

DRAFT ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING AN ON-LOT SEWAGE MANAGEMENT PROGRAM ORDINANCE GOVERNING MUNICIPAL MANAGEMENT OF ON-LOT SEWAGE DISPOSAL FACILITIES IN UPPER MILFORD TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA

The Board of Supervisors of the Township of Upper Milford, in the County of Lehigh and the Commonwealth of Pennsylvania, hereby ordains:

SECTION 1: INTRODUCTION

- A. This ordinance shall be known and may be cited as “An ordinance providing for a Sewage Management Program for the Township of Upper Milford.”
- B. In accordance with municipal codes, the Clean Streams Law (Act of June 27, 1937, P.L. 1987, No. 394 as amended, 35 P.S. §§691.1 to 691.1001), and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. §750.1 et seq. known as Act 537), it is the power and the duty of Upper Milford Township 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 Upper Milford Township indicates that it is necessary to 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 regulation, inspection, maintenance and rehabilitation of on-lot sewage disposal systems; to further permit intervention in situations which may constitute a public nuisance or hazard to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

SECTION II: DEFINITIONS

- A. “Authorized Agent” shall mean a sewage enforcement officer, employee of the Upper Milford Township, professional engineer, plumbing inspector, or any other qualified or licensed person who is authorized to function within specified limits as an agent of Upper Milford Township to administer or enforce the provisions of this ordinance.
- B. “Board” shall mean the Board of Supervisors, Upper Milford Township, Lehigh County, Pennsylvania.

- C. "Community Sewage System" shall mean 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.
- D. "Department" shall mean the Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).
- E. "Individual Sewage System" shall mean 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.
- F. "Industrial Waste" shall mean any wastewater flows not deemed to be residential sewage waste by DEP Standards.
- G. "Malfunction" shall mean a 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 waters of this Commonwealth, backs up into a building connected to the system or in any manner 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 condition noted above occurs for any length of time during any period of the year.
- H. "Official Sewage Facilities Plan" shall mean a comprehensive plan for the provision of adequate sewage disposal systems, adopted by the Board of Supervisors and approved by the Pennsylvania Department of Environmental Protection, pursuant to the Pennsylvania Sewage Facilities Act.
- I. "On-lot Sewage Disposal System" shall mean any system for disposal of domestic sewage involving pretreatment and subsequent disposal of the clarified sewage into a subsurface soil absorption area or retaining tank; this term includes both individual sewage systems and community sewage systems.
- J. "Person" shall mean any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau of 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.
- K. "Rehabilitation" shall mean work done to modify, alter, repair, enlarge or replace an existing on-lot sewage disposal system.
- L. "Sewage" shall mean 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 "The Clean Streams Law," as amended.
- M. "Sewage Enforcement Office (SEO)" shall mean a person certified by DEP who is employed by the Township. Such person is authorized to conduct investigations and inspections, review permit applications, issue or deny permits and do all other activities as may be provided for such person in the Sewage Facilities Act, the rules and regulations promulgated there under and this or any other ordinance adopted by the Township.
- N. "Sewage Management District" shall mean any area or areas of the Township designated in the Official Sewage Facilities Plan adopted by the Board of Supervisors as an area for which a Sewage Management program is to be implemented.
- O. "Sewage Management Program" shall mean a comprehensive set of legal and administrative requirements encompassing the requirements of this ordinance, the Sewage Facilities Act, the Clean Streams Law, the regulations promulgated there under and such other requirements adopted by the Board of Supervisors to effectively enforce and administer this ordinance.
- P. "Subdivision" shall mean 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 there from.
- Q. "Township" shall mean the Township of Upper Milford, Lehigh County, Pennsylvania.
- R. For the purposes of this ordinance, any term, which is not defined herein, shall have that meaning attributed to it under the Sewage Facilities Act and Regulations promulgated thereto.

SECTION III: APPLICABILITY

- A. From the effective date of this ordinance, its provisions shall apply in any portion of the Township identified in the Official Sewage Facilities Plan as a sewage management district or lot or area not served with public sewer facilities. Within such 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.

SECTION IV: 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 for the installation or for occupying of any building or structure for which an individual sewage system or community sewage system is to be installed, without first obtaining a permit from the sewage enforcement officer, which permit shall indicate that the site and the plans and specifications of such system are in compliance with the provisions of the “Clean Streams Law” (35 P.S. §§691.1 – 691.1001) and the Pennsylvania Sewage Facilities Act (35 P.S. 750.1 et seq.) and the regulations adopted pursuant to those Acts.
- B. No system or structure designed to provide an individual or community sewage disposal shall be covered from view until approval to cover the same has been given by a sewage enforcement officer. If 72 hours have elapsed, excepting Sundays and Holidays, since the sewage enforcement office 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. Applicants for sewage permits may be required to notify the 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 the Sewage Facilities Act may be scheduled and performed by a sewage enforcement officer.
- D. No building or occupancy permit shall be issued for a new building, which will contain sewage generating facilities until a valid sewage permit has been obtained from a 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 either the structure’s owner receives a

permit for alteration, or replacement of the existing sewage disposal system, or until the structure's owner and the appropriate officials of the Township receive written notification from a Sewage Enforcement Officer that such a permit will not be required. The 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 sewage enforcement officer employed by the Township. DEP shall be notified as to the identity of each sewage enforcement officer employed by the Township.

