

ORDINANCE NO. 76

AN ORDINANCE OF UPPER MILFORD TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA ESTABLISHING STANDARDS FOR HOLDING TANKS WITHIN THE TOWNSHIP; ESTABLISHING REQUIREMENTS FOR PUMPING AND INSPECTION OF THE TANKS; CREATING MONETARY SECURITY AND VIOLATION AND PENALTY PROVISIONS

WHEREAS, Upper Milford Township is a Second Class Township located in Lehigh County, Pennsylvania; and

WHEREAS, the Township is authorized and empowered to undertake within the Township, the control methods for holding tank use, sewage disposal and sewage collection and transportation thereof; and

WHEREAS, the Township is authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to affect the purposes herein; and

WHEREAS, such rules and regulations concerning sewage which may be adopted by the Township are in addition to the rules and regulations of the Commonwealth of Pennsylvania, including but not limited those set forth in Title 25 of the Pennsylvania Code, Chapters 71 through 73 inclusive; and

WHEREAS, the said Board of Supervisors have determined the need to establish such rules and regulations for holding tank use within the Township.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Upper Milford Township, Lehigh County, Pennsylvania, as follows:

1. For purposes of this Ordinance, the following words shall have the meanings ascribed to them:

(a) Township - Upper Milford Township;

(b) Person - An individual, association, partnership, corporation, company or other group or entity;

(c) Owner - Any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township;

(d) Holding Tank - A watertight receptacle, whether permanent or temporary, which receives and retains sewage conveyed by a water carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site; and

(e) Sewage - Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals or any other source, 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.

2. The installation of any holding tank requires that the proper permit be issued by the Township Sewage Enforcement

Officer. The Township Sewage Enforcement Officer shall issue permits for holding tanks for sewage disposal only when permitted to do so under the applicable rules and regulations set forth under Title 25 of the Pennsylvania Code, Chapter 71 through 73 inclusive. In addition, except for holding tanks that the Township Sewage Enforcement Officer determines are necessary to abate a nuisance or public health hazard, all holding tanks are subject to the following additional regulations and restrictions:

(a) The Sewage Enforcement Officer shall be the administrative entity to receive, review and retain pumping receipts from permitted holding tanks;

(b) The Sewage Enforcement Officer shall make annual inspections of holding tanks and keep annual inspection reports for each holding tank;

(c) Each property owner shall contract with a qualified pumper/hauler for the pumping of the owner's septic tank. The tank pumper/hauler shall provide proof to the Sewage Enforcement Officer that the holding tank contents are being disposed of at a state-approved facility or location;

(d) Where a property owner or other person fails to pump or otherwise fails to maintain, repair or replace a holding tank system within seven (7) days after receiving notice of a violation from the Sewage Enforcement Officer, such failure shall be deemed to constitute a public nuisance and a violation of this

Ordinance. The Township may abate the nuisance by performing the work needed, or by contracting to perform the work needed to abate the nuisance, and may charge the landowner or other responsible person for the cost thereof plus a penalty of 20%. Said cost plus penalty may be collected by an action against said person by the Township, including additional attorney's fees and costs as established by Ordinance, according to law. Such costs plus penalty and attorney's fees may also be drawn from the security placed with the Township.

3. Unless the Sewage Enforcement Officer determines that the use of a holding tank is necessary to abate a nuisance or public health hazard, no person shall operate a holding tank system and no building, zoning or occupancy permit shall be issued for the occupancy of any structure if said structure will be served by a holding tank system until such person has posted security with the Township in the form of a cash deposit in an amount not less than \$500.00, based on the size and operation of the holding tank. The security deposit required from each owner will be determined by the Sewage Enforcement Officer and approved by the Board of Supervisors for each holding tank based on an analysis of the specific use.

4. (a) For purposes of enforcement, the Board of Supervisors of Upper Milford Township hereby designate the Sewage Enforcement Officer.

(b) When it appears to the Sewage Enforcement Officer that a violation of this Ordinance has or may have occurred, to achieve compliance with this Ordinance, the Sewage Enforcement Officer shall commence and initiate a criminal enforcement proceeding before the District Justice, in the name of and on behalf of Upper Milford Township. Before commencing any such enforcement action, the Sewage Enforcement Officer shall issue a written notice of violation. The Sewage Enforcement Officer may, but is not required to, issue other enforcement procedures as he or she may see fit in his or her sole discretion;

(c) The amount of fine for any violation or permitted violation of this Ordinance may be for any amount up to, but shall not exceed \$1,000.00 for each violation, plus all court costs, including reasonable attorney's fees and expenses, incurred by the Township in the investigation, commencement, preparation and prosecution of such enforcement action; and

(d) Each day during which such violation or permitted violation of this Ordinance continues shall constitute and be deemed to be a separate violation within the meaning of this Ordinance. Each such continuing violation shall also be subject to the same criminal penalty as set forth in subsection (c) above.

5. All other Ordinances or parts of Ordinances in conflict herewith in whole or in part are hereby repealed, but only to the extent of such conflict.

6. The provisions of this Ordinance hereby adopted shall not be construed to affect any suit of proceeding now pending in any court, or any rights, acquired, accrued or liability incurred, or any cause or causes of action acquired or existing, under any section, act or ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any individual or of any character be lost, impaired or affected by this Ordinance.

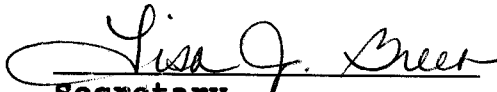
7. In the event that any such provision, section, sentence, clause or other part of this Ordinance, or any application thereof, is held to be invalid by a court of competent jurisdiction, then such invalidity shall not affect or impair any other remaining provision, section, sentence, clause or other part of this Ordinance, or any application thereof.


8. This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ADOPTED this 19 day of March, 1998.

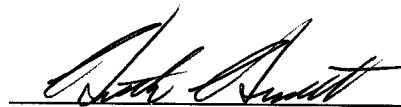
ATTEST:

**BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP**


Secretary


RICHARD F. KNAUSS, CHAIRMAN


ROBERT S. LABOWSKI, SUPERVISOR


KEITH HUYETT, SUPERVISOR