

AN ORDINANCE OF THE TOWNSHIP OF DISTRICT, BERKS COUNTY, PENNSYLVANIA, REGULATING THE INSTALLATION OR REPAIR OF AN INDIVIDUAL OR COMMUNITY SEWER SYSTEM; PROVIDING FOR PERMITS AND IMPOSING PENALTIES FOR VIOLATIONS.

WHEREAS, Article I, Section 27 of the Constitution of the Commonwealth of Pennsylvania provides as follows:

"The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all of the people, including generations yet to come. As Trustee for these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people."

WHEREAS, in recognition of the quality of the soil and water conditions present in the Township, and in recognition of the present uses and the anticipated development of the land and other natural resources in the Township, and in recognition of the fact that onsite disposal of sewage, if not controlled and properly regulated, may adversely affect the quality of water, this Ordinance is being enacted to protect the Constitutional right of the individuals residing within the Township and the public health, safety and welfare.

SECTION 1 - This Ordinance shall be commonly known and may be cited as the "District Township Sewage Facility Ordinance."

SECTION 2 - Definitions. The definitions of the Pennsylvania Sewage Facility's Act, Act of January 24, 1966, P.L. (1965) 1535, (35 P.S. Section 750.1, et seq.) and the following definitions shall specifically apply to the Ordinance:

Alternative subsurface absorption area - The area of an alternative system in which the liquid from a treatment tank seeps into the soil. The terms includes the following:

(a) Elevated sand mound - An area mounded above the surface using a sandy fill material under the gravel bed and open-jointed or perforated piping.

(b) Oversize area - A larger absorption area than provided for in the Regulations of the Department of Environmental Resources for use on slowly permeable soil when allowed or required by the Sewage Enforcement Officer.

(c) Sand lined trenches and bed - An area in which open-jointed or perforated piping is laid over a sandy fill material in covered trenches or excavations.

(d) Shallow placement - An area in which open-jointed or perforated piping is laid near the ground surface requiring the addition of soil fill to provide a covering over the system.

Alternative system - An individual or community sewage system employing a treatment tank and alternative subsurface absorption area.

Community sewage system - A system, whether publicly or privately owned, for the collection of sewage from two or more lots or two or more dwelling units, and the treatment and disposal of the sewage into the soil on one or more of the lots or at another site, such as a stream discharge, if permitted by the Sewage Enforcement Officer.

Conventional subsurface absorption area - The area of an individual or community sewage system, other than an alternative system, in which the liquid from a treatment tank seeps into the soil. The term includes the following:

(a) Tile field - An area in which open-jointed or perforated piping is placed in gravel trenches and then covered with earth.

(b) Seepage bed - An area where open-jointed or perforated piping is placed in a gravel bed and then covered with earth.

Department - The Department of Environmental Resources of the Commonwealth.

Holding tank - An individual sewer system consisting of a watertight receptacle which receives sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. Holding tanks include, but are not limited to, the following:

Chemical toilet - A toilet using chemicals that discharge to a holding tank.

Retention tank - A holding tank to which sewage is conveyed by a water carrying system.

Privy - A holding tank designed to receive sewage where water under pressure is not available.

Holding tank cleaner - A municipality, county, municipal authority or person, including a holding tank owner, who removes the contents of a holding tank for purposes of disposing of the sewage at another site.

Individual sewage system - A system for the collection of sewage from a single lot or dwelling unit and the treatment and disposal of the sewage into the soil of that lot or at another site.

Industrial waste - A liquid, gaseous, radioactive, solid or other substance, not sewage, resulting from manufacturing or industry, or from an establishment as defined in this section, and mine drainage, silt, coal mine solids, rock, debris, dirt and clay from coal mines, coal collieries, breakers or other coal processing operations. The term includes substances whether or not generally characterized as waste.

Limiting zone - A soil horizon in the soil profile or underlying stratum which includes indication of seasonal water table, including perched water table, determined by direct observation or by observation of soil mottling, or rock formations, and impervious strata which includes rock which is so slowly permeable that it prevents downward passage of effluent, rock with open joints or solution channels, and masses of shattered rock fragments with insufficient fine soil to fill the voids between the coarse fragments.

Person - Any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, federal government or agency, state institution and agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Sewage - A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and 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 water supply or for recreation or which constitutes pollution under The Clean Streams Law (35 P.S. Sections 691.1 et seq.).

