

ORDINANCE 328

AN ORDINANCE GOVERNING MUNICIPAL MANAGEMENT OF ON-LOT SUBSURFACE SEWAGE DISPOSAL FACILITIES IN THE TOWNSHIP OF FRANCONIA, MONTGOMERY COUNTY, PA

The Board of Supervisors of the Township of Franconia, in the County of Montgomery and the Commonwealth of Pennsylvania, hereby ordains:

Section 1. Short Title; Introduction; Purpose

- A.** This ordinance shall be known and may be cited as “An ordinance providing for a Sewage Management Program for Franconia Township.”
- 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 Franconia 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 Franconia 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 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

Alternate System: Any system that is listed in the PA-DEP document, *Alternate Systems Guidance*, effective date September 20, 2003 (minor revisions were made on February 6, 2004).

Authorized Agent: A sewage enforcement officer, employee of Franconia Township, professional engineer, plumbing inspector, or other qualified or licensed person who is authorized to function within specified limits as an agent of Franconia Township to administer or enforce the provisions of this ordinance.

Board: The Board of Supervisors, Franconia Township, Montgomery County, Pennsylvania.

Community Sewage System: Any sewage system, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment and/or disposal of the sewage on one or more lots or at any other site.

County: The Montgomery County Health Department (MCHD).

Department: The Pennsylvania Department of Environmental Protection (PADEP).

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 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: 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.

Official Sewage Facilities Plan: A comprehensive plan for the provision of adequate sewage disposal systems, adopted by the Board of Supervisors of Franconia Township and approved by the Pennsylvania Department of Environmental Protection, pursuant to the Pennsylvania Sewage Facilities Act.

On-lot Sewage Disposal System: 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.

Person: Any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political subdivision, 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.

Rehabilitation: Work done to modify, alter, repair, enlarge or replace an existing on-lot sewage disposal system.

Septage: Domestic septage is either liquid or solid material removed from a septic tank, dosing tank, cesspool, portable toilet, or similar storage or treatment works that receive only domestic sewage.

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 Enforcement Officer (SEO): A person certified by PADEP who is employed either directly or indirectly by Franconia Township or Montgomery County Health Department. 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 thereunder and this or any other ordinance adopted by Franconia Township or Montgomery County Health Department. Only the SEO employed by the Montgomery County Health Department is authorized to administrate the sewage facilities permitting program under Chapter 72 of the PADEP regulations.

Sewage Management District: Any area or areas of Franconia 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.

Sewage Management Program: A program authorized by the official action of a municipality for the administration, management and regulation of the disposal of sewage. This comprehensive set of legal and administrative requirements encompassing the requirements of this ordinance, the Sewage Facilities Act, the Clean Streams Law, the regulations promulgated thereunder and such other requirements adopted by the Board of Supervisors to effectively enforce and administer this ordinance.

Subdivision: 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 therefrom.

Township: The Township of Franconia, Montgomery County, Pennsylvania.

For the purposes of this ordinance, any term that is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and the Regulations promulgated thereto.

Section III. Applicability

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. Within such an area or areas, the provisions of this ordinance shall apply to all persons owning any property serviced by an onlot 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 constructor request bid proposals for construction or install or occupy any building or structure for which an individual sewage system or community sewage is to be installed without first obtaining a permit from the MCHD 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 and the Pennsylvania Sewage Facilities Act and the regulations adopted pursuant to those Acts.
- B.** No building permit shall be issued for a new or expanded building which will contain sewage generating facilities until Act 537 planning approval has been issued by the PADEP and appropriate sewage permit has been issued by the MCHD sewage enforcement officer.
- C.** No occupancy permit shall be issued for a new building which will contain sewage generating facilities until the installation of the on-lot sewage disposal system has been approved by the MCHD sewage enforcement officer.
- D.** 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 from the MCHD 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 the MCHD SEO that such a

permit will not be required. The MCHD sewage enforcement officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

- E. Sewage permits may be issued only by a SEO employed by the MCHD.

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 ground water sources, the sampling of the contents of the sewage disposal system itself and/or the introduction of a traceable substance into the interior plumbing of the structure served to ascertain the path and ultimate destination of wastewater generated in the structure.
- C. An authorized agent shall have the right to enter upon land for the purposes of inspections described in this section.

An initial inspection shall be conducted by an authorized agent within three (3) years of the effective date of the original ordinance for the purpose of determining the type and functional status of each sewage disposal system in the sewage management district. The initial inspection shall be scheduled to conform with the following periods:

- Cycle I (2005): Perkiomen Basin Area
- Cycle II (2007): Skippack Basin Area (both Upper and Lower)
- Cycle III (2008): Indian Creek Basin

The most effective inspections can be accomplished by performing the inspection at the time the sewage disposal system is pumped. The inspection may be valid if the sewage disposal system has been pumped within the year previous to the inspection with the following requirements: (1) A receipt indicating the date of pumping must be provided and (2) the authorized agent must be able to perform all aspects of the inspection. The authorized agent may, at their discretion, require pumping for the purpose of properly completing the inspection. Section 111-7 A. Each person owning a building served by an on-lot sewage disposal system that contains a septic tank and/or a dosing tank shall have all tanks pumped by a township registered pumper/hauler within six months of the beginning of the established inspection Cycle as identified in Section 111-5 D of this Ordinance by a sewage pumper/hauler licensed by the PADEP and authorized by this board or its agent.

