open land for the Replacement Location without testing performed or observed by the SEO shall not constitute compliance with the requirements of this Section.
- 7.2 Identification – As provided in Subsection 5.3 of this Ordinance, the location of the initial on-lot sewage system and the Replacement Location as confirmed by the SEO shall be identified on the plot plans and diagrams submitted as part of the permit application.
- 7.3 Easement Required – If the application has been submitted as a part of an application for subdivision or land development approval or a part of a request that the Township adopt a Planning Module for Land Development or amend its Official Plan or an request for an exception to the revision of the Official Plan, the location of each initial on-lot sewage system and each Replacement Location shall be notated upon the plans. If the application is for subdivision or land development approval, a note constituting a permanent easement shall be added to the plans stating that no improvements shall be constructed upon the Replacement Location, and the deed to be recorded for each lot created as part of the subdivision or land development shall contain language reflecting this limitation.
- 7.4 Plan Revision – Any revisions to a permit or plan affecting a Replacement Location which previously has been approved pursuant to the provisions of this Ordinance shall be reviewed for approval by the Township or its authorized representative.

SECTION 8 Construction of Improvements Upon Replacement Location Prohibited

- 8.1 Easement Content – The easement for the Replacement Location notated on the Plan and recorded with the Cumberland County Recorder of Deeds shall state that no permanent or temporary improvements of any character, other than shallow-rooted plant matter, shall be constructed upon the Replacement Location.
- 8.2 Enforcement and Substitution of an Alternate Area – This provision shall be enforced by the Township unless the person who desires to construct such improvements shall demonstrate to the satisfaction of the SEO that an alternate Replacement Location which complies with all provisions of this Ordinance and all other applicable Township ordinances exists upon the lot. If such an alternate Replacement Location shall be identified, the alternate Replacement Location may be considered to be the Replacement Location required by this Ordinance and shall be designated as the Replacement Location. The newly designated Replacement Location shall thereafter be considered the Replacement Location for the purposes of this Ordinance.

SECTION 9 Relief From Requirement of Designation of Replacement Location

- 9.1 Development of Existing Lots – If any lot held in single and separate ownership as of effective date of this Ordinance does not contain land suitable for a Replacement Location, the Applicant submitting a Land Development Plan or a Planning Module for Land Development or desiring to install an on-lot sewage system may request that the Township grant an exception to the requirement of providing a Replacement Location. The Applicant for such an exception shall present credible evidence to the Township demonstrating (a) that the lot was held in single and separate ownership on the effective date of this Ordinance; (b) the size of the lot; (c) inability of the Applicant to acquire adjacent land or the unsuitability of adjacent which might be able to be acquired; and (d) the testing conducted to determine that the lot is not suitable to provide a Replacement Location.
- 9.2 Burden of Proof on the Applicant – At all times the burden to present credible evidence and the burden of persuasion shall be upon the Applicant for an exception from the terms of this Ordinance. In no case shall any lot be exempted from the requirements of Section 4 and 5 of this Ordinance.

## SECTION 10 Private Sewage Treatment Facilities and Alternate Systems

- 10.1 Applicability – For lot or lots which cannot feasibly be provided with individual on-lot sewage disposal systems, the Township will consider requests to install alternate systems of private small flow sewage treatment facilities which are consistent with this Ordinance, the Official Plan, and which meet all other applicable legal requirements established by the Township and the Department. The request shall meet all requirements of Department’s Rules and Regulations, Title 25, Chapter 71, Section 71.72.(1)-(3), as the Township will not accept the dedication or responsibilities for such facilities.
- 10.2 Procedure – Applicants meeting the requirements of subsection 10.1 shall provide legal documentation that a bona fide homeowners association, or other organization or agreement acceptable to the Township, will assume the responsibility for the operation and maintenance of the facility, as specifically provided in the Department’s Rules and Regulations, Title 25, Chapter 71, Section 71.64, 71.65, and 71.72 (1)-(3), as the Township will not accept the dedication or responsibility for such facilities.

