

ORDINANCE 117

ORDINANCE OF BENNER TOWNSHIP CENTRE COUNTY, PENNSYLVANIA THE ONLOT SEWAGE MANAGEMENT PROGRAM

Section I. Short Title; Introduction; Purpose

A. This ordinance shall be known and may be cited as "The Onlot Sewage Management Program" for Benner Township.

B. As mandated by the municipal codes, the Clean Streams Law (34 P.S. '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), 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 Benner Township 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.

C. The purpose of this ordinance is to provide for the inspection, maintenance and rehabilitation of onlot sewage disposal systems; to further permit the municipality to intervene in situations which are public nuisances or hazards to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

Section II. Definitions

Act 247 - The Act of July 31, 1968, P.L. 805, No. 247, as amended, 53 P.S. Section 10101 et seq. known as the Pennsylvania Municipalities Planning Code.

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.

Authorized Agent - A certified sewage enforcement officer, code enforcement officer, professional engineer, plumbing inspector, municipal secretary or any other qualified or licensed person who is delegated by the municipality to function within specified limits as the agent of the municipality to carry out the provisions of this ordinance.

Board - The Board of Supervisors, Benner Township, Centre County, Pennsylvania.

Building Code Official (BCO) - A construction code official who has been certified by the Department of Labor and Industry to administer and enforce codes and regulations under The Act 45 of 1999.

Capital Reserve Fund - An interest-bearing revolving fund, established by the municipality with monies contributed by each COLDS developer/user, for the purpose of financing major equipment and facility repair, maintenance, replacement, or upgrade. A separate capital reserve fund shall be established for each COLDS.

Community Onlot Sewage Disposal System (COLDS) - Any system, whether publicly or privately owned, for the collection of sewage from two (2) or more lots or uses, or two (2) or more equivalent dwelling units, and the treatment and/or disposal of the sewage on one (1) or more lots or at any other site.

DEP - The Department of Environmental Protection of the Commonwealth of Pennsylvania or any successor agency.

Design Standards - Design standards for onlot sewage systems as established by DEP (25 Pa. Code, Chapter 73) as well as relevant installation and locational standards established by such regulations and specifications for the design, installation, and use of an onlot sewage system as set forth by the municipality.

Developer - Any person, partnership or corporation which erects or contracts to erect a building on property it owns, whether with the intent to sell the building to some other party upon its full or partial completion, or upon conveyance of property on which the building is to be built, or with the intent to continue ownership of the property.

Equivalent Dwelling Unit (EDU) - For the purpose of determining the number of lots in a subdivision or land development, that part of a multiple family dwelling, commercial, industrial, or institutional establishment with sewage flows equal to four hundred (400) gallons per day.

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.

Improved Property - Any property within the municipality upon which there is erected an improvement intended for continuous or periodic habitation, occupancy or use by human beings and from which improvement sewage shall or may be discharged by any means.

Individual Onlot Sewage Disposal System - 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 or by means of conveyance to another site for final disposal.

Land Development - A land development as identified in the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended, 53 P.S. Section 10101 et seq.

Lot - A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided. Whenever a lot is used for a multiple family dwelling or for commercial, institutional or industrial purposes, the lot shall be deemed to have been subdivided into an equivalent number of single family residential lots as determined by estimated sewage flows.

Malfunction - The condition which occurs when an onlot sewage disposal system causes pollution to ground or surface waters, contamination of private or public drinking water supplies, nuisance problems or hazard to public health. Indications of malfunctioning systems include, but are not limited to, foul odors, lush grass growing over the system, backup of wastewater in the attached building(s), soggy ground over the system, surfacing sewage effluent flowing over the ground and occurring at any time of the year.

Management Program - The management program shall encompass individual and community onlot sewage disposal systems which discharge into the soils or into any waters of the municipality. All systems shall be operated under the jurisdiction of the municipal governing body and other applicable laws of the Commonwealth of Pennsylvania.

Municipality - Benner Township, Centre County, Pennsylvania.

Official Sewage Facilities Plan - A comprehensive plan for the provision of adequate sewage disposal, adopted by the municipality and approved by DEP in accordance with Act 537 and with applicable DEP regulations.

Owner - Any person, corporation, partnership, etc. holding deed/title to lands within the municipality.

Person - Any individual, association, public or private corporation whether for profit or not for profit, partnership, firm, trust, estate, or other legally recognized entity. Whenever the term "person" is used in connection with any clause providing for the imposition of a fine or penalty or the ordering of action to comply with the terms of this ordinance, the term person shall include the members of an association, partnership or firm and the officers of any public or private corporation whether for profit or not for profit.

