

ORDINANCE NO. 2-95

TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, REQUIRING THAT ALL HABITABLE BUILDINGS IN THE TOWNSHIP OF PERRY, BERKS COUNTY, BE CONNECTED WITH THE SANITARY SEWER SYSTEM; MAKING IT UNLAWFUL TO CONSTRUCT OR MAINTAIN PRIVIES, CESSPOOLS, SEPTIC TANKS OR OTHER DEVICES FOR RECEIVING SEWAGE OR CONDUITS FOR THE DISCHARGE OF SEWAGE, EXCEPT INTO THE SANITARY SEWER; PROVIDING FOR RULES AND REGULATIONS; PRESCRIBING PENALTIES

WHEREAS, the Board Of Supervisors of the Township of Perry, Berks County, Pennsylvania (the "Township"), in order to promote and benefit the people of the Commonwealth of Pennsylvania and of the Township, by Ordinance duly enacted pursuant to the Municipality Authorities Act of 1945, P.L. 382 as amended, caused to be organized The Perry Township Municipal Authority (the "Authority") and has designated a sewer project to be undertaken by the Authority for the Township of Perry in the Township; and

WHEREAS, in carrying out the project so designated, the Authority is in the process of constructing a public sanitary sewer system, together with the pertinent facilities for the Township; and

WHEREAS, The Board Of Supervisors of the Township Of Perry, in order to promote the health, welfare and safety of the people of the Township and of the Commonwealth of Pennsylvania, and the purity of its water, deems it advisable to prohibit the use of certain privies, cesspools, septic tanks, or similar receptacles receiving sewage within the Township, in that such encourages the spread of disease and impairs public health, and to require connections to be made to such sewage system, by the owners of habitable buildings on property adjoining, abutting, on or adjacent to the Sewer System, in accordance with this Ordinance and with the Rules and Regulations which may, from time to time, be adopted by the Authority or the Township, when construction of portions thereof has from time to time been completed by the Authority.

NOW, THEREFORE, Board Of Supervisors of the Township Of Perry, Berks County, Pennsylvania, hereby ordains and enacts that:

SECTION 1: Definitions: The following words and phrases, when used in this Ordinance shall have the meanings described to them in this Section, except where the context or language clearly indicates or requires a different meaning:

(a) "Authority" means The Perry Township Municipal Authority, a Pennsylvania Municipal Authority.

(b) "Habitable Building" means each single dwelling unit, household unit, flat or apartment unit, store, shop, office, business, commercial or industrial unit, or family unit contained within any structure erected within 150 feet from the Sewer System, and intended for continuous or periodic habitation, occupancy or use for any purpose whatsoever by human beings or animals, and from which structure sanitary sewage and/or industrial waste is, or may be discharged.

(c) "Improved Property" means any property located within the Township upon which there is an erected building or structure (habitable building) intended for continuous or periodic habitation, occupancy or use for any purpose whatsoever by human beings or animals, and from which structure sanitary sewer and/or industrial waste shall be or may be discharged.

(d) "Lateral" means that part of the sewer system extending from the sewer to the curb line or, if there shall be no curb line, to the property line, or if no such lateral shall be provided, then "lateral" shall mean that portion of or place in the sewer which is provided for connection of any building's sewer.

(e) "Owner" means any person vested with ownership, legal or equitable, sole or partial, of any Improved Property.

(f) "Person" means any individual, partnership, company, association, society, corporation, group or entity.

(g) "Property accessible to the Sewer System" means Improved Property which adjoins, abuts on, or is adjacent to, the sewage collection system.

(h) "Sanitary Sewage" means the normal water-carried household and toilet waste from residential and non-residential Improved Property, as well as any solid, liquid or gaseous substance or water-borne wastes or form of energy rejected or escaping from any industrial, manufacturing, trade or business process or from the development,

recovery or processing of any resources which are suitable for discharge to the sewage system, or any other substance which constitutes pollution under the Clean Streams Law.

(i) "Sewer" means any pipe or conduit constituting a part of the sewer system, used or useable for sewage collection purposes.

(j) "Sewer System" means all facilities, as of any particular time, for collecting, pumping, transporting, treating, and/or disposing sanitary sewage and/or industrial waste, situate in the Township.

(k) "Township" means the Township Of Perry, Berks County, Pennsylvania, a political subdivision, acting by and through its Board Of Supervisors, or in appropriate case, by and through its authorized representatives.

SECTION 2:

(a) All Owners of any Habitable Building or Improved Property accessible to the Sewer System shall, at their own expense, connect such Habitable Building or Improved Property with the Sewer System within sixty (60) after written notice to such persons from the Authority, to make such connection for the purpose of discharge of all sanitary sewage and industrial waste from such improved property, subject to such limitations and restrictions as shall be established by the Authority from time to time.

(b) All Owners of any property accessible to the Sewer System upon which a Habitable Building or Improved Property is hereafter erected shall, at the time of the erection of such building and at their own expense, connect the same with the Sewer System.

(c) All Owners of any Habitable Building or Improved Property which hereafter becomes accessible to the Sewer System shall, at their own expense, connect such building with the Sewer System within sixty (60) days after notice to do so from the Authority.

(d) Where more than one Habitable Building as hereinbefore defined is contained in a single structure, a single common connection to the lateral of the Sewer System may be permitted for accommodating all Habitable Buildings contained in such single structure, except that separate connections shall be required for each semi-detached or row-type house or structure; provided that each Habitable Building shall pay all separate fees and charges for tapping, connection and operations and maintenance of the Sewer System.