Sewage Enforcement Officer - The officer of District Township who is appointed by the Board of Supervisors and who, by authority of the Supervisors and under their direction and control, may issue and review permit applications and conduct investigations and inspections as are necessary to implement the Pennsylvania Sewage Facilities Act and the Rules and Regulations adopted thereunder, and the provisions of this Ordinance.

Soil horizon - A layer of soil approximately parallel to the soil surface with characteristics produced by soil-forming processes.

Soil profile - The collection of the genetic horizons, the natural organic layers on the surface and the parent material or other layers beneath the solum as exposed in a cut or section.

Subdivision - The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines. The enumerating of lots includes as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

Supervisors - The Board of Supervisors of District Township.

Treatment tank - A water-tight tank designed to retain sewage long enough for satisfactory bacterial decomposition of the solids to take place. It includes the following:

(a) **Septic tank** - A water-tight receptacle which receives sewage and is designed and constructed to provide for sludge storage and sludge decomposition and to separate solids from the liquid through a period of detention before allowing the liquid to be discharged to a subsurface absorption area.

(b) **Aerobic sewage treatment tank** - A unit incorporating, as a part of the treatment process, a means of introducing air and oxygen into the sewage held in a storage tank so as to provide aerobic biochemical stabilization during a detention period prior to its discharge to a subsurface absorption area.

Township - The Township of District, Berks County, Pennsylvania

Waters of the Commonwealth - Rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and other bodies or channels of conveyances of surface and underground water, or their parts, whether natural or artificial, within or on the boundaries of this Commonwealth.

Wetlands - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes but is not limited to wetland areas listed in the State Water Plan, the United States Forest Service Wetlands Inventory of Pennsylvania, the Pennsylvania Coastal Zone Management Plan and a wetland area designated by a river basin commission. The term "wetlands" shall include any definition or amendment of a definition adopted by the Pennsylvania Department of Environmental Resources from time to time.

SECTION 3 - Permit Required.

(a) No person shall install, construct, or alter an individual sewer system or community sewer system, nor shall any person construct any building or structure for

which an individual sewage system or community sewage system is to be installed, nor shall any person occupy the same, without first obtaining a permit indicating that the site and the plans and the specifications of such system are in compliance with the provisions of this Ordinance.

(b) No person shall install, construct or alter, and no holding tank cleaner shall service a holding tank sewer system within District Township.

SECTION 4 - Application for Permits.

(a) An application for a permit to install an individual or community sewer system shall be made by the owner of the property, an equitable owner of the property, or a person who is an authorized agent of the owner or the equitable owner, the application to be made to the District Township Sewage Enforcement Officer on a form provided by the Township. For the purposes of this section, an authorized agent shall have written permission to apply for a permit, signed by the owner or the equitable owner of the land for which the application is made.

(b) The Sewage Enforcement Officer may require additional information to insure that the system or the site will comply with the requirements of this Ordinance, the Act and the Regulations.

SECTION 5 - Issuance of Permits.

(a) No permit shall be issued until the Sewage Enforcement Officer has determined that the application is complete and meets the requirements of this Ordinance, the Act and the Regulations.

(b) The Sewage Enforcement Officer shall issue or deny a permit in writing within seven days after receiving a completed application as aforesaid.

(c) If the Sewage Enforcement Officer determines that an application is incomplete or is unable to verify the information contained in the application, the Sewage Enforcement Officer shall notify the applicant, in writing, within seven days of receipt of the application. The notice shall include the reasons why the application is not acceptable. When the required information is received, the Sewage Enforcement Officer shall act upon the application within 15 days.

(d) The failure of the Sewage Enforcement Officer to act on the application does not constitute permit approval. If the Sewage Enforcement Officer does not act upon an

application within the time period set forth above, the permit shall be deemed denied and the applicant may request a hearing before the Board of Supervisors.

SECTION 6 - Denial of Permits.

(a) Notice of denial of a permit shall be in writing and addressed to the applicant at the address shown upon the application for permit and shall include the reasons for denial and advise the applicant of the right to a hearing before the Board of Supervisors of District Township.

(b) Any person aggrieved by the action of the Sewage Enforcement Officer in the issuance or denial of a permit, or any action of the Sewage Enforcement Officer taken pursuant to Section 7 of the Sewage Facilities Act, other than a permit revocation, may within 30 days of receipt of the notice of the action, appeal the action by written request for a hearing before the Board of Supervisors of District Township.

SECTION 7 - Expiration and Transfer of Permits.