## SECTION 11 Inspection

- 11.1 General – All sewage facilities and alternative systems shall be accessible for visual and physical inspection by the Township or its authorized agent upon the effective date of this Ordinance. Periodic inspections may be performed to determine whether or not the system is operating properly. These inspections may occur at different months of the year and will include the inspection of the septic tank, aerobic tanks, disposal field, distribution box and any other components of the systems. When warranted by a visual inspection or otherwise, physical inspections may include the sampling of soils in and around the disposal field, the sampling of surface water, on or adjacent to the property, and the sampling of ground water from active or inactive wells used for potable water supply or from monitoring wells in and around disposal fields or other sewage facilities. When further testing indicates a potential malfunction, the Township may undertake such actions as provided in Section 16 of this Ordinance.
- 11.2 Frequency – The Township may increase the frequency of inspection: a) if the system is presently malfunctioning, b) if a regular inspection reveals a malfunctioning system, c) if the system has malfunctioned in the past, d) if frequent tank pump out is required, e) if the nature of use will significantly increase the load on the system periodically, f) if the number of people using the system increases, and g) for other good cause shown.

- 11.3 Malfunction Defined – The sewage facilities or alternative system is malfunctioning when it causes pollution to the ground or surface waters, contamination of private or public drinking water supplies, nuisance problems, or a hazard to public health. Indications of malfunctioning systems are evident when, but not limited to, foul odors, lush grass growing over the system, backup of waste water in the attached buildings, soggy ground over the system, surfacing sewage effluent flowing over the ground and occurring at any time of the year.

SECTION 12 Reserved

SECTION 13 Maintenance and Flow Metering Requirements

- 13.1 Maintenance – If the Township determines that the existing or anticipated sewage flow is in excess of the capabilities of the sewage system, or that the system is malfunctioning, or for other good cause, the Township may require the owner of the system to pump the septic tank, or perform other maintenance activities, at certain intervals specified by the Township.
- 13.2 Garbage Disposal – The use of garbage disposals produce flow characteristics which generally cause the malfunctioning of on-lot sewage disposal systems. Therefore, the Township may require the removal of such devices if an inspection concludes that the sewage facility is malfunctioning. The Township may also require other maintenance activities such as cleaning and unclogging the pipelines within the system and/or the cleaning of the distribution boxes or mechanical equipment. When a system is found to require maintenance activity, the owner shall complete the recent maintenance activity as prescribed by the Township within thirty (30) days of notification by the Township.
- 13.3 Monitoring of Water Usage – To assist the evaluation of sewage facilities, the Township may require the owner to monitor water consumption through the use of a calibrated and sealed metering device. Water consumption shall be recorded and forwarded to the Township at a frequency determined by the Township.
- 13.4 Compliance – If the owner fails to comply with the order of the Township, its authorized agent, or a private party under contract to the Township, the Township may undertake the required activity and assess the owner for all costs incurred.

## SECTION 14 Proof Of Compliance

- 14.1 General – If the Township requires a system to be pumped out pursuant to Section 13 of this Ordinance, the Township, its authorized agent or private sewage waste hauler, whichever provides the services, shall provide to the owner of the system a signed receipt containing the following information which is reasonably available:
- a. Date of pumping
  - b. Name and address of system owner
  - c. Address of tank location if different than owners
  - d. Description and diagram of location of tank including location of any markers, risers, and their access hatches
  - e. Size of tank
  - f. Age of system (where applicable)
  - g. Last date of pumpout
  - h. List of any maintenance performed
  - i. Any indication of system malfunctioning observed
  - j. Amount of septage or other solid or semi-solid material removed
  - k. Cost of pumping service
  - l. Waste hauler's state license number permitting him to collect and haul septage in the Commonwealth of Pennsylvania
  - m. Disposition site of septage
- 14.2 Submittal to the Township – The receipt shall be signed by the system owner certifying to the best of his knowledge that the septage does not contain any of the substances listed in Section 15 of this Ordinance. The receipt shall be submitted to the township to serve as proof of compliance with the Township's requirement to pump out the system. Copies of this receipt shall be retained by the owner, and a copy shall be forwarded to the Township within thirty (30) days from the date of service.