Planning Module for Land Development - A revision to, or exception to the revision of, the municipal Official Sewage Facilities Plan submitted in connection with the request for approval of a subdivision or land development in accordance with DEP regulations. (Under certain circumstances, it may be appropriate to file a request for a planning exemption with DEP.)

Privy - A watertight tank designed to receive sewage where water under pressure or piped water or wastewater are not available.

Pumper/Hauler - Any person, company, partnership or corporation, approved by DEP, which engages in cleaning community or individual sewage systems and transports the septage cleaned from these systems.

Pumper's Report/Receipt - Form provided to the owner(s) by the pumper/hauler when said pumper/hauler pumps or cleans a sewage system and shows such information as the date, name of owner(s), gallons pumped and the fee due.

Pumper's Septage Manifest - Form provided by the municipality which must be completed for each sewage system pumped within the municipality, which copies of said form must be given to the system's owner(s) and submitted to the municipality.

Rehabilitation - Work done to modify, repair, enlarge, or replace an existing onlot sewage disposal system.

Replacement Area - An area designated as the future location of an individual onlot sewage disposal system that shall be installed should the initial individual onlot sewage disposal system installed or to be installed fails or otherwise becomes inoperable and which shall meet all the regulations of DEP and all applicable municipal ordinances for an individual onlot sewage disposal system, and shall be protected from encroachment by an easement recorded on the final plan as filed with the Centre County Recorder of Deeds. This is also applicable to community onlot sewage disposal systems.

Septage - The residual scum and sludge pumped from septic systems.

Sewage - 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 Clean Streams Law," as amended. Sewage shall include "gray water," which is further defined as discharge from any shower, tub, sink, washing machine or other facility used for bathing or washing, including dishwasher and water softener discharge. This definition specifically excludes wastewater of industrial origin.

Sewage Enforcement Officer (SEO) - A person appointed by the municipality to administer the provisions of this ordinance and authorized by DEP in accordance with Chapter 72, "Administration of Sewage Facilities Program" of Title 25, "Rules and Regulations" to perform site and soil evaluation, percolation tests, and issue permits for onlot sewage disposal systems.

Sewage Facilities - A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste.

Single and Separate Ownership - The ownership of a lot by one (1) or more persons which ownership is separate and distinct from that of any abutting or adjoining lot.

Subdivision - The division or redivision of a lot, tract or other parcel of land into two (2) 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 therefrom.

All other definitions of words and terms used in this ordinance shall have the same meaning as set forth in "Chapter 73, Standards for Sewage Disposal Facilities" of "Title 25, Rules and Regulations, Department of Environmental Protection."

Section III. Applicability

From the effective date of this ordinance, its provisions shall apply to all persons owning any property in the municipality serviced by an individual onlot sewage disposal system or a community onlot sewage disposal system and to all persons installing such onlot sewage disposal systems.

Section IV. Permit Requirements

A. Regardless of lot size, no person shall install, construct, or request bid proposals for construction or alter an individual onlot sewage disposal system or community onlot sewage disposal system or construct or request bid proposals for construction or install or occupy any building or structure for which an individual onlot sewage disposal system or community onlot sewage disposal system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with the provisions of the Pennsylvania Sewage Facilities Act (hereinafter called "Act 537" or "Act") and the standards adopted pursuant to that Act.

B. No system or structure designed to provide individual or community onlot sewage disposal shall be covered from view until approval to cover the same has been given by the municipality's certified SEO. If seventy-two (72) hours have elapsed, excepting Sundays and holidays, since the SEO 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 SEO.

C. The municipality may require applicants for sewage permits to notify the municipality's certified SEO of the schedule for construction of the permitted onlot sewage disposal system so that inspection(s) in addition to the final inspection required by Act 537 may be scheduled and performed by the municipality's certified SEO at the cost of the applicant.

D. No building or occupancy permit shall be issued by the municipality or its BCO for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from the municipality's certified SEO.

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 the municipality's BCO and the structure's owner receive from the municipality's certified SEO either a permit for modification or replacement of the existing onlot sewage disposal system or written notification that such a permit will not be required. In accordance with Chapter 73 regulations, the certified SEO 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 certified SEO employed by the municipality for that express purpose. DEP shall be notified by the municipality as to the identity of their currently employed primary and alternate certified SEO's.

