

ORDINANCE NO. 2 of 1998

AN ORDINANCE OF THE TOWNSHIP OF PERRY BERKS COUNTY,  
PENNSYLVANIA, ADOPTING REGULATIONS GOVERNING MUNICIPAL  
MANAGEMENT OF ON-LOT SUBSURFACE SEWAGE DISPOSAL  
FACILITIES IN THE TOWNSHIP OF PERRY AND PROVIDING FOR  
ENFORCEMENT REMEDIES FOR VIOLATIONS THEREOF

BE IT ENACTED AND ORDAINED by the Supervisors of the Township of Perry, Berks County, Pennsylvania, and it is hereby ENACTED and ORDAINED by authority of the same as follows:

SECTION 1: Short Title

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

SECTION 2: Source of Authority

As mandated by the municipal codes the Clean Stream Law 935 P.S. Sect. 691.11 to 691.1001, and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. Sect. 750.1 et. 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 the Township of Perry 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.

SECTION 3: Purpose

The purpose of this ordinance is to provide for the inspection, maintenance and rehabilitation of on-lot sewage disposal systems; to further permit the Township to intervene in situations which are public nuisances of a sewage management program.

SECTION 4. Definitions

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

- B. Authorized Agent: Any person who is delegated by the Township to function within specified limits as the agent of the Township to carry out the provisions of this ordinance.
- C. Board of Review: The panel to hear, review and issue decisions on appeal from determinations of a municipal representative under this ordinance.
- D. Community Sewage System: Any system, whether publicly or privately owned, for the collection of sewage from two or more lots or structures and the treatment and/or disposal of the sewage on one or more lots or any other site.
- E. Council: The Board of Supervisors of Perry Township, Berks County, Pennsylvania.
- F. Department: The Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).
- G. Individual Sewage System: A system of piping, tanks or other facilities serving a single lot or structure and collecting and disposing of sewage in whole or in part into the soil or into any waters of this Commonwealth which is permitted exclusively by the Township.
- H. Malfunction: The condition which occurs when an on-lot sewage disposal system discharges sewage onto the surface of the ground, into ground waters of this Commonwealth, into surface water system or otherwise causes a nuisance or 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. Township: the Township of Perry, Berks County, Pennsylvania.
- J. Official Sewage Facilities Plan: A comprehensive plan for the provision of adequate sewage disposal systems, adopted by the Township and approved by the Pennsylvania Department of Environmental Protection, as described in and required by the Pennsylvania Sewage Facilities Act.
- K. On-Lot Sewage Disposal System: Any system for disposal of sewage 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, Township, 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 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, or public or private corporation for profit or not for profit.
- M. Pumper/Hauler: Any person, company, partnership or corporation which engages in cleaning community or individual sewage systems and transports the septage cleaned from these systems.
- N. Rehabilitation: The work done to modify, alter, repair, enlarge or replace an existing on-lot sewage disposal system.
- O. 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.
- P. Septage: The residual scum and sludge pumped from a septic system.
- Q. Sewage: Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings, 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 of which constitutes pollution under the Act of June 22, 1937, (P.L. 1987, No.394), known as The Clean Streams Law, as amended.
- R. Sewage Enforcement Officer (SEO): The official of the Township who issues and reviews permit applications and conducts such investigations and inspections as are necessary to implement Act 537 and the rules and regulations promulgated thereunder.
- S. Sewage Management District: Any area or areas of a Township for which a sewage management program is recommended by the Township's adopted Act 537 Official Sewage Facilities Plan.
- T. Sewage Management Program: A comprehensive set of legal and administrative requirements encompassing the requirements of this ordinance and other administrative requirements adopted by the Township to effectively enforce and administer the ordinance.

- U. Sewage System Certification Form: A form provided by the Township to be completed by the Pumper/hauler which provides certification to the Township of septic system pumping, cleaning and certain repairs.
- V. Subdivision: The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.
- W. Zoning Officer: An individual employed by the Township to administer and enforce the Township's Zoning Ordinance.

#### SECTION 5. Applicability

- A. From the effective date of this ordinance, its provisions shall apply throughout the Township of Perry. The provisions of this ordinance shall apply to all persons owning or occupying any property serviced by an on-lot sewage disposal system.

#### SECTION 6. Required Permit

- A. No person shall install, rehabilitate, construct, or request bid proposals for construction or alteration of an individual sewage system or community sewage system, or construct or request bid proposals for construction or installation or occupancy of 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 systems 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 Sewage Enforcement Officer.
- C. The Township requires applicants for sewage permits to notify the Sewage Enforcement Officer of the schedule for construction of the permitted on-lot sewage disposal system inspection in addition to the final inspection required by Act 537 may be scheduled and performed by the Sewage Enforcement Officer.
- D. No building or zoning, permit shall be issued by the Township or its Zoning Officer or Building Official for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from the Sewage Enforcement Officer.