## SECTION 15 Operation

- 15.1 General – The Township may make available to all existing and new residents a copy of an abstract of the pertinent information and regulations as outlined by this Ordinance. Appropriate literature and publications discussing the care and maintenance of septic tanks, waterless toilets and other subsurface waste disposal systems may be made available to those residents who utilize such systems to the knowledge of the Township. Residents shall be encouraged to minimize water use and to install water saving devices in order to increase the efficiency and promote the long life of on-lot systems. Where inspections performed in accordance with Section 11 of this Ordinance reveal excess effluent flow to an on-lot disposal system, water conservation measures shall be implemented as directed by the Township or its SEO. The following criteria shall be

considered as the maximum allowable water usage limits where a home is to be considered as utilizing water conservation practices:

- a. Flow control faucet aerators (2 gallons per minute)
- b. Low flush toilets (3.5 gallons per flush)
- c. Flow limiting shower heads (2.5 gallons per minute)

15.2 Permitted and Prohibited Discharges – Only sewage and normal domestic waste not in excess of the designed capacity of the system shall be discharged into any sewage facility. Toxic or hazardous substances or chemicals including, but not limited to pesticides, disinfectants, acids, paint, paint thinners, herbicides, and solvents shall not be discharges into any system.

## SECTION 16 Right of Entry

16.1 General – Employees and authorized agents/personnel of the Township shall, upon presentation of proper credentials and identification be permitted to enter all properties for the purpose of inspection, observation, sampling, maintenance or rehabilitation of sewage facilities or other alternative systems in accordance with the provisions of this Ordinance.

16.2 Emergency Procedure – In the event of a situation requiring immediate action which threatens the health or safety of the residents of Penn Township, the right of entry shall include the right to excavate any part of the property to inspect, maintain, or alter any component of any sewage facilities and alternative systems, or to sample soils, water or septage. Upon completion of the activity requiring excavating, the Township or its authorized agent shall return the land to its former condition as soon as possible provided no further maintenance in required.

16.3 Entry Procedure – The Township or its authorized agents shall provide 72 hours in advance by certified mail, a written notice to the owner of the sewage facilities and alternate systems prior to entry onto the property for regularly scheduled inspections or maintenance. Upon arrival, the Township agent shall present identification and request that the owner, manager, or occupant legally in control of the property sign a release granting the inspection. The inspection shall be completed in a courteous and timely manner, and the signatory of the release shall be given a copy of the inspection report.

16.4 Denial of Entry – In the event that a release to inspect the property is denied, the following steps shall be taken:

- a. The matter will be officially referred to the Board of Supervisors for action.

- b. The Board may schedule a review at the next scheduled meeting of the Board of Supervisors, or, if the situation threatens the health or safety of the residents of Penn Township, the Board may commence a procedure to obtain a search warrant from the District Justice.
- c. Upon receipt of a search warrant to inspect the property, the authorized agent of the Township shall be accompanied by an officer of the State Police, and the inspection shall be completed in accordance with subsection 16.3.
- d. The provisions of this subsection for obtaining a search warrant may be waived only when the Township Board of Supervisors and its authorized agents suspect the sewage facilities or alternate system in malfunctioning or being operated improperly such that the situation poses an immediate and substantial safety, water pollution, or health hazard.

16.5 Remedial Measures The Township may require the correction or alteration of a system in the event that the inspection reveals a malfunction or inadequacy. The SEO shall provide a written notification requiring specific remedial action to be completed within reasonable period of time as is deemed necessary according to the severity of the malfunction or inadequacy.

#### SECTION 17 Change in Ownership or Use, Structural Alteration

- 17.1 General – Any person, partnership, corporation or subdivision which obtains ownership of any building services by a sewage facility or alternative system subsequent to the enactment of this Ordinance shall automatically become subject to the provisions of this Ordinance upon transfer of said property.
- 17.2 Alteration – Where a change of use or structural alteration requires expansion of an existing sewage facility, such expansion shall be approved by the SEO in accordance with the provisions of this Ordinance.