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. The report may contain recommendations for improved operation and maintenance of the system.

- 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 notify the MCHD SEO and shall order action to be taken to correct the malfunction. If total correction can not be done in accordance with the regulations of DEP including, but not limited to, those outlined in Chapters 71 and 73 of Title 25 of the Pennsylvania Code or is not technically or financially feasible in the opinion of the

authorized agent and the MCHD SEO, then action by the property owner to mitigate the malfunction shall be required.

- G.** There may arise geographic areas where numerous on-lot sewage disposal systems are malfunctioning. A resolution of these areawide problems may necessitate detailed planning and a revision to the portion of the Sewage Facilities Plan pertaining to areas affected by such malfunctions. When a DEP authorized Official Sewage Facilities Plan Revision has been undertaken, mandatory 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 may be compelled whenever a malfunction, as determined by the Franconia Township Board of Supervisors, the MCHD and/or the Department, represents a serious public health or environmental threat.

Section VI. Operation

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 oils not deemed suitable for human consumption.
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.
5. Wastewater resulting from hair treatment at a multi-chaired beauty shop.

Section VII. Maintenance

- A.** Each person owning a building served by an on-lot sewage disposal system that contains a septic tank and/or a dosing tank shall have all tanks pumped by a qualified pumper/hauler within six (6) months of the beginning of the established inspection Cycle as identified in Section V (D) of this ordinance by sewage pumper/hauler licensed by the PADEP and authorized by the Board or its agent. Thereafter, that person shall have the tank pumped at least once every three (3) years or whenever an inspection reveals that the bottom of the scum layer is 6 inches above the bottom of outlet tee or the top of the sludge layer is within 12 inches of the outlet tee. Receipts from the pumper/hauler shall be submitted to the Township within the prescribed 7 days of pumping/hauling operations.
- 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. If any person can prove that such person's septic tank had been pumped within three years of the six-month anniversary of the effective date of this ordinance, then that person's initial required pumping may be delayed to conform to the general three-year frequency requirement, except where an inspection reveals a need for more frequent pumping intervals.
- 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 in the septic tank have been inspected and found to be in good working order.

Any person whose septic tank baffles 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 that contains an aerobic 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 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 aerobic treatment tanks exceed those required for septic tanks.
- E.** Any person owning a building served by a cesspool or dry well shall have that system pumped according to the schedule prescribed for septic tanks. As an alternative to this scheduled pumping of the cesspool or dry well, the owner may apply for a sewage permit from a sewage enforcement officer for, a septic tank to be installed preceding the cesspool or dry well. 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.
- F.** Any person owning a building served by an individual residence spray irrigation (IRSIS) system shall follow the operation and maintenance recommendations of the equipment manufacturer and the Departments recommendations. A copy of the manufacturer's recommendations and a copy of the service agreement shall be submitted to the Township.
- G.** Any person owning a building served by an on-lot sewage disposal system that was considered an alternate system 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. In no case may the service or pumping intervals for the alternate systems exceed those required for septic tanks.
- H.** 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 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 from PADEP.
- B.** A written notice of violation shall be issued to any person who is the owner of any property which is found to be served by a malfunctioning on-lot sewage disposal system or which is discharging raw or partially treated sewage without a permit.
- C.** Within seven (7) days of notification by the Township that a malfunction has been identified, the property owner shall either (1) begin the process of connecting to public sewer if it is available within 150 feet of the residence or, if public sewer is unavailable, (2) make application to the MCHD 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 public sewer connection, 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.** The MCHD sewage enforcement officer and the Township's authorized agent shall both 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, 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, the MCHD sewage enforcement officer and the Township's authorized agent 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 PADEP 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 and MCHD 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 the authorized agent or from the MCHD sewage enforcement officer that an imminent health hazard exists due to failure of a property owner to maintain, repair or replace an on-lot sewage disposal system as provided under the terms of this ordinance, shall have the authority to perform, or contract to have performed, the work required by the authorized agent or the MCHD 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 PADEP. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites, and approved farm lands.
- 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. All pumper/haulers of septage shall be PADEP certified and registered with the Township.

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 material 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 to the Township of administering this program, consistent with local municipal code.

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 of 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 Township 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.
- D.** Hearings under this subsection shall be conducted pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353) known as the "Local Agency Law."

Section XIII. Penalties

Any person failing to comply with any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100) and costs, and not more than three hundred dollars (\$300) and costs, or in default thereof shall be confined in the county jail for a period of not more than thirty (30) 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.


DULY AMENDED AND ENACTED this 15th day of May, 2006 by the Board of Supervisors of the Township of Franconia, in the County of Montgomery and the Commonwealth of Pennsylvania, in lawful sessions duly assembled.

TOWNSHIP OF FRANCONIA
Montgomery County, Pennsylvania

ATTEST:



Kevin D. Bayer, Secretary

BY: 

Steven P. Barndt, Chairman