

**TOWNSHIP OF WASHINGTON
FRANKLIN COUNTY, PENNSYLVANIA**

ORDINANCE NO. 145

**AN ORDINANCE REQUIRING THE PUMPING OF ALL
SEPTIC TANKS IN WASHINGTON TOWNSHIP ONCE EVERY
THREE YEARS AND THE PROPER DISPOSAL OF THE
PUMPED WASTE.**

WHEREAS, the Clean Streams Law (35 P.S. §691.1 et seq.) as amended and the Pennsylvania Sewage Facilities Act, Act 537, P.L. 1535 as amended, (35 P.S. §750.1 et seq.,) require municipalities to provide adequate sewage treatment facilities for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage; and

WHEREAS, Washington Township's official Sewage Facilities Act 537 update plan dated February 1992, requires a septic tank pumping program for Washington Township; and

WHEREAS, Section 1522 of the Second Class Township Code (53 P.S. §66522) provides authority for Second Class Townships to make regulations respecting the installation of individual or community sewage treatment facilities under the Pennsylvania Sewage Facilities Act, Act 537; and

WHEREAS, Section 1527 of the Second Class Township Code (53 P.S. §66527) provides authority for Second Class Townships to adopt ordinances to secure the safety of persons or property within the Township; and

WHEREAS, Section 1529 of the Second Class Township Code (53 P.S. §66529) provides authority for the Board of Supervisors to prohibit nuisances and/or the carrying on of any offensive manufacturer or business; and

WHEREAS, Section 1517 of the Second Class Township Code (53 P.S. §66517) authorizes Second Class Townships to enact and enforce ordinances to govern and regulate the sanitation, water supply, toilet facilities, drainage, use and inspection of all buildings and housing constructed, erected, altered, designed or used for any use or occupancy; and

WHEREAS, the Board of Supervisors of Washington Township deem it to be in the best interest and welfare of the residents of the Township to adopt a septic tank pumping program.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Supervisors of Washington Township, Franklin County, Pennsylvania, and **IT IS HEREBY ENACTED AND ORDAINED** as follows:

SECTION 1. Purpose. The purpose of this ordinance is to establish procedures for the pumping of improved property with on-lot septic systems once every three years and to declare that the enactment of this ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of the residents of Washington Township.

SECTION 2. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- 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. D.E.P.: The Department of Environmental Protection of the Commonwealth of Pennsylvania or any successor agency.
- C. Disposal Receipt: Documentation (septic tank waste disposal slip) from a D.E.P. or State of Maryland permitted sewage treatment plant also signed by the sewage hauler indicating the owner, location (house number), and date that an improved property's septic tank was pumped and properly disposed of.
- D. Governing Body: Shall mean the Supervisors of Washington Township, Franklin County, Pennsylvania.
- E. Improved Property: Shall mean any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings and from which structure sewage shall or may be discharged.
- F. Municipality: Shall mean the Township of Washington, Franklin County, Pennsylvania.
- G. On-Lot Sewage Disposal System: Means 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.
- H. Owner: Shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.
- I. Person: Shall mean any individual, partnership, company, association, corporation or other group entity.
- J. Processing Waste Water: Any waste water generated as a result of a commercial or industrial process/operation.
- K. Septic Tank: The treatment tank in an on-lot sewage disposal system that provides for anaerobic decomposition of sewage prior to its discharge to an absorption area.
- L. Sewage: Shall mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings and any noxious or deleterious substance 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 any substance which constitutes pollution under the Clean Streams Law (35 P.S., Sections 691.1 - 691.1001).

- M. Sewage Hauler: A Washington Township Municipal Authority approved individual or company which has the capabilities to pump, haul, and properly dispose of septic tank sewage in a D.E.P. or State of Maryland permitted sewage treatment plant and has a valid Washington Township Municipal Authority Hauled Wastewater Discharge (HWD) permit.
- N. W.T.M.A.: Washington Township Municipal Authority.

SECTION 3. Rights and Privileges Granted. The Governing Body is hereby authorized and empowered to require within the Township a scheduled system of pumping of on-lot sewage disposal septic tanks and the proper disposal of settled sewage solids.

SECTION 4. Rules and Regulations. The Governing Body is hereby authorized and empowered to adopt by resolution such rules and regulations concerning the pumping of on-lot sewage disposal septic tanks which it may deem necessary from time to time to effect the purposes herein.

SECTION 5. Rules and Regulations to be in conformity with Applicable Law. All such rules and regulations adopted by the Governing Body shall be in conformity with the provisions herein, all other ordinances of the Township, and all applicable laws, and applicable rules and regulations or administrative agencies of the Commonwealth of Pennsylvania.

SECTION 6. Rates and Charges. The Governing Body by resolution shall have the right and power to fix, charge and collect rates, assessments and other charges in the area served by on-lot disposal facilities at reasonable and uniform rates as authorized by applicable law.

SECTION 7. Exclusiveness of Rights and Privileges.