G. No sewage permit may be issued unless proof is provided the owner of record has owned the lot before May 15, 1972, or that Act 537 planning for that lot has been provided by the municipality and approved by DEP.

H. No final Act 247 approval of a subdivision or land development plan may be made and no recording of deeds for newly created lots completed until formal Act 537 planning approval by DEP is received.

Section V. Replacement Areas

1. Requirements

A. Any supplements, revisions, or exceptions to the municipality's Official Sewage Facilities Plan which are prepared pursuant to the applicable regulations of DEP for subdivision or development of land within the municipality shall provide for the testing, identification, and reservation of an area of each lot or developed property suitable for the installation of a replacement onlot sewage disposal system. This requirement is in addition to the testing, identification, and reservation of an area for the primary onlot sewage disposal system.

B. No permit shall be issued for any proposed new onlot sewage disposal system on any newly created or subdivided property in the municipality unless and until a replacement area is tested, identified and reserved.

C. After the effective date of this ordinance, a replacement area for an individual or community onlot sewage disposal system shall be required for all lots or lots to be created which are not serviced or to be serviced by a public sewer system or for which a valid permit for installation of an individual or community onlot sewage disposal system has not been issued. Lots existing prior to the effective date of this ordinance shall be exempt from the requirements of this section.

D. The replacement area provided shall comply with the Act and with all regulations issued by DEP as incorporated into this ordinance concerning individual onlot and community onlot sewage disposal systems, including isolation distances, and with the terms of this ordinance and any other applicable municipal ordinances.

2. Identification of Replacement Area

A. Each applicant who shall submit a plan for the subdivision or development of land or who shall apply for a permit for the installation of an individual onlot or community onlot sewage disposal system, or who shall request approval of a Planning Module for land development or the adoption of a revision, exception to revision, or supplement to the Official Sewage Facilities Plan shall demonstrate to the satisfaction of the municipality's certified SEO that a suitable area exists on the lot or on each lot to be created for a primary and reserved replacement area for an onlot sewage disposal absorption area. The municipality's certified SEO shall perform or observe all tests required for the location of an individual onlot or community onlot sewage disposal system to confirm the suitability of the replacement area. Allowance of open land for the replacement area without testing performed or observed by the municipality's certified SEO shall not constitute compliance with the requirements of this section.

B. The location of the initial onlot sewage disposal system and the replacement area as confirmed by the municipality's certified SEO shall be identified on the plot plans and diagrams submitted as part of the permit application.

C. If the application has been submitted as part of an application for subdivision or land development approval or as part of a request that the municipality approve a Planning Module for land development or amend its Official Sewage Facilities Plan, or a request for an exception to the revision of the Official Sewage Facilities Plan, the location of each initial individual onlot or community onlot sewage disposal system and each replacement area shall be noted upon the plot plans. If the application is for subdivision or land development approval, a note constituting a permanent easement shall be added to the plans stating that no improvements shall be constructed upon the replacement area, and the deed to be recorded for each lot created as part of the subdivision or land development shall contain language reflecting this limitation.

D. Any revisions to a permit or plan affecting a replacement area which previously has been approved pursuant to the provisions of this ordinance shall be reviewed for approval by the municipal Board or its authorized representative.

3. Construction Restrictions

A. The easement for the replacement area noted upon the plan and recorded with the Centre County Recorder of Deeds shall state that no permanent or temporary improvements of any character, other than shallow rooted plant matter, shall be constructed upon the replacement area.

B. If a person desires to construct such improvements on the designated replacement area, such person shall demonstrate to the satisfaction of the municipality's certified SEO that an alternate replacement area, which complies with all applicable regulations of DEP, this ordinance, and all other applicable municipal ordinances, exists upon the lot. If such an alternate replacement area shall be identified, the alternate replacement area may be considered to be the replacement area required by this ordinance and shall be designated as the replacement area.

Section VI. Inspections

A. Any onlot sewage disposal system may be inspected by the municipality's certified SEO or authorized agent at any reasonable time as of the effective date of this ordinance, but in no case shall an inspection of every onlot sewage disposal system be conducted less frequently than once every six (6) years.

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 the ultimate destination of wastewater generated in the structure. A copy of the inspection report shall be furnished to the owner(s) and current resident, which shall include at least all of the following information: date of inspection; name and address of system owner; address where system is located if different than address of owner; description and diagram of the location of the system, including the location of access hatches and risers; size of tank(s); indication of any system malfunction observed; results of any and all soils and water tests, as required; and any remedial action required.