(a) A permit shall expire if construction or installation of an individual or community sewer system and the building or structure for which the system is to be installed is not begun within two years after permit issuance. A new permit shall be obtained prior to the beginning of construction or installation. When issuing a new permit, the Sewage Enforcement Officer may require information necessary to confirm the continued validity of the original application.

(b) A permit may be transferred from the permit holder to a new property owner if the said transfer is incidental to a transfer of ownership of the property. Transfers are not valid until approved in writing by the Sewage Enforcement Officer, and until new property owners receive a copy of the application under which a permit was issued.

SECTION 8 - Revocation of Permits.

(a) A permit shall be revoked by the Sewage Enforcement Officer at any time for one or more of the following reasons:

(1) When a change has occurred in the physical conditions of land which will materially affect the operation of an individual or community sewage system covered by a permit issued by District Township.

(2) When one or more of the tests which are material to the issuance of the permit have not been properly conducted.

(3) When information material to the issuance of the permit has been falsified.

(4) When the original decision of the Sewage Enforcement Officer otherwise failed to conform with the Sewage Facilities Act and this Ordinance.

(b) Notice of revocation of a permit shall be in writing and addressed to the applicant and the land owner and it shall include the reasons for the revocation, shall include notice of the applicant's opportunity to request a hearing before the Board of Supervisors within ten days of the receipt of the notice of revocation, and shall include notice that no further construction or use of either the sewage system or the structure or building for which it was intended may take place until a new permit is issued or the revocation is reversed by the Board of Supervisors.

(c) If a permit holder fails to file a written request for a hearing within ten days after receipt of the notice of revocation, the revocation shall be final.

SECTION 9 - Review of Permit denials and revocations.

(a) The Board of Supervisors shall hold a hearing with regard to a permit denial or revocation within 30 days after receipt of a written request for a hearing. The request for a hearing shall state concisely all reasons for the appeal.

(b) Hearings in accordance with this section and any subsequent appeal to the Court shall be conducted in accordance with Pennsylvania Local Agency Law (2 Pa. C.S.A. Section 551 et seq.)

SECTION 10 - Inspection.

(a) No part of any individual or community sewage system may be covered until a final inspection is conducted and a final written approval is given by the Sewage Enforcement Officer.

(b) Every individual or community sewer system shall be inspected, approved and covered before the structure is occupied by any person.

(c) The applicant shall notify the Sewage Enforcement Officer when the installation of the sewage system is complete and ready for inspection.

(d) The applicant may cover the individual or community sewage system upon receipt of a written approval by the Sewage Enforcement Officer. If 72 hours have passed, except Sundays and holidays, since the Sewage Enforcement Officer received the notification of completion as required in the previous subsection, the applicant may

cover the sewage system unless final written approval to cover has been refused by the Sewage Enforcement Officer.

(e) The Sewage Enforcement Officer may inspect and make tests before, during or after construction, and may by order, require a sewage system to be uncovered at the expense of the applicant, if the sewage system has been covered contrary to this section.

(f) When the inspection reveals that the installation of the sewage system is contrary to the permit application or in violation of this section, or any provision of this Ordinance or the Sewage Facilities Act and the Regulations adopted thereunder, the permit shall be revoked.

SECTION 11 - Powers and duties of the Sewage Enforcement Officer.

(a) Subject to the authority of, and under the direction and control of the Supervisors, the Sewage Enforcement Officer:

(1) shall have the power and duty to issue, deny and revoke permits and to take all other actions necessary to administer and enforce this Ordinance and Section 7 of the Sewage Facilities Act, subject only to the applicant's right to appeal to the Supervisors as set forth above.

(2) shall not accept payment, money or anything of value from any person other than District Township for services performed in conjunction with the administration of this Ordinance, nor shall any person give any money, payment or thing of value to a Sewage Enforcement Officer.

(3) shall only accept application or other processing fees for District Township under the following conditions:

(i) The fee is in the amount prescribed by District Township.

(ii) The fee is rendered in accordance with District Township's adopted receipt system.

(iii) The Sewage Enforcement Officer has received written direction from District Township to accept these fees on behalf of the Township.

(4) may advise an applicant regarding available options for the planning, design and construction of an individual or community sewage system, but may not select the final system design.

(5) may not plan, design, construct, sell or install, directly or indirectly, an individual or community system within the geographic boundaries of District Township.