#### SECTION 18 Administration

- 18.1 General – This Sewage Facilities Management Ordinance shall be administered under the jurisdiction of Penn Township and its employees or agents, as follows:
  - a. Personnel – The Township may employ directly or by contract; a director, technicians, septage haulers, inspectors, inspectors, an accountant, a solicitor, or other office personnel as needed to enforce this Ordinance. The Township may contract with private parties or public agencies to conduct inspections, maintenance,

rehabilitation and other activities required by this ordinance. Such persons shall be considered the authorized agent/personnel of the Township.

- b. Records – All permits, records, reports, files and other written material relating to the installation, operation, maintenance, and malfunction of sewage facilities or alternate systems in the Township in the possession of the SEO or other public agencies shall become the property of the Township. Records in the possession of the Township shall be available for public inspection between the regular business hours at the Township office.

#### SECTION 19 Penalties

- 19.1 Procedure – For each violation of the provisions of this Ordinance, the owner, general agent or contractor performing construction upon a lot where such violation shall exist, and/or the owner, general agent, lessee, or contractor any other person who commits, takes part in, or assists in any such violation shall be liable on conviction thereof in a summary proceeding to pay a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600) for each offense, together with the costs of prosecution. Upon receiving notice of violation, each day during which the violation remains uncorrected shall be considered a separate offense. In default of payment of such fine, such person shall be liable to imprisonment for a period not exceeding thirty (30) days.

#### SECTION 20 Remedies

- 20.1 Procedure – In case any improvement is constructed or any lot maintained in violation of this Ordinance, in addition to other remedies provided by law, any appropriate action or proceedings in equity may be instituted or taken to prevent such lawful construction of improvements or such unlawful maintenance of such lot.

#### SECTION 21 Declaration of Nuisance

- 21.1 Intent – Construction of improvements on the Replacement Location renders the Replacement Location useless and therefore jeopardizes the water quality and other natural resources of the Township. This harm to the water quality and other natural resources of the Township is a danger to the health, safety and welfare of the residents of the Township and is hereby declared to be a nuisance and abatable as such in accordance with the provisions of the Second Class Township Code, Act of May 1, 1933, P.L. 103, Section 702 cl.XII and LI, as amended, 53 P.S. Sections 65712 and 65751.

- 21.2 Abatement Procedure – The actual expenses of the Township in the abatement of such nuisances plus an additional twenty-five percent (25%) of such expenses shall be filed as a municipal claim against the property.

## SECTION 22 Waiver of Liability

- 22.1 General – Although this Ordinance is intended to provide guidelines for sewage facilities management within Penn Township, including provisions for design, installation, operation, and maintenance of an on-lot sewage system, nothing herein shall be interpreted as a guarantee or warranty to applicants or other Township residents that systems installed under the provisions of this Ordinance will function as intended. The Township assumes no responsibility for the location and/or maintenance of on-lot sewage systems or alternative sewage systems within the Township.

## SECTION 23 Severability

- 23.1 Legal Intent – The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect the remaining sections, sentences, clauses, parts, or provisions of this Ordinance. It is hereby declared to be the intent of the Board that such Ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

## SECTION 24 Construction and Abrogation

- 24.1 Legal Effect – Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued, or any cause or causes of action existing prior to the enactment of this Ordinance. To the extent that the regulations adopted herein are inconsistent with other applicable laws, and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania, the regulations adopted herein shall be subject to State laws, rules and regulations, only to the extent of the inconsistency. Where the provisions of this Ordinance are less permissive than said State laws, rules and regulations, the provisions of this Section shall apply.

## SECTION 25 Repealer

This Ordinance repeals in its entirety Ordinance Number 170 which was passed by the Penn Township Board of Supervisors on February 2, 1970. This Ordinance also repeals, in its entirety, Ordinance Number 1987-1 which was passed by the Penn Township Board of Supervisors on July 7, 1987.

SECTION 26 Effective Date

This Ordinance shall take effect and be in force five (5) days after its enactment by the Board.

DULY ORDAINED AND ENACTED THIS 13<sup>TH</sup> DAY OF OCTOBER, 1988  
BY THE BOARD OF SUPERVISORS OF PENN TOWNSHIP, CUMBERLAND  
COUNTY, PENNSYLVANIA, IN LAWFUL SESSION DULY ASSEMBLED.