C. The municipality's certified SEO or authorized agent shall have the right to enter upon land for the purposes of inspections described herein. In the event access to inspect the property is denied, the following steps shall be taken:

1. The matter will be officially referred to the governing body of the municipality for action.

2. The governing body of the municipality may schedule a review at the next scheduled meeting of the Board or, if the situation threatens the health or safety of the residents of the municipality, the Board may commence an immediate procedure to obtain a search warrant from the District Justice.

3. Upon receipt of a search warrant to inspect the property, the municipality's certified SEO or authorized agent of the municipality shall be accompanied by an officer of the Pennsylvania State Police and the inspection shall be completed in accordance with this subsection.

D. An initial inspection shall be conducted by the municipality's certified SEO or authorized agent within six (6) years of the effective date of this ordinance for the purpose of determining the type and functional status of each onlot sewage disposal system in the municipality. 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 routine inspection of each onlot sewage disposal system in the municipality will be scheduled every six (6) years to assure the proper functioning of all systems in the municipality.

F. The municipality's certified SEO or authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the municipality's certified SEO shall take action to require the correction of the malfunction. If total correction is not technically or financially feasible in the opinion of the municipality's certified SEO and a representative of DEP, then action by the property owner to mitigate the malfunction shall be required.

G. A permit shall be required by the municipality for alterations or connections to an existing individual or community onlot sewage disposal system when the alteration or connection requires the repair, replacement or enlargement of a treatment tank or retention tank, or the repair, replacement, disturbance, modification or enlargement of a soil absorption area or spray field, or the soil within or under the soil absorption area or spray field. This also includes the building sewer and any other piping.

H. There may arise geographic areas within the municipality where numerous onlot sewage disposal systems are malfunctioning. A resolution of these area-wide problems may necessitate detailed planning and a municipally sponsored revision to that area's Act 537 Official Sewage Facilities Plan. When a DEP authorized Sewage Facilities Plan Revision has been undertaken by the municipality, mandatory repair or replacement of individual malfunctioning onlot sewage disposal systems within the study area may be delayed, at the discretion of the municipality, pending the outcome of the Plan revision process. However, the municipality may compel immediate corrective action whenever a malfunction, as determined by municipal officials and/or DEP, represents a serious public health or environmental threat.

Section VII. Operation

A. Only normal domestic wastes shall be discharged into any onlot 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; and
4. Clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps and French drains.

B. Owner(s) shall ensure that their onlot sewage disposal system treatment tank does not contain any of the substances listed above under item A. If any of those substances are being put into their treatment tank, the owner(s) must contact the municipality's certified SEO and the pumper/hauler to inform them of such.

Section VIII. Maintenance

A. Any person owning a building served by an onlot sewage disposal system 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.

B. An option will be provided to allow the property owner to request a waiver from pumping every three (3) years if, because of tank size, household size, or seasonal use, it is determined by the municipality's certified SEO that such pumping is not needed. In such cases, a waiver from pumping may be granted, at the discretion of the municipality's certified SEO, when an inspection of the tank by the municipal SEO reveals that the solids are less than one-third (1/3) the liquid depth of the tank.

C. The required pumping frequency may be increased, at the discretion of the municipality's certified SEO or 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.

D. If any person can prove that their system's tank(s) has been pumped within three (3) years of the effective date of this ordinance, then the municipality may delay that person's initial required pumping to conform with the general pumping frequency requirement.

E. Any person owning a building served by an onlot sewage disposal system which utilizes any components or technologies deemed by DEP to require more detailed operation and maintenance requirements than provided for in this ordinance including, but not limited to, individual residential spray irrigation systems (IRSIS), alternate systems, or experimental systems shall be further subject to the maintenance responsibilities required by DEP for said system. These responsibilities shall, at the discretion of the municipality, be memorialized in individual operation and maintenance agreements or other similar acceptable arrangements for each such use, to which both the municipality and the property owner shall be party. The municipality may impose additional requirements as deemed necessary including, but not limited to, collection of an annual fee and additional financial security.

F. Any person owning a building in Benner Township served by a cesspool or dry well, which cesspool or dry well is still being utilized for sewage disposal, will be considered as an absorption area provided the following conditions are met:

1. The cesspool or dry well is functioning properly and does not have a regulatory malfunction as defined by DEP in the Pennsylvania Code; and
2. A DEP-approved septic tank appropriately sized for the building it will serve is installed between the building and the cesspool or dry well.