SECTION V: INSPECTIONS

- A. Any on-lot sewage disposal system may be inspected by an authorized agent at any reasonable time, as of the effective date of this ordinance.
- B. Such inspection may include a physical tour of the property, the taking of samples from surface water, wells, other groundwater 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. An authorized agent shall have the right to enter upon land for the purposes of inspections described in this section.
- D. An initial inspection shall be conducted by an authorized agent within three (3) years 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 Township records.
- E. A schedule of routine inspections may be established to assure the proper functioning of the sewage systems in the sewage management district.
- F. An authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the authorized agent shall order action to be taken to correct the malfunction. If total correction cannot be done in accordance with the regulations of DEP including, but not limited to, those outlined in Chapter 73 of Title 25 of Pennsylvania Code; or, is not technically or financially feasible in the opinion of the authorized agent and a representative of DEP, then action by the property owner to mitigate the malfunction shall be required.

- G. If there arises a geographic area where numerous on-lot sewage disposal systems are malfunctioning, a resolution of these area wide problems may necessitate detailed planning and a revision to the portion of the Sewage Facilities Plan pertaining to areas affected by such malfunctions. If a DEP authorized Official Sewage Facilities Plan Revision has been undertaken, repair or replacement of individual malfunctioning sewage disposal systems within the area affected by the revision may be delayed, pending the outcome of the plan revision process. However, immediate corrective action will be compelled whenever a malfunction, as determined by Township Officials and / or the Department, represents a serious public health or environmental threat.

SECTION VI: 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 (excluding household cleaners), 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 VII: MAINTENANCE

- A. Each 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 three (3) years of the effective date of this ordinance. Thereafter that person shall have the tank pumped at least once every three (3) years, or whenever an inspection reveals that the septic tank is filled with solids, or with scum in excess of 1/3 of the liquid depth of the tank. Receipts from the pumper / hauler shall be submitted to the Township, within the prescribed pumping periods.
- B. The required pumping frequency may be increased at the discretion of an 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 shown.
- 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 Township,

that the baffles, and / or other components in the septic tank have been inspected and found to be in good working order. Any person whose septic tank baffles or other components are determined to require repair or replacement shall first contact a 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 other than a standard septic 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 Township within six (6) months of the effective date of this ordinance. Thereafter, service receipts shall be submitted to the Township at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for non-standard septic treatment tanks exceed those required for normal septic tanks.
- E. Additional maintenance activity may be required 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 VIII: SYSTEM REHABILITATION

- A. No person shall operate or maintain an on-lot sewage disposal system in such a manner that it malfunctions. All liquid wastes, including the 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 for such discharge has been obtained by DEP.
- B. A written notice of violation shall be issued to any person who is the owner of any property, which is found to be a malfunctioning on-lot sewage disposal system, or which is discharging sewage without a permit.
- C. Within seven (7) 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 thirty (30) days of initial notification by the Township, construction of the permitted repair, or replacement shall commence. Within sixty (60) days of the original notification by the Township, the construction shall be completed unless seasonal or unique

conditions mandate a longer period, in which case the Township shall set an extended completion date.

- D. A sewage enforcement officer 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 areas, replacing the existing disposal area, replacing a gravity distribution system with a pressurized system, replacing the system with a holding tank, or any other alternative appropriate for the specific site.
- E. In lieu of, or in combination with, the remedies described in Subsection D above, a 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.
- F. In the event that the rehabilitation measures in Subsections A through E are not feasible or effective, the owner may be required to apply for a permit to install an individual spray irrigation treatment system, or to DEP for 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 in this Section be 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 whatever action is necessary to lessen or mitigate the malfunction to the extent necessary.

SECTION IX: LIENS

The Township, upon written notice from a sewage enforcement officer that an imminent health hazard exists due to failure of 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 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 X DISPOSAL OF SEPTAGE

- A. All septage originating within the sewage management district shall be disposed of in accordance with the requirements of the Solid Waste

Management Act (Act 97 of 1980, 35 P.S. §§6018.101 et seq.) and all other applicable laws and at sites or facilities approved by DEP. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites, and approved farmlands.

- B. Pumper / haulers of septage operating within the 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. §§6018.101 – 6018.1003) and all other applicable laws.

SECTION XI: ADMINISTRATION

- A. The Township shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this ordinance.
- B. The Township shall employ qualified individuals to carry out the provisions of this ordinance. Those employees shall include a sewage enforcement officer and may include an administrator and such other persons as may be necessary. The Township 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 materials 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, and be maintained by the Township. Existing and future records shall be available for public inspection during regular business hours at the official office of the Township. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the sewage management program shall be made available, upon request, for inspection by representatives of the Pennsylvania Department of Environmental Protection.
- D. The Board of Supervisors shall establish all administrative procedures necessary to properly carry out the provisions of this ordinance.
- E. The Board of Supervisors may establish a fee schedule, and authorize the collection of fees, to cover the cost of the Township administering this program.

SECTION XII: APPEALS

- A. Appeals from final decisions of the Township, or any of its authorized agents under this ordinance shall be made to the Board of Supervisors in

writing within thirty (30) days from the date written notification 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 a written 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 next regularly scheduled 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 Township. 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.

SECTION XIII: PENALTIES

Any person failing to comply with any provision of this ordinance shall be subject to a fine of not less than Five Hundred Dollars (\$500) and costs, and not more than Five Thousand Dollars (\$5,000) and costs, or in default thereof shall be confined in the county jail for a period of not more than ninety (90) days. Each day of noncompliance shall constitute a separate offense.

SECTION XIV: REPEALER

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

SECTION XV: 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.

ADOPTED, this _____ day of _____, 20__.

DULY ENACTED AND ORDAINED, this _____ day of _____, 20____, by the Board of Supervisors of Upper Milford Township, Lehigh County, Pennsylvania, in lawful sessions duly assembled.

SEAL

ATTEST:

**TOWNSHIP OF UPPER MILFORD
LEHIGH COUNTY, PENNSYLVANIA**

Secretary / Treasurer

Chairman

Vice-Chairman

Supervisor