SECTION 3: It shall be unlawful for any person owning any property in the Township accessible to the Sewer System to erect, construct, use or maintain, or cause to be erected, constructed, used or maintained, any privy, cesspool, sinkhole, septic tank, any on-lot sewage disposal system or other receptacle on such premises for receiving sanitary sewage after the expiration of the particular period specified in Section 2 hereof, or otherwise at any time to erect, construct, use or maintain pipe, conduit, drain or other facility for the discharge of sanitary sewage into the gutters of the Township, the storm sewers of the Township, or upon public or private property or otherwise, except into the Sewer System.

SECTION 4: Any person who erects, constructs, uses, or maintains a privy or cesspool, sinkhole, septic tank or any on-lot sewage disposal system on any property accessible to the Sewer System, or otherwise erects, constructs, uses or maintains any pipe, conduit, drain, or other facility for the discharge of sanitary sewage in violation of this Ordinance, shall be deemed and shall be declared to be erecting, constructing, or maintaining a nuisance, which nuisance the Township is authorized and directed to abate in the manner provided by law or equity. Nothing contained herein shall impair or restrict any cause of action or remedy otherwise available to the Township and/or Authority.

SECTION 5: No connection shall be made to the Sewer System, except in compliance with the Ordinances and Resolutions, as well as such rules and regulations that may, from time to time, be enacted, adopted, approved or promulgated by the Township or the Authority.

SECTION 6: No person shall discharge or permit to be discharged within this Township any sanitary sewage or industrial wastes in violation of the Rules and Regulations regarding prohibitive waste, except where suitable treatment has been provided which is satisfactory to the Authority.

SECTION 7: No privy, vault, cesspool, sinkhole, septic tank, on-lot sewage disposal system, or similar receptacle shall be used or maintained at any time upon any improved property which has been connected to a sewer, which shall be required under Section 2(a) to be connected to a sewer. Every such privy, vault, cesspool, sinkhole, septic tank, on-lot sewage disposal system or similar receptacle in existence shall be abandoned, and shall be cleansed and filled at the expense of the owner of such improved property, and any such privy, vault, cesspool, sinkhole, septic tank, on-lot sewage disposal system, or similar receptacle not so abandoned, cleansed and filled, shall constitute a nuisance, and such nuisance may be abated as provided by law, or equity, at the expense of the owner of such improved property.

SECTION 8: After the expiration of the particular period specified in Section 2 of this Ordinance, if any owner of any Habitable Building or Improved Property accessible to the Sewer System shall have failed to connect such property with the

Sewer System as required by Section 2, the Township shall cause to be served on the owner of such property so failing to connect to said Sewer System, and also upon the occupants of the building in question, a copy of this Ordinance, and a written or printed notice requiring such connection to be made, and such notice shall further state that its requirements shall be complied with within thirty (30) days from the date thereof.

SECTION 9: The provisions of this Ordinance are declared to be for the health, safety, and welfare of the citizens of the Township and persons violating any provisions of this Ordinance, upon conviction before any District Justice of Berks County, shall be fined \$300.00 and costs. Each ninety (90) day period during which such violation of such provisions shall continue, shall be deemed to be a separate offense. Each Habitable Building, as hereinbefore defined, whether or not the owners thereof shall be permitted to connect two or more occupied buildings or units by a single common connection to a lateral of the Sewer System, or shall be required to make separate connections for each Habitable Building or unit, shall constitute a separate or distinct unit under the provisions of this Ordinance and the persons owning Habitable Buildings consisting of multiple units contained in the same structure who violate any of the provisions of this Ordinance shall be subject to the aforesaid fine for each and every one of such Habitable Buildings or units which are in violation of the provisions of this Ordinance.

SECTION 10:

(a) In addition to any penalties hereinbefore set forth, nothing contained herein shall be deemed or construed to limit or impair any rights or causes of action that the Township may have to file a municipal claim or lien or file a suit in law or equity to compel compliance and to enforce the provisions of this Ordinance.

(b) If any person shall fail or refuse to pay in full any sums due the Authority and an action for recovery of same is instituted, the persons liable for the payment of any sums adjudged to be due shall be assessed a 25% fee for collection, payable to the Authority's attorney, together with interest and costs of suit.

SECTION 11: If any provision, sentence, clause, section or part of this Ordinance, or the application of any provisions hereof, is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared that it is the intent of the Board Of Supervisors that this Ordinance would have been enacted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not been included herein.

SECTION 12: All Ordinances or parts of Ordinances in conflict or inconsistent herewith, be and the same are hereby repealed absolutely.

SECTION 13: This Ordinance hereby declared to be urgent for the preservation of the peace, health and comfort of the Township and shall take effect and be in force immediately after its passage.

Duly presented and unanimously enacted at a meeting of the Board Of Supervisors of Perry Township, Berks County, Pennsylvania this 8th day of August, 1995.

PERRY TOWNSHIP
BOARD OF SUPERVISORS

By: Ronald L. David
Chairman

Attest: Miriam M. Kline
Secretary

VERIFICATION OF ORDINANCES

I, MIRIAM M. KLINE, Secretary of the Board Of Supervisors of the Township of Perry, Berks County, Pennsylvania, **DO HEREBY CERTIFY** that the foregoing is a true, correct and complete copy of an Ordinance dated August 8, 1995, all as duly presented and enacted at a public meeting of the Board Of Supervisors on said date, after notice thereof had been duly given as required by law, and after due and proper advertisement as required by law, that the Ordinance has been duly recorded in the Ordinance Book of said Township, as Ordinance No. 2-95; and that the Ordinance is now in full force and effect, not having been altered, amended or repealed.

IN WITNESS WHEREOF, I have hereunto set my signature as such official and affixed the seal of said Township this 8th day of August, 1995.

TOWNSHIP OF PERRY

By: Miriam M. Kline
MIRIAM M. KLINE, Secretary