

ORDINANCE NO. 28

AN ORDINANCE GOVERNING MUNICIPAL MANAGEMENT
OF ON-LOT SUBSURFACE SEWAGE DISPOSAL FACILITIES
IN THE TOWNSHIP OF BERWICK, ADAMS COUNTY, PENNSYLVANIA

BE IT ORDAINED by the Board of Supervisors of Berwick Township, Adams County, Pennsylvania, and it is hereby enacted and ordained by authority of the same as follows:

Section 1. Short Title; Introduction; Purpose

A. This ordinance shall be known and may be cited as "A Sewage Management Program for Berwick Township.

B. As mandated by municipal codes, the Clean Streams Law (35 P.S. Sec. 691.1 to 691.1001), and the Pennsylvania Sewage Facilities Act seq., known as Act 537), municipalities have the power and the duty to provide for adequate sewage treatment facilities and for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage. The Official Sewage Facilities Plan for Berwick Township indicates that it is necessary to formulate and implement a sewage management program to effectively prevent and abate water pollution and hazards to the public health caused by improper treatment and disposal of sewage.

C. The purpose of this ordinance is to provide for the inspection, maintenance and rehabilitation of on-lot sewage disposal systems; to further permit the municipality to intervene in situations which are public nuisances or hazards to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

Section 2. For the purpose of this Ordinance, the following terms shall have the meaning indicated:

A. "Act 537": The Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. Sec.750.1 et seq. known as the Pennsylvania Sewage Facilities Act.

B. "Authorized Agent": A certified sewage enforcement officer, code enforcement officer, professional engineer, plumbing inspector, municipal secretary or any other qualified or licenses person who is delegated by the unicipality to function within specified limits as the agent of the municipality to carry out the provisions of this ordinance.

C. "Board": The Board of Supervisors, Berwick Township, Adams County, Pennsylvania.

D. "Codes Enforcement Officer (C.E.O.)": An individual employed by the municipality to administer and enforce other ordinances in the municipality.

E. "Community Sewage System": Any system, whether publicly or privately owned, for the collection of sewage from two or more lots, and the treatment and/or disposal of the sewage on one or more lots or at any other site.

F. "Department": The Department of Environmental Resources of the Commonwealth of Pennsylvania (D.E.R.).

G. "Individual Sewage System": A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into any waters of this Commonwealth.

H. "Malfunction": The condition which occurs when as on-lot sewage disposal system discharges sewage onto the surface of the ground, into ground waters of this Commonwealth, into surface waters of this Commonwealth, backs up into the building connected to the system or otherwise causes a nuisance hazard to the public health or pollution of ground or surface water or contamination of public or private drinking water wells. Systems shall be considered to be malfunctioning if any of the conditions noted above occur for any length of time during any period of the year.

I. "Municipality": Berwick Township, Adams County, Pennsylvania.

J. "Official Sewage Facilities Plan": A comprehensive plan for the provision of adequate sewage disposal systems, adopted by the municipality and approved by the Pennsylvania Department of Environmental Resources, as described in and required by the Pennsylvania Sewage Facilities Act.

K. "On-lot Sewage Disposal System": Any system for disposal of sewage involving pretreatment and subsequent disposal of the clarified sewage into the soil for final treatment and disposal; including both individual sewage systems and community sewage systems.

L. "Person": Any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term person shall include the members of an association, partnership or firm and the officers of any local agency or

municipal, public or private corporation for profit or not for profit.

M. "Rehabilitation": Work done to modify, alter, repair, enlarge or replace an existing on-lot sewage disposal system.

N. "Replacement Area": A portion of a lot or a developed property, sized to allow the installation of a subsurface sewage disposal area, which is reserved to allow that installation in the event of the malfunction of the originally installed on-lot sewage disposal system.

O. "Sewage": Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any 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 Act of June 22, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law", as amended.

P. "Sewage Enforcement Officer (S.E.O.)": the official of the local agency who issues and reviews permit applications and conducts such investigations and inspection as are necessary to implement Act 537 and the rules and regulations promulgated thereunder.

Q. "Sewage Management District": Any area or areas of a municipality for which a sewage management program is recommended by the municipality's adopted Act 537 Official Sewage Facilities Plan. A sewage management district may encompass the entire municipality.

R. "Sewage Management Program": A comprehensive set of legal and administrative requirements encompassing the requirements of this ordinance and other administrative requirements adopted by the municipality to effectively enforce and administer the ordinance.