A permit to install a septic tank as outlined above must be secured from the municipality's certified SEO prior to such installation. For 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.

G. The municipality may require additional maintenance activity as needed including, but not necessarily limited to, cleaning and unclogging of collection and conveyance piping, pressure lines and manholes; alarm and flow recorder devices; pumps; disinfection equipment and related safety items; servicing, maintenance and/or the repair of electrical, mechanical and chemical components of the sewage facilities; leveling of distribution boxes, tanks and lines; removal of obstructing roots or trees; and the diversion of surface water away from the disposal area, etc.

H. Any and all steel septic tanks found within Benner Township shall be removed and replaced with a DEP-approved septic tank of the appropriate size, as determined by the municipality's certified SEO, for the building it will serve. The replacement shall occur within the timeframe set by the SEO.

I. Each time a septic tank or other subsurface waste disposal tank is pumped out, the municipality, its authorized agent, or a private septage pumper/hauler, whichever provides the service, shall provide to the owner of the onlot sewage disposal system a signed pumper's report/receipt containing, at minimum, the following information:

1. Date of pumping
2. Name and address of system owner
3. Address of tank's location, if different from the owner's
4. Amount of septage or other solid or semi-solid material removed
5. Destination of septage (name of treatment facility)

J. Upon completion of each required pumping, the pumper/hauler shall fill out and submit a pumper's septage manifest, copies of which shall be provided by the municipality or its authorized agent to all pumper/haulers operating within Benner Township. The pumper/hauler shall provide one (1) copy of the pumper's septage manifest to the owner and one (1) copy to the municipality or its authorized agent. Copies must be received by the municipality or its authorized agent within thirty (30) days of the date of pumping.

K. Holding tanks shall be pumped/maintained in accordance with Section IX below.

Section IX. Holding Tanks and Privies

The purpose of this section is to establish procedures for the use and maintenance of existing and new holding tanks and privies which are designed to receive and retain sewage. For purposes of this section, a new holding tank or a new privy tank shall have a capacity of no less than 1,000 gallons.

A. Rights and privileges granted.

The Board is hereby authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effect the purpose herein. All such rules and regulations adopted by the Board shall be in conformity with the provisions herein, all other ordinances of the municipality, and all applicable laws, rules and regulations of the Commonwealth of Pennsylvania.

B. Rates and charges.

The Board shall have the right and power to fix, alter, charge, and collect fees, assessments and other charges as may be authorized by applicable law and as may be deemed necessary to implement the provisions of this section.

C. Rights and privileges.

1. Holding Tank.

(a) The collection and transportation of all sewage from any property utilizing a holding tank shall be completed under the direction and control of the Board or its authorized agent, and the disposal thereof shall be made only at such sites as may be approved by the DEP.

(b) The Board, or its authorized agent, shall be provided pumping receipts from permitted tanks and documentation of receipt from a Pennsylvania DEP-approved receiving station.

(c) The Board, or its authorized agent, will complete and retain annual inspection reports for each permitted tank. A permitted tank may be inspected more frequently than once per year if deemed necessary by the Board.

(d) The Board, or its authorized agent, shall permit a holding tank only for properties whose primary use is either institutional or commercial, or properties where a holding tank shall be deemed necessary to abate a nuisance. In no event shall a holding tank be permitted by the Board, or its authorized agent, as a permanent system of sewage disposal for residential purposes. Property owners shall comply with all applicable Pennsylvania State regulations for holding tank use and any conditions attached to the approval of use of a holding tank by the Board or its authorized agent.

(e) Holding tanks will be permitted only with appropriate Pennsylvania DEP approval. Holding tanks will not be permitted if the site can be served by a conventional or alternate system designed to function as an onlot septic system.

(f) The municipality will require an escrow in an amount as established from time to time by resolution of the Board to be maintained by the property owner with the municipality as security that the requirements for reporting of pumping and disposal of waste and maintenance of the holding tank are in compliance with this section and the holding tank permit.

2. Privy.

The collection and transportation of all sewage from any improved property utilizing a privy shall be completed under the direction and control of the Board, or its authorized agent, and the disposal thereof shall be made only at such site or sites as may be approved by the Pennsylvania DEP.