- A. The collection and transportation of all sewage from any improved property utilizing an On-Lot Disposal System shall be done under the direction of the Governing Body on a scheduled basis a minimum of once every three (3) years, and the disposal thereof shall be made only at such site or sites as may be approved by D.E.P. or the State of Maryland. The Washington Township Municipal Authority Wastewater Treatment Plant, at 7934 Lyons Road, shall be considered the primary disposal site for this sewage. Other D.E.P. or State of Maryland approved treatment plants in the area may also be used.
- B. The scheduled pump-out of sewage solids shall be conducted on a rotating basis throughout the Township, with each Owner required to have proof that their system has been pumped out a minimum of once every three (3) years by providing a copy of the disposal receipt to the Township office. The owner shall be required to provide proof only if the sewage hauler fails to provide the disposal receipt as required by Section 10(c).
- C. The required schedule of pump-outs for those improved properties which have been determined by the governing

body to have malfunctioning on-lot sewage disposal systems shall begin immediately upon enactment of this ordinance.

- D. The Governing Body will receive, review and retain pumping receipts for all improved properties with on-lot sewage disposal systems.

SECTION 8. Duties of Improved Property Owner. The owner of an improved property that utilizes an On-Lot Sewage Disposal System shall:

- A. Maintain the on-lot system in conformance with this or any Ordinance of this Township, the provisions of any applicable law, and the rules and regulations of the Governing Body and any administrative agency of the Commonwealth of Pennsylvania.
- B. Permit the Governing Body or its agent to inspect their on-lot sewage disposal systems as required to fulfill the requirements of this ordinance.
- C. To have the septic tank of the on-lot sewage disposal system pumped once every three (3) years by a sewage hauler as required by this ordinance within the required time as specified on their notice to pump letter. Providing proof (receipt, cancelled check, etc.) to the Township of the pumping of the tank shall only be required if the sewage hauler fails to provide the disposal receipt as required by Section 10(c).
- D. Place a permanent marker in the ground above or adjacent to the septic tank lid (if lid is not extended to the ground surface) for ease of locating the opening for pumping purposes in the future.
- E. Upon the discontinuance of the use of a septic tank for sewage disposal for any reason, the owner thereof shall have the tank pumped and flushed by a sewage hauler and at the owner's option either physically removed from the premises or filled with soil and/or stone.

SECTION 9. Acceptable Septic Tank Waste.

- A. Acceptable septic tank waste for disposal at a D.E.P. or State of Maryland approved treatment plant shall include:
 - a. Normal domestic septic tank waste that receives only waste or wastewater from human or household operations.
 - b. Normal commercial septic tank waste used for domestic type waste only (no processing wastewater).
 - c. In general, all septic tank waste shall be non-toxic to the biological and physical/chemical treatment processes of the wastewater treatment plant being used and be biodegradable.
- B. It shall be a violation of this ordinance for a sewage

hauler or property owner to dispose of any of the following at a wastewater treatment plant:

- a. Any industrial waste.
- b. Automobile oil and other non-domestic oil.
- c. Toxic or hazardous substances or chemicals, including but not limited to, pesticides, disinfectants, acids, paints, paint thinners, herbicides, gasoline, and other solvents.
- d. Grease removed from a grease trap at a restaurant.

SECTION 10. Sewage Haulers.

A. The duties of a sewage hauler shall include:

- a. Obtaining and maintaining at all times a valid Hauled Wastewater Discharge Permit from the WTMA.
- b. Agreeing to abide by all WTMA and Commonwealth of Pennsylvania rules and regulations governing the proper pumping, hauling and disposal of sewage.
- c. Maintaining at all times insurance coverage at levels (or higher) as required by the WTMA and to provide a certificate of insurance to the WTMA.
- d. Dispose of all sewage collected in Washington Township at a D.E.P or State of Maryland approved facility.
- e. Provide a copy of the disposal receipt for each property pumped to the governing body at least once a month.

B. Violations of provisions of this ordinance shall result in the Township recommending that the WTMA suspend the sewage hauler's Hauled Wastewater Discharge Permit or taking legal action as per Section 11 of this ordinance.

SECTION 11. Enforcement under the Second Class Township Code.

A. Criminal Enforcement - Criminal Enforcement of this Ordinance under the Second Class Township Code shall be by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the district attorney as required under Pa. R. Crim. P. No. 83(c) (Relating to Trial and Summary Cases.) A violation of this ordinance is a summary offense and, upon conviction thereof, any person violating the ordinance shall be sentenced to pay a fine of not less than one hundred dollars and costs, and not more than three hundred dollars and costs, or imprisonment for up to ninety days. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of the ordinance, its amendments, or the rules and regulations promulgated pursuant hereto, which is found to have been violated.

- B. **Equity Enforcement** - In addition to the criminal penalties provided for in Section 11 (A) above, this ordinance may be enforced by an action in equity brought in the Court of Common Pleas of Franklin County to abate, mitigate, restrain or prevent violations of this ordinance which constitute a nuisance. Any violation of Section 8 of the Ordinance shall constitute a nuisance.

SECTION 12. Enforcement pursuant to the Pennsylvania Sewage Facilities Act, Act 537.

- A. **Fines, Civil Penalties and Fees** - In addition to proceeding under any other remedy available at law or in equity for a violation of this ordinance, the governing body after notice and hearing may assess a civil penalty against any person for such violation. The governing body may also assess the costs of damages caused by such violation and the cost of correcting such violation. Before assessing a civil penalty or such cost, the governing body shall provide the violator with a notice of proposed assessment which cites the violation of the ordinance, rule or regulation issued thereunder and offer to conduct an assessment hearing to evaluate the violation and the amount of the penalty or cost. The notice of proposed assessment shall contain an explanation of the right to a hearing and appeal. The governing body shall assign a representative to hold the assessment hearing. The assessment hearing shall not be governed by requirements for formal adjudicatory hearings and may be held at any time at the convenience of the parties. The civil penalty may be assessed whether or not the violation was willful. The civil penalty assessed shall be not less than three hundred dollars (\$300.00) and not more than two thousand five hundred dollars (\$2,500.00) for each violation. In determining the amount of the penalty, the governing body shall consider:

- (1) Willfulness of the violation;
- (2) Damage to water, land or other natural resources or their uses, costs of restoration and abatement;
- (3) Savings resulting to the person in consequence of the violation;
- (4) Deterrence of future violation; and
- (5) Other relevant factors.

If a person against whom costs or a civil penalty has been assessed after notice and hearing pursuant to this section fails to pay the assessed cost or penalty in full or to perfect an appeal de novo under this section within thirty days following assessment of a civil penalty, such failure to pay or perfect an appeal shall constitute a separate violation for which an additional civil penalty may be assessed pursuant to this section. Additional violations shall be deemed to occur and additional civil penalties may be assessed pursuant to this section each time a person fails to pay or perfect an appeal under this section.

When the governing body has assessed costs or a civil penalty pursuant to this section, the person assessed with the costs or civil penalty shall then have thirty days to pay the cost or penalty in full. If the person wishes to contest the penalty or the fact of the violation, the person shall have a right to an appeal de novo, pursuant to Section 16 of the Pennsylvania Sewage Facilities Act (35 P.S. §750.16). The person shall forward the amount of the civil penalty to the governing body within the thirty day period for placement in an escrow account with the state treasurer or any bank in this Commonwealth, post an irrevocable letter of credit issued by a federal or Commonwealth-chartered lending institution or post an appeal bond to the governing body assessing the civil penalty within such thirty days in the amount of the assessed civil penalty or such other amount as may be approved by a court of competent jurisdiction or the environmental hearing board. The bond must be executed by a surety licensed to do business in this Commonwealth and in a form satisfactory to the governing body. If through administrative or final judicial review of the proposed assessed penalty it is determined that no violation occurred or that the amount of the penalty is reduced, the governing body shall, within thirty days, remit the appropriate amount to the person. Failure to make the required deposit in escrow or submit an irrevocable letter of credit or surety bond as provided shall result in a waiver of all legal rights to appeal the violation or the amount of the penalty.

In any case where the governing body determines that damage resulting from the violation is of a continuing nature, the governing body may impose a weekly assessment of not more than two thousand five hundred dollars (\$2,500.00) per week for each week the violation continues unabated by the violator. The weekly assessment shall accrue indefinitely after the date of notice of the assessment to the violator.

Costs and civil penalties shall be payable to the governing body and shall be collectable in any manner provided by law for the collection of debts. If any person liable to pay these costs or penalty neglects or refuses to pay the same after demand, the amount of the cost or civil penalty, together with interest and any cost that may accrue, shall constitute a judgement in favor of the governing body assessed upon the real property of the person from the date it has been entered and docketed on record by the prothonotary of the county where such is situated.

- B. Equity Enforcement - A violation of Section 7 of the Pennsylvania Sewage Facilities Act or the discharge of untreated or partially treated sewage to the surface of the ground or into the waters of this Commonwealth except as specifically approved by the Department under section 202 and 207 of the Clean Streams Law, or permitted by the governing body pursuant to Section 7.3 of the Pennsylvania Sewage Facilities Act shall constitute a

nuisance and shall be abatable in manner provided by law.

SECTION 13. Repeal. All other ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent with this ordinance are hereby repealed.

SECTION 14. Severability. If any sentence, clause, section or part of this ordinance 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 as the intent of the Board of Supervisors of the Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included thereto.

SECTION 15. This ordinance shall take effect five (5) days after enactment thereof.

DULY ENACTED AND ORDAINED this 2nd day of March, 1998, by the Board of Supervisors of the Township of Washington, Franklin County, Pennsylvania, in lawful session duly assembled.

ATTEST:

**WASHINGTON TOWNSHIP
BOARD OF SUPERVISORS**

By: Juanita L. Ausherman

Juanita L. Ausherman
Secretary

By: Quinter D. Baumgardner

Quinter D. Baumgardner
Vice Chairman

I, Juanita L. Ausherman, Secretary of the Board of Supervisors, Washington Township, Franklin County, Pennsylvania, de certify that the foregoing is a true and correct copy of an Ordinance adopted at a regular meeting of the Washington Township Supervisors held March 2, 1998, in regular session duly assembled.

Juanita L. Ausherman
Juanita L. Ausherman
Secretary