

**LETTERKENNY TOWNSHIP
FRANKLIN COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2-2007

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF LETTERKENNY
TOWNSHIP