D. Conditions of privy use.

1. The property owner must show that site and soil suitability testing of the lot has been

conducted by the Sewage Enforcement Officer and that the site meets the Title 25, Pennsylvania Code, Chapter 73, Standards for Sewage Disposal Facilities requirements for the ultimate sewage disposal by an approved onlot system if water under pressure or piped water or wastewater becomes available to the lot.

2. At such time that water under pressure or piped water or wastewater becomes available, the property owner must remove the privy and replace the privy with an approved onlot system.

3. The conditions of use described in subsection 1. above do not apply to a privy or chemical toilet intended to be used on an isolated lot of record in existence prior to May 15, 1972 which is one (1) acre or larger and is not served now and will not be served in the future by water under pressure, piped water or plumbing to move wastewater from the structure to the privy vault or to an unpermitted disposal system on that lot.

4. Specific conditions for use of privies shall be incorporated into the permit application and permit for the proposed use of a privy on an individual basis.

5. The Board, or its authorized agent, shall have the right at any time to inspect the privy for proper operation, maintenance and content disposal. However, according to this Sewage Management Program Ordinance, each privy in Benner Township shall be inspected no less than every six (6) years.

E. Duties and responsibilities of improved property owners.

1. Holding tanks. The owner of a property that utilizes a holding tank shall:

(a) Maintain the holding tank in conformance with this or any ordinance or resolution of the municipality, and the provisions of any applicable law, and the laws, rules and regulations of the Commonwealth of Pennsylvania; and shall further agree to provide the municipality, or its authorized agent, such documentation as may be deemed necessary or appropriate to provide assurance of conformance. Said documentation may include, but shall not be limited to, permits, receipts, or correspondence from Pennsylvania DEP, the pumper/hauler, and the receiving station.

(b) Permit only the Board, or its authorized agent, to inspect holding tanks annually; or in the event of deficiency or other circumstances, at any time as deemed necessary by the Board or its authorized agent.

(c) Provide documentation to the Board, or its authorized agent, that the pumper/hauler selected to collect, transport, and dispose of the contents therein, has disposed of the contents at a receiving station approved by Pennsylvania DEP.

2. Privies. The owner of an improved property that utilizes a privy shall:

(a) Maintain the privy in conformance with this or any ordinance or resolution of the municipality and the provisions of any applicable laws, rules and regulations of the Commonwealth of Pennsylvania.

(b) Permit the Board, or its authorized agent, to enter upon land to inspect the privy for proper operation, maintenance and contents disposal.

(c) Provide documentation to the Board, or its authorized agent, that the pumper/hauler selected to collect, transport, and dispose of the contents therein, has disposed of the contents at a receiving station approved by Pennsylvania DEP.

(d) Abandon the privy consistent with applicable public health and environmental standards and obtain a permit for and install an approved onlot sewage disposal system

meeting the Chapter 73 standards in the event that water under pressure or piped water or wastewater becomes available to the property.

F. Abatement of nuisances.

In addition to any other remedies provided in this ordinance, any violation of Section IX. of this ordinance shall constitute a nuisance and shall be abated by the municipality, or its authorized agent, either by seeking mitigation of the nuisance or appropriate relief from a court of competent jurisdiction. The owner of improved property shall be responsible for any cost to the municipality, or its authorized agent, relative to abatement of nuisances.

Section X. Community Onlot Sewage Disposal Systems

A. Purposes.

1. The purpose of this section is to establish procedures for the design, installation, use and maintenance of community onlot sewage disposal systems (COLDS) for the collection, treatment and disposal of sewage.

2. This section is intended to provide a method of sewage treatment and disposal under circumstances where the municipality does not have the capability to convey, treat, and/or dispose of sewage via the municipality or the municipality's authorized agency's publicly held conveyance, treatment, and/or disposal system, and where the construction, use, and maintenance that are or may be associated with individual onlot sewage disposal systems pose or may present potential health risks.

B. Scope.

1. As part of any subdivision or land development plan proposing the use of a COLDS, compliance with these rules and regulations shall be a condition of approval.

2. Developments located outside the Act 537 Spring-Benner-Walker or any established municipal sewer service area that wish to utilize a COLDS shall comply with the following:

(a) All COLDS shall be subject to the requirements set by the Board which may include escrows, appointment of a responsible party, and periodic inspections. All requests for permits shall be reviewed by the Board prior to permit issuance.

3. COLDS are permitted in all zoning districts.

C. Rights and privileges granted.

1. The Board hereby authorizes and empowers the SEO/authorized agent to oversee within the municipality the design, installation, operation, and maintenance of COLDS. Permits for COLDS shall be issued by the SEO or DEP.

2. The Board hereby authorizes and empowers its authorized agent to enter into or acquire escrow agreements, construction and performance bonds, and engineering services to ensure COLDS and related collection systems are designed, constructed, operated and maintained in accordance with any applicable rules and regulations of the Board.

- D. Rules and regulations applicable to COLDS within Benner Township.
1. All COLDS must be designed and constructed in accordance with the specifications of the Board.
 2. The Board is hereby authorized and empowered to adopt such rules and regulations concerning COLDS which it may deem necessary from time to time to effect the purposes herein.
 3. All such policies, regulations and specifications of the Board shall be in conformance with the provisions herein, all other ordinances of the municipality and all applicable laws, rules and regulations of the Commonwealth of Pennsylvania.
 4. All COLDS must have two (2) absorption areas, designed according to site characteristics, each with a capacity sufficient to serve all equivalent dwelling units which can be connected to the system.
 5. COLDS must be designed to include an inspection portal on the septic tank which may be used by the SEO to monitor the depth of solids in the tank. In addition, each COLD system septic tank shall contain a riser which can be used for pumping purposes.
 6. The owner of a COLDS within Benner Township approved after the enactment of this ordinance shall be responsible for the maintenance of such system.

E. Imposition of rates and charges.

The Board shall have the right and power to fix, alter, charge and collect rates, assessments and other charges at reasonable and uniform rates as authorized by applicable law.

F. Exclusivity of rights and privileges.

The collection, treatment, and disposal of all sewage from any improved property utilizing a COLDS shall be done solely by a DEP approved pumper/hauler and to a DEP permitted disposal plant.

G. Applicability.

1. Any person who is the owner of any existing or proposed COLDS serving as a means of sewage disposal within the municipality is subject to all requirements of this section and this ordinance.
2. The developer proposing a COLDS shall be responsible for obtaining all required permits from the municipality, DEP, and/or any other agencies requiring permits for such an installation. The owner of any proposed COLDS shall be responsible for its construction and startup in accordance with the requirements of this ordinance.
3. The property owner(s) shall be responsible for the cost of maintenance and repair of a COLDS.
4. All COLDS with an appropriate operations and maintenance agreement shall be inspected by the SEO at least annually. However, according to this ordinance, each COLDS within the municipality's sewage management program shall be inspected no less than every six (6) years.

Section XI. System Rehabilitation

A. No person shall operate and maintain an onlot 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 a treatment system or tank. No onlot sewage disposal 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 DEP.

B. The municipality or its authorized agent shall issue a written notice of violation to any person who is the owner of a property in the municipality which is found to be served by a malfunctioning onlot sewage disposal system or which is discharging raw or partially treated sewage.

C. Within seven (7) days of initial notification by the municipality or its authorized agent that a malfunction has been identified, the property owner shall make application with the municipality's certified SEO for a permit to repair or replace the malfunctioning system or system component. Within thirty (30) days of initial notification by the municipality or its authorized agent, construction of the permitted repair or replacement shall commence. Within sixty (60) days of the initial notification by the municipality or its authorized agent, the construction shall be completed and approved unless seasonal or unique conditions mandate a longer period, in which case the municipality or its authorized agent shall set an extended completion date.

D. The municipality's certified SEO 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 area, replacing the existing disposal area, replacing a gravity distribution system with a pressurized system or other alternatives as appropriate for the specified site.

E. In lieu of, or in combination with, the remedies described in D. above, the municipality's certified SEO may require the installation of water conservation equipment and the institution of water conservation practices in structures served by an onlot sewage disposal system. Water-using devices and appliances in the structure may be required to be retro-fitted with water saving appurtenances or they may be required to be replaced by water conserving devices and appliances. Wastewater generation in the structure may also be reduced by requiring changes in water usage patterns in the structure served.

F. In the event that the rehabilitation measures in A. through E. above are not feasible or do not prove effective, the municipality may require the owner to apply to DEP for a permit to install an approved single residence treatment and discharge system that is capable of being instituted on site. Upon receipt of said permit, the owner shall complete construction of the system within sixty (60) days.

G. Should none of the remedies described above prove totally effective in eliminating the malfunction of an existing onlot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. The municipality may require whatever action is necessary to lessen or mitigate the malfunction to the extent that it feels necessary.