(6) may not conduct a test, issue a permit, participate in the official processing of an application or official review of a planning module for an individual or community sewer system in which the Sewage Enforcement Officer, a relative of the Sewage Enforcement Officer, a business associate of the Sewage Enforcement Officer or an employer of the Sewage Enforcement Officer, other than District Township, has a financial interest. For purposes of this subsection, a financial interest includes full or partial ownership, agreement or option to purchase, leasehold, mortgage or other financial or proprietary interest in; or serving as an officer, director, employee, contractor, consultant or another legal or fiduciary representative of a corporation, partnership, joint venture or other legal entity which has a property interest in any of the following:

(i) One or more lots to be served by the system or systems.

(ii) The development or sale of the lots to be served by the system or systems.

(iii) A contract, either written or oral, to perform a service in the development of one or more of the lots to be served by the system. The service may be before or after the fact of development and may include professional as well as other services.

(v) A contract, either written or oral, to sell, plan, design, construct, install or provide materials or component parts for the system.

(7) shall personally conduct or personally observe all tests used to determine the suitability of a site for an individual or community sewage system prior to the issuing of a permit.

(8) shall confirm that the application is complete and that the proposed system design is in compliance with the requirements of this Ordinance, the Sewage Facilities Act and the Regulations adopted thereunder prior to the issuing of a permit.

(9) shall give timely written notice to the applicant of approval, denial or revocation of a permit under this Ordinance.

(10) shall advise the Township of a violation of the act or of this Ordinance which is known to the Sewage Enforcement Officer and which occurs within District Township.

(11) shall advise, assist and cooperate with District Township in meeting its responsibility to restrain violations of this Ordinance, the Sewage Facilities Act and

Regulations adopted thereunder and shall independently take action within the scope of the Sewage Enforcement Officer's authority necessary to restrain or correct the violation.

(12) shall take all actions required by the terms of this Ordinance, the Sewage Facilities Act and the Regulations adopted thereunder, shall complete all paperwork and shall otherwise conduct his duties in a timely fashion and in accordance with all requirements of any law or Ordinance.

SECTION 12 - Fees and Charges. The Board of Supervisors of District Township shall, at least once per year, by Resolution, set the fees, salaries and other charges to be paid to the Sewage Enforcement Officer, and shall, at least once per year, enter into a written contract with the Sewage Enforcement Officer and, based upon the terms thereof, establish the amount of any permit fee to be charged to an applicant.

SECTION 13 - Site Investigation.

(a) Soil tests to determine the presence of a limiting zone and the capacity of the soil to permit the passage of water shall be conducted or observed personally by the Sewage Enforcement Officer prior to the issuance of any permit for an individual or community sewer system within District Township.

(1) On all locations where the installation of an absorption area is proposed, at least one excavation for examination of the soil profile shall be provided. If, however, a limiting zone is found within 72 inches of the surface of the soil, then a second excavation shall be made on the opposite side of and within ten feet of the area in which the absorption area is proposed.

(2) All excavation shall be to a depth of ^{84"}~~eight~~ feet, or the top of a limiting zone if one is encountered.
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(3) All soil profile excavations shall be conducted within ten feet of the proposed absorption area and a description of the soil profile shall be recorded on the forms required by the Pennsylvania Department of Environmental Resources.

(4) Where soil has been removed by grading or excavation, the surface of the undisturbed soil shall be considered to be the point from which the depth to the limiting zone is measured.

(b) When the examination of the soil profile reveals a limiting zone within twenty (20) inches of the surface of the soil, percolation tests shall not be conducted and a permit shall be denied.

(c) Where examination of the soil profile reveals the absence of any limiting zone within twenty (20) inches of the surface of the soil, percolations tests shall be performed within the proposed absorption area. The average percolation rate shall be in accordance with the Department of Environmental Resources Regulations.

(d) The location of **all** soil profile excavations and the location of **all** percolations tests conducted on any lot shall be indicated on a plot plan or other diagram attached to the application for permit and shall include a description of the soil profile, the depth to and description of any limiting zone and the percolation tests results; copies of all of which will be delivered by the Sewage Enforcement Officer to the Township for the Township files.

SECTION 14 - General Requirements.

(a) No person may install, and no Sewage Enforcement Officer may issue a permit for or approve any individual or community sewer system which violates any provision of this Ordinance, the Sewage Facilities Act or the Regulations adopted thereunder.

(b) All liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment tank. No sewage system may discharge untreated or partially treated sewage to the surface of the ground or into the waters of this Commonwealth unless pursuant to a specific permit issued by the Department of Environmental Resources.

(c) No water from roof gutters, foundation drainage or surface water runoff may be discharged into a treatment tank; nor may said discharges be permitted to flow over the surface of an absorption area.

(d) A proposed absorption area having the following characteristics shall be considered **unsuitable** for the installation of an on-site system and a permit shall be denied when:

(1) The **slope** of the surface of the proposed absorption area is greater than **15 percent**.

(2) The area is identified by Federal Flood Insurance mapping as a floodway.

(3) Completed flood mapping is not available, but the soil has been mapped or identified as floodplain soil, alluvial soil, or a floodprone area.

(4) The area is within **fifty feet (50')** of any stream, lake, surface water or **wetlands**.

(5) One or more rock outcrop exists within a proposed absorption area.

(6) In areas underlain by limestone, depressions left by earlier sinkholes exist either in whole or in part within the proposed absorption area.

(7) Any portion of the absorption area of an ~~elevated sand mound~~ or community sewer system is within ~~fifty (50)~~ feet of any property boundary, regardless of ground slope.

(e) Absorption areas may not be placed in or on fill unless the fill has remained in place for a minimum of four years to allow restoration of natural permeability. The fill shall be composed of clean mineral soil and shall meet the provisions of the Department of Environmental Resources Regulations.

(f) All individual or community systems must comply with all requirements of this Ordinance in addition to the requirements of the Pennsylvania Sewage Facilities Act and Regulations adopted thereunder, and in addition, must be of a design and construction acceptable to the Township Sewage Enforcement Officer.

(g) ~~For every~~ individual or community sewer system to be established in District Township, there must be designated and available a ~~secondary or alternate site~~ available for the absorption area on the same lot, irrespective of the size of the lot, for use in the event of a failure of the initial absorption area. The ~~secondary site must be fully tested~~ (soil probe and percolation test) and approved by the Sewage Enforcement Officer.

(h) A community sewer system serving from two through nine residential units, (i.e. homes, mobile or motor homes, apartments, etc.), must incorporate an aerobic sewage treatment tank, or other type of pre-treatment of sewage effluent, to be inspected, accepted and specifically approved by the Sewage Enforcement Officer.

(i) A community sewer system serving ten or more residential units must incorporate a full treatment (package) plant utilizing primary and secondary treatment acceptable to the Sewage Enforcement Officer, with fully treated wastewater to be discharged to a stream or eventual destination other than an absorption area, in accordance with properly issued NPDES or other necessary permits. Said plant must be inspected, accepted and specifically approved by the Sewage Enforcement Officer.

SECTION 15 - Any person who shall violate any provisions of this Ordinance or who shall violate the provisions of the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535 as amended) shall be liable for the payment of a fine and penalty in an amount not exceeding One Thousand Dollars (\$1,000.00) or in default of

such payment and upon judgment or summary conviction with respect to said default undergo sentencing and commitment to the township lockup for a period not exceeding five (5) days, or to the county jail, or workhouse for a period not exceeding thirty (30) days.

SECTION 16 - A violation of this Ordinance shall constitute a nuisance and shall be abated in the manner provided by law.

SECTION 17 - The Board of Supervisors of District Township may, by resolution, adopt and amend from time to time a schedule of fees to be paid to District Township for the administration and enforcement of this Ordinance.

SECTION 18 - If any section, paragraph, clause or provision of this Ordinance is held invalid severability thereof shall not effect any of the other provisions of this Ordinance.

SECTION 19 - All sewer systems in District Township shall be subject to this Ordinance, other District Township ordinances and state statutes and regulations all of which will be construed so that, in case of inconsistencies, the more stringent provisions shall apply.

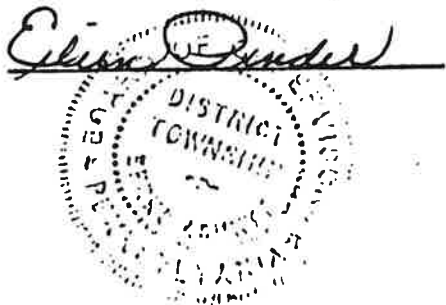
SECTION 20 - This Ordinance shall be effective five (5) days from the day of adoption.

ENACTED and ORDAINED this 14th day of FEBRUARY, 1989.

DISTRICT TOWNSHIP

BOARD OF SUPERVISORS

ATTEST:



Eugene Brubaker (SEAL)

Edith W. [unclear] (SEAL)

Ernest J. Hoag (SEAL)