- E. No building or zoning permit shall be issued, and no work shall begin on any addition, alteration, or conversion will result in the increase or potential increase-of sewage flows from the structure, until the Township's Zoning Officer and the structure's owner receive from the Township's Sewage Enforcement Officer either a permit for alteration rehabilitation or replacement of the existing sewage disposal system or written notification that such a permit will not be required. The Township's authorized agent shall determine whether the proposed addition, alteration or conversion of the structure will result in increased sewage flows.
- F. No occupancy permit shall be issued by the Township, its zoning officer or building officials for the occupancy of any new building, addition, alteration or the change of use of any building, addition or alteration until the Sewage Enforcement Officer has informed the Township or said official that the existing sewage system or newly constructed sewage system is complete, operating and has had final inspection or that no such certification is necessary.
- G. Sewage permits must be issued by the Township's Sewage Enforcement Officer.
- H. No contractor may proceed to install, construct, rehabilitate, or alter a system without verifying that the property owner has complied with this section of the ordinance.

SECTION 7. Inspections

- A. Any on-lot sewage disposal system may be inspected <sup>by</sup> ~~by~~ the Township'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 municipalities authorized agent shall have the right to enter upon land for the purposes of inspection described herein.
- D. An inspection may be conducted by the Township's authorized agent after 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 Township if necessary to assure the proper function of any one or all of the systems in the sewage management district.
- F. The Township's authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning. The Township 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, then action by the property owner to mitigate the malfunction shall be required.
- G. There may arise geographic areas within the Township where numerous on-lot sewage disposal systems are malfunctioning. A resolution of these area-wide problems may necessitate detailed planning and municipally sponsored revision to that area's Act 537 Official Sewage Facilities Plan. When the Department of Environmental Protection authorizes the Township, mandatory repair or replacement of individual malfunctioning sewage disposal systems within the study area may be delayed, at the discretion of the Township, pending the outcome of the plan revision process. However, the Township may compel immediate corrective action whenever a malfunction, as determined by municipal officials represents a serious public health or environmental threat.

#### SECTION 8. 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 groundwater, including water from roof or cellar rains, springs, basement sump pumps and French drains.
- B. The municipal's authorized agent may require installation of water conservation devices and other methods to improve system operations.

#### SECTION 9. 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 licensed pumper/hauler. The initial pump out intervals shall not begin later than one (1) year from the effective date of the Ordinance.

Table I  
Estimated Septic Tank Pumping Frequencies in Years  
(For Year-Round Residence)

Tank Size (gal)	Household Size (Number of People)									
	1	2	3	4	5	6	7	8	9	10
500	5.8	2.6	1.5	1.0	.7	.4	.3	.2	.1	-
750	9.1	4.2	2.6	1.8	1.3	1.0	.7	.6	.4	.3
900	11	5.2	3.3	2.3	1.7	1.3	1	.8	.7	.5
1,000	12.4	5.9	3.7	2.6	2.0	1.5	1.2	1.0	0.8	0.7
1,250	15.6	7.5	4.8	3.4	2.6	2.0	1.7	1.4	1.2	1.0
1,500	18.8	9.1	5.9	4.2	3.3	2.6	2.1	1.8	1.5	1.3
1,750	22.1	10.7	6.9	5.0	3.9	3.1	2.6	2.2	1.9	1.6
2,000	25.4	12.4	8.0	5.9	4.5	3.7	3.1	2.6	2.2	2.0
2,250	28.6	14.0	9.1	6.7	5.2	4.2	3.5	3.0	2.6	2.3
2,500	31.9	15.6	10.2	7.5	5.9	4.8	4.0	4.0	3.0	2.6

- A. A map, (known as Plate 8 of the Perry Township Official Plan, adopted ), is made part of this ordinance delineating existing areas and proposed of on-lot Sewage disposal. Following the initial pump out, every person shall have the tank pumped as per the Table I Guidelines Established by PA DEP. A sewage system certification form from the pumper/hauler shall be submitted to the Township immediately after each pump-out.
- B. Any tank pumping shall include an inspection of the baffles within the tank. If the baffles are in deteriorated condition the property owner is responsible to ensure replacement of the baffles with sanitary tees. No permit shall be required to replace deteriorated baffles with sanitary tees.
- C. The required pumping frequency may be increased at the discretion of the Township's 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, or for other good cause is shown. If any person can prove that their tank had been pumped within three (3) years of the effective date of this ordinance, the Township may delay that person's initial required pumping to conform with Table I ,Estimated Septic Tank Pumping Frequencies.

- 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. In no case, may the pumping intervals for aerobic treatment tanks exceed those required for septic tanks. Such persons shall maintain the aerobic system as required by the manufacturer's operation manual. A sewage system certification form from the pumper/hauler shall be submitted to the Township, consistent with the required pumping periods in Section 10-A of this ordinance.
- 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. 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. Any system pumping shall include an inspection of the side walls of the cesspool or dry well. If the sides are in need of cleaning, the homeowner is responsible to ensure completion and documentation of cleaning.
- G. The Township's authorized agent 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.
- H. The Township may issue a written Notice of Violation to any person who is the owner of property in the Township and the Township has not received a sewage system certificate form proving that they have had their septic tank, cesspool, or dry well pumped within the time limits as specified in this Article.
- I. Within thirty (30) days of notification by the Township that a septic tank, cesspool, or dry well has not been pumped within the time limits set by this Article, the owner shall have said septic tank, cesspool, or dry well pumped and the pumper/hauler shall provide the Township with a sewage system certification showing that it has been pumped.

#### SECTION 10. 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 an on-lot septic system. 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 Protection.



- B. The Township shall issue a written notice of violation to any person who is the owner of a property in the Township 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 thirty (30) days of notification by the Township that a malfunction has been identified, the property owner shall make application to the Sewage Enforcement Officer for a permit to repair or replace the malfunctioning system. Within sixty (60) days of initial notification by the Township, the construction shall be completed, unless extended due to unfavorable weather, upon the recommendation of the Township Sewage Enforcement Officer and approved by the Township Code Enforcement Officer. Extensions approved hereunder shall be limited to fourteen (14) days.
- D. The Township's authorized agent shall have the authority to require repairs of any malfunction by the following methods: cleaning, repair or replacement of components of the existing system, additional capacity or otherwise altering or replacing the system's treatment tank, expanding 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, connection to central collection system, other alternatives as appropriate for the specific site.
- E. In lieu of, or in combination with, the remedies described in D above, the Township's authorized agent may require the installation of water conservation equipment, and the institution of water conservation practices. Wastewater generation in the structure may also be reduced by requiring changes in water usage patterns in the structures served. The use of laundry facilities may be limited to one load per day or discontinued altogether, etc.
- F. 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 Township may require the property owner to install a holding tank and provide evidence of a suitable maintenance agreement therefore or require connection to a public system.
- G. In areas that have been designated by the Township for future service by sanitary sewer lines, the Township's authorized agent may design a program of interim remedial actions to be implemented until a sanitary sewer is available to the affected property.

SECTION 11. Liens

The Township, upon written notice from the Township's authorized agent that an imminent health hazard exists, due to the failure of a property owner to maintain, 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 Township's authorized agent. The owner shall be charged for the work performed and, if necessary, a lien shall be entered therefore in accordance with the law.

SECTION 12. Disposal of Septage

- A. All septage originating within the municipal sewage management district shall be disposed at sites or facilities approved by the Pennsylvania Department of Environmental Protection. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites, and approved farm lands.
- B. Septage 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 97 of 1980, 35 P.S. subsections 6018.101-6018.1003.

SECTION 13. Administration

- A. All permits, records, reports, files and other written material related to the installation, operation and maintenance and malfunction of on-lot sewage disposal systems in Perry Township shall become the property of the Township. Existing and future records shall be available for public inspection. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the Township's sewage management program shall be made available, upon request, for inspection by representatives of the Pennsylvania Department of Environmental Protection.
- B. All fees imposed shall be in accordance with the fee schedule adopted by the Board of Supervisors and in effect at that time. The Township shall subsequently collect fees by any appropriate method, including the use of municipal liens to cover the cost to the Township of administering this program.

SECTION 14. Administrative Appeals

- A. Appeals from the determination of the Township or its authorized agents, under this Ordinance, shall be made to the Board of Supervisors. Such appeals shall be in writing, addressed to the Board of Supervisors at the Business Office and shall be filed within thirty (30) days of the date of determination appealed from.
- B. Hearings: Appeal hearings shall be conducted by, an independent arbitrator selected by agreement of the appellant and the Board of Supervisors or otherwise appointed by and pursuant to the rules of the American Arbitration Association. The arbitrator shall conduct hearings and decisions in accordance with the following requirements in addition to those rules which are published by the American Arbitration Association and in effect.
- (1) Written Notice shall be given to the Appellant, the Zoning Officer, and such other persons as the Township shall designate by Ordinance to any person who has made timely requests for the same, and to any other persons as the Board of Review shall determine. Written Notices shall be given at such time and in such manner as shall be prescribed by the Board of Supervisors, but shall not give less than fifteen (15) days notice of the said hearing.
  - (2) The Township may prescribe reasonable fees with respect to hearings before the arbitrator. Fees for such hearings shall include compensation for the independent arbitrator, the Secretary and Notice and Advertising costs and necessary administrative overhead connected with the hearing. The cost, however, shall not include legal expenses of the Township or expenses for engineering, architectural or other technical consultants or expert witness costs.
  - (3) The hearing shall be held within forty-five (45) days from the date of the arbitrator's appointment, unless the Appellant has agreed in writing to the extension of time.
  - (4) The hearing shall be conducted in a place provided by the Board of Supervisors.
  - (5) The decision of the arbitrator shall be made in writing within thirty (30) days of the termination of the hearing and shall be communicated by First Class Mail to the Appellant and any other parties who have appeared to the addresses set forth by them.

- (6) The parties to the hearing shall be the Township, the Appellant, any person affected by the appeal who has made timely appearance of record before the Board of Supervisors and any other person including civic, community or state organizations permitted to appear by the Board of Supervisors. The independent arbitrator shall have the power to require that all persons who wish to be considered parties enter appearance in writing.
- (7) The arbitrator presiding shall have the power to administer an oath and issue subpoenas to compel the attendance of the witnesses and documents requested by the parties.
- (8) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- (9) Formal rules of Evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be precluded.
- (10) The arbitrator shall not be required to keep a stenographic record of the proceedings, however, any party desiring to keep a stenographic record will be allowed to do so at their expense. Said stenographic record shall be compiled by a properly recognized stenographer. Any parties ordering stenographic records shall pay their own costs.
- (11) The decision of the arbitrator shall be considered binding on all parties.

SECTION 15. Enforcement

- A. Enforcement Notice: If it appears to the Township that a violation of this ordinance has occurred, the Township shall initiate enforcement proceedings by sending an Enforcement Notice as provided in this section.
- B. The Enforcement Notice shall be sent to the owner of Record for the Parcel on which the violation has occurred and to any person who has filed a written request to receive Enforcement. Notices regarding the subject parcel may be forwarded to any person as requested in writing by the owner of record.
- C. The Enforcement Notice shall state at least the following:
  - (1) The name of the owner of record or any other person against whom the Township intends to take action.
  - (2) The location of the property violation.

- (3) The specific violation with the description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
  - (4) The date before which the steps for compliance must be commenced and the date before which the stops must be completed.
  - (5) That the recipient of the Notice has the right to appeal to the Board of Supervisors within a prescribed period of time in accordance with the procedures set forth in the ordinance.
  - (6) That failure to comply within that time specified, unless extended by appeal to the Board of Supervisors constitutes a violation with possible sanctions clearly described.
- D. Jurisdiction: District Magistrates shall have initial Jurisdiction over proceedings brought under this ordinance.
- E. Enforcement Remedies:
- (1) Enforcement of violation of provisions of this Ordinance shall be in compliance with the provisions for the enforcement of summary offenses set forth in the Second Class Township Code. Any person, partnership or corporation who or which has violated or permitted the violation of any provision of this Ordinance shall, upon being found guilty therefor in a summary criminal proceeding commenced by the Township, pay a fine not to exceed One Thousand Dollars (\$1,000.00) per violation, plus all Court costs. For each day or portion thereof in which a violation is found to exist or for each section of the Ordinance which is found to have been violated, said violation shall be treated as a separate offense subject to a fine of One Thousand Dollars (\$1,000.00) per said violation. Enforcement of an action brought pursuant to this section shall be brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Collection of all fines shall be pursuant to the Pennsylvania Rules of Criminal Procedure. All fines, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid over to the Township Treasurer.
  - (2) The Court of Common Pleas, upon Petition, may grant an Order of Stay when just cause is shown, tolling the per diem fine pending a final adjudication of the violation and judgment
  - (3) Nothing contained in this section shall be construed or interpreted to grant any person or entity other than the Township the right to commence an action for enforcement pursuant this section.

SECTION 16. Repealer

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

SECTION 17. Severability

If 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.

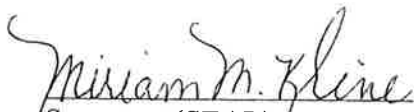
SECTION 18. Effective Date

This Ordinance shall be effective immediately.

DULY ENACTED AND ORDAINED the 14<sup>th</sup>, day of April 1998 by a majority vote of the Board of Supervisors of Perry Township, Berks County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP BOARD OF SUPERVISORS

ATTEST:

  
Secretary (SEAL)

  
Chairman (SEAL)