Section XII. Liens

The municipality, upon written notice from the municipality's certified SEO that an imminent health hazard exists due to failure of a property owner to maintain, repair or replace an onlot 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 certified SEO. The owner shall be charged for the work performed and, if necessary, a lien shall be entered, therefore, in accordance with law. Liens may also be levied when any owner(s) fail to remit penalty costs.

Section XIII. Disposal of Septage

A. All septage originating within the municipality shall be disposed of 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 farm lands.

B. All septage pumper/haulers operating within the municipality shall be approved by DEP. Pumper/haulers shall comply with all reporting requirements established by the municipality.

C. All septage pumper/haulers operating within the municipality 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). Any septage pumper/hauler who violates any of the provisions of this ordinance or regulations of the municipality, the conditions of its State permit, or any State or local law governing its operation shall, upon conviction thereof, be sentenced to pay a fine not exceeding Five Thousand and 00/100 (\$5,000.00) Dollars and costs and, in default of the payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. If any pumper/hauler shall have been convicted on two (2) occasions of any violation of this ordinance, or for violating the conditions of its State permit, or of any State or local law governing its operation, the municipality shall have the power to suspend said pumper/hauler from operating within the municipality for a period of not less than six (6) months or more than two (2) years for each violation, as determined by the municipality. Each day the violation continues shall constitute a separate offense.

Section XIV. Administration

A. The municipality shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this ordinance.

B. The municipality shall employ qualified individuals to carry out the provisions of this ordinance. Those employees shall include a certified SEO and may include a building code official, secretary, administrator and other persons as required. The municipality may also contract with qualified persons or firms, as necessary, to carry out the provisions of this ordinance.

C. All permits, records, reports, files and other written material relating to the installation, operation and maintenance and malfunction of onlot sewage disposal systems in the municipality shall become the property of the municipality. Existing and future records shall be available for public inspection as per Benner Township's Open Records Policy. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the municipality's sewage management program shall be made available, upon request, for inspection by representatives of DEP.

D. The municipality shall establish a fee schedule to cover the cost of administering this program. Fees shall be collected by the municipality or its authorized agent.

E. Owner(s) shall be notified in writing by the municipality of the need to arrange for an inspection of their onlot sewage disposal system and/or the need to pump their septic tank(s). Notices shall be sent to the owner(s) of record by First Class Mail.

F. Upon receipt of notification, the owner(s) shall have thirty (30) days to pay the fees, as established by Municipal Resolution, to the municipality or its authorized agent. Upon receipt of the fee for an inspection, the municipality or its authorized agent will contact the owner(s) to schedule the required inspection.

G. A list of DEP-registered/licensed pumper/haulers shall be kept at the municipal building and will be provided to owner(s) at their request.

H. The municipality shall establish all administrative procedures necessary to properly carry out the provisions of this ordinance.

Section XV. Appeals

A. Appeals from decisions of the municipality or its authorized agents under this ordinance shall be made to the Board of Supervisors in writing within thirty (30) days from the date of the decision in question.

B. The appellant shall be entitled to a hearing before the Benner Township Board of Supervisors at its next regularly scheduled meeting, if the 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 subsequent 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 municipality. 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. If a decision is not rendered within thirty (30) days, the relief sought by the appellant shall be deemed granted.

Section XVI. Penalties

Any person failing to comply with any provision of this ordinance shall be subject to a fine of not less than Five Hundred and 00/100 (\$500.00) Dollars and costs, and not more than Five Thousand and 00/100 (\$5,000.00) Dollars and costs, or in default thereof shall be confined in the county jail for a period of not more than thirty (30) days for each offense. Each day of noncompliance shall constitute a separate offense.

Section XVII. Repealer

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

Section XVIII. Severability

If any section or clause in this ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions which shall be deemed severable therefrom.

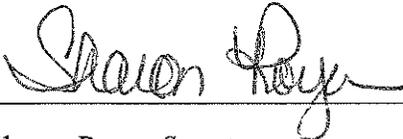
Section XXIV Effective Date

This Ordinance shall become effective five (5) days after its enactment by the Board of Supervisors of Benner Township, Centre County, Commonwealth of Pennsylvania.

Section XXVI Enactment

This Ordinance, ordain and enacted this 19 day of May, 2014.

ATTEST:

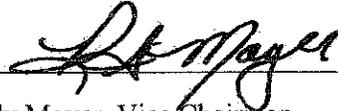


Sharon Royer, Secretary

BENNER TOWNSHIP SUPERVISORS:



David Wise, Chairman



Randy Moyer, Vice Chairman

absent

Mark Capriani