S. "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 shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

Section 3. Applicability

A. From the effective date of this ordinance, its provisions shall apply in any portion of the municipality identified in the municipality's Act 537 Official Sewage

Facilities Plan as a sewage management district. Within such an area or areas, the provisions of this ordinance shall apply to all persons owning any property serviced by an on-lot sewage disposal system and to all persons installing or rehabilitating on-lot sewage disposal systems. If necessary, the entire municipality may be identified as a sewage management district.

Section 4. Permit Requirements

A. No person shall install, construct or request bid proposals for construction or alter an individual sewage system or community sewage system or construct or request bid proposals for construction or install or occupy any building or structure for which an individual sewage system or community sewage system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with the provisions of the Pennsylvania Sewage Facilities Act and the standards adopted pursuant to that Act.

B. No system or structure designed to provide individual or community sewage disposal shall be covered from view until approval to cover the same has been given by the municipal sewage enforcement officer. If 72 hours have elapsed, excepting Sundays and holidays, since the sewage enforcement officer issuing the permit received notification of completion of construction, the applicant may cover said system or structure unless permission has been specifically refused by the sewage enforcement officer.

C. The municipality may require applicants for sewage permits to notify the municipality's certified sewage enforcement officer of the schedule for construction of the permitted on-lot sewage disposal system so that inspection(s) in addition to the final inspection required by Act 537 may be scheduled and performed by the municipality's certified sewage enforcement officer.

D. No building or occupancy permit shall be issued by the municipality or its codes enforcement officer for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from the municipality's certified sewage enforcement officer.

E. No building or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure, if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure, until the municipality's codes enforcement officer and the structure's owner receive from the municipality's sewage enforcement officer either a

- permit for alteration or replacement of the existing sewage disposal system or
- written notification that such a permit

will not be required. The certified sewage enforcement officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

F. Sewage permits may be issued only by a certified sewage enforcement officer employed by the municipality for that express purpose. The Department of Environment Resources shall be notified by the municipality as to the identity of their currently employed certified sewage enforcement officer.

Section 5. Replacement Areas

A. Any supplements or revisions to the municipality's Official Sewage Facilities Plan which are prepared pursuant to the applicable regulations of the Pennsylvania Department of Environmental Resources for subdivision or development of land for any purpose except a single family dwelling on an existing parcel of land within the township shall provide for the testing, identification and reservation of an area of each lot or developed property suitable for the installation of a replacement on-lot sewage disposal system. This requirement is in addition to the testing, identification and reservation of an area for the primary sewage disposal system.

B. No permit shall be issued for any proposed new on-lot sewage disposal system on any newly created or subdivided property in any sewage management district unless and until a replacement area is tested, identified and reserved.

Section 6. Inspections

A. Any on-lot sewage disposal system may be inspected by the municipality's authorized agent at any reasonable time as of the effective date of this ordinance.

B. The inspection may include a physical tour of the property, the taking of samples from surface water, wells, other ground water sources, the sampling of the contents of the sewage disposal system itself and/or the introduction of a traceable substance into the interior plumbing of the structure served to ascertain the path and ultimate Destination of wastewater generated in the structure.

C. The municipality's authorized agent shall have the right to enter upon land for the purposes of inspections described above.

D. An initial inspection shall be conducted by the municipality's authorized agent within one year of the effective date of this ordinance for the purpose of

determining the type and functional status of each sewage disposal system in the sewage management district. A written report shall be furnished to the owner of each property inspected and a copy of said report shall be maintained in the municipal records.

E. A schedule of routine inspections may be established by the municipality if necessary to assure the proper function of the systems in the sewage management district.

F. The municipality and its authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the municipality and its authorized agent shall take action to require the correction of the malfunction. If total correction is not technically or financially feasible in the opinion of the authorized agent and a representative of the Pennsylvania Department of Environmental Resources, then action by the property owner to mitigate the malfunction shall be required.

G. There may arise geographic areas within the municipality where numerous on-lot sewage disposal systems are malfunctioning. A resolution of these areawide problems may necessitate detailed planning and a municipally sponsored revision to that area's Act 537 Official Sewage Facilities Plan. When a DER authorized Official Sewage Facilities Plan Revision has been undertaken by the municipality, mandatory repair or replacement of individual malfunctioning sewage disposal systems within the study area may be delayed, at the discretion of the municipality, pending the outcome of the plan revision process. However, the municipality may compel immediate corrective action whenever a malfunction, as determined by municipal officials and the Pennsylvania DER, represents a serious public health or environmental threat.

Section 7. Operation

A. Only normal domestic wastes shall be discharged into any on-lot sewage disposal system. The following shall not be discharged into the system.

1. Industrial waste.
2. Automobile oil and other non-domestic oil.
3. Toxic or hazardous substances or chemicals, including but not limited to, pesticides, disinfectants, acids, paints, paint thinners, herbicides, gasoline and other solvents.
4. Clean surface or ground water, including water

from roof or cellar drains, springs, basement sump pumps and french drains.

Section 8. Maintenance

A. Any person owning a building served by an on-lot sewage disposal system which contains a septic tank shall have the septic tank pumped by a qualified pumper/hauler within six months of the effective date of this ordinance. Thereafter that person shall have the tank pumped at least once every three years. Receipts from the pumper/hauler shall be submitted to the municipality within the prescribed six months and three year required pumping periods.

B. The required pumping frequency may be increased at the discretion of the authorized agent if the septic tank is undersized, if solids buildup in the tank is above average, if the hydraulic load on the system increases significantly above average, if a garbage grinder is used in the building, if the system malfunctions for other good cause shown. If any person can prove that their system tank had been pumped within three years of the six month anniversary of the effective date of this ordinance, then the municipality may delay that person's initial required pumping to conform to the general three year frequency requirement.

C. Any person owning a property served by a septic tank shall submit, with each required pumping receipt, a written statement, from the pumper/hauler or from any other qualified individual acceptable to the municipality, that the baffles in the septic tank have been inspected and found to be in good working order. Any person whose septic tank baffles are determined to require repair or replacement shall first contact the municipality's certified sewage enforcement officer for approval of the necessary repair.

D. Any person owning a building served by an on-lot sewage disposal system which contains an aerobic treatment tank shall follow the operation and maintenance recommendations of the equipment manufacturer. A copy of the manufacturer's recommendations and a copy of the service agreement shall be submitted to the municipality within six months of the effective date of this ordinance. Thereafter, service receipts shall be submitted to the municipality at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for aerobic treatment tanks exceed those for those required for septic tanks.

E. Any person owning a building served by a cesspool or dry well shall have that system pumped according to the schedule prescribed for septic tanks. As an alternative to this scheduled pumping of the cesspool or dry well, the owner may secure a sewage permit from the certified sewage

enforcement officer for a septic tank to be installed preceding the cesspool or dry well. For a system consisting of a cesspool or dry well preceded by an approved septic tank, only the septic tank must be pumped at the prescribed interval.

F. The municipality may require additional maintenance activity as needed including, but not necessarily limited to, cleaning and unclogging of piping, servicing and the repair of mechanical equipment, leveling of distribution boxes, tanks and lines, removal of obstructing roots or trees, the diversion of surface water away from the disposal area, etc.

Section 9. System Rehabilitation

A. No person shall operate and maintain an on-lot sewage disposal system in such a manner that it malfunctions. All liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment tank. No sewage system shall discharge untreated or partially treated sewage to the surface of the ground or into the waters of the Commonwealth unless a permit to discharge has been obtained from the Pennsylvania Department of Environmental Resources.

B. The municipality shall issue a written notice of violation to any person who is the owner of a property in the municipality which is found to be served by a malfunctioning on-lot sewage disposal system or which is discharging raw or partially treated sewage without a permit.

C. Within seven (7) days of notification by the municipality that a malfunction has been identified, the property owner shall make application to the municipality's certified sewage enforcement officer for a permit to repair or replace the malfunctioning system. Within thirty (30) days of initial notification by the municipality, construction of the permitted repair or replacement shall commence. Within sixty (60) days of the original notification by the municipality, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case the municipality shall set an extended completion date.

D. The municipality's certified sewage enforcement office shall have the authority to require the repair of any malfunction by the following methods: cleaning, repair or replacement of components of the existing system, adding capacity or otherwise altering or replacing the system's treatment tank, expanding the existing disposal area, replacing the existing disposal area, replacing the existing disposal area, replacing a gravity distribution system with

a pressurized system, replacing the system with a holding tank, other alternatives as appropriate for the specific site.

E. In lieu of, or in combination with, the remedies described in D above, the municipal sewage enforcement officer may require the installation of water conservation equipment and the institution of water conservation practices in structures served. Water using devices and appliances in the structure may be required to be retrofitted with water saving appurtenances or they may be required to be replaced by water conserving devices and appliances. Wastewater generation in the structure may also be reduced by requiring changes in water usage patterns in the structure served. The use of laundry facilities may be limited to one load per day or discontinued altogether, etc.

F. In the event that the rehabilitation measures in A through E are not reasonable or do not prove effective, the municipality may require the owner to apply to the Pennsylvania Department of Environmental Resources for a permit to install an individual spray irrigation treatment system or a single residence treatment and discharge system. Upon receipt of said permit the owner shall complete construction of the system within thirty (30) days.

G. Should none of the remedies described above prove totally effective in eliminating the malfunction of an existing on-lot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. the unicipality may require whatever action is necessary to lessen or mitigate the malfunction to the extent that it feels necessary.

Section 10. Liens.

The municipality, upon written notice from the unicipal sewage enforcement officer that an imminent health hazard exists due to failure of a property owner to aintain, repair or replace an on-lot sewage disposal system as provided under the terms of this ordinance, shall have the authority to perform or contract to have performed, the work required by the certified sewage enforcement officer. The owner shall be charged for the work performed and, if necessary, a lien shall be entered therefore in accordance with law.

Section 11. Disposal of Septage

A. All septage originating within the municipal sewage anagement district shall be disposed of at sites or facilities approved by the Pennsylvania Department of Environmental Resources. Approved sites or facilities shall include the following: septage treatment facilities,

wastewater treatment plants, composting sites, and approved farm lands.

B. Septage of pumper/haulers operating within the municipal sewage management district shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35 P.S. Sec. 6018.101-6018.1003).

Section 12. Administration

A. The municipality shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this ordinance.

B. The municipality shall employ qualified individuals to carry out the provisions of this ordinance. Those employees shall include a certified sewage enforcement officer and may include a codes enforcement officer, secretary, administrator or other persons as required. The municipality may also contract with private qualified persons or firms as necessary to carry out the provisions of this ordinance.

C. All permits, records, reports, files and other written material relating to the installation, operation and maintenance and malfunction of on-lot sewage disposal systems in the sewage management district shall become the property of the municipality. Existing and future records shall be available for public inspection during required business hours at the official municipal office. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the municipality's sewage management program shall be made available, upon request, for inspection by representatives of the Pennsylvania Department of Environmental Resources.

D. The township board of supervisors shall establish all administrative procedures necessary to properly carry out the provisions of this ordinance.

E. The township board of supervisors may establish a fee schedule, and subsequently collect fees, to cover the cost to the municipality of administering this program.

Section 13. Appeals

A. Appeals from decisions of the municipality or its authorized agents under this ordinance shall be made to the board of supervisors in writing within thirty (30) days from the date of the decision in question.

B. The appellant shall be entitled to a hearing before the board of supervisors at its next regularly scheduled

meeting, if the appeal is received at least fourteen (14) days prior to that meeting. If the appeal is received within fourteen (14) days of the next regularly scheduled meeting, the appeal shall be heard at the subsequent meeting. The municipality shall thereafter affirm, modify, or reverse the aforesaid decision. The hearing may be postponed for a good cause shown by the appellant or the municipality. Additional evidence may be introduced at the hearing provided that it is submitted with the written notice of appeal.

C. A decision shall be rendered in writing within thirty (30) days of the date of the hearing. If a decision is not rendered within thirty (30) days the release sought by the appellant shall be deemed granted.

Section 14. Penalties

Any person failing to comply with any provisions of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100) and costs, and not more than three hundred dollars (\$300) and costs, or in default thereof shall be confined in the county jail for a period of not more than thirty (30) days. Each day of noncompliance shall constitute a separate offense.

Section 15. Repealer

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 16. Severability

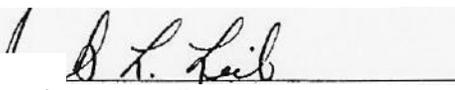
Of any section or clause of this ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions which shall be deemed severable therefrom.

Duly Enacted and Ordained this 12th day of April, 19 93 by the board of supervisors of the Township of Berwick, Adams County, Pennsylvania, in lawful sessions duly assembled.

ATTEST:

TOWNSHIP OF BERWICK, ADAMS
COUNTY, PENNSYLVANIA



By: 
Chairman of the Board
of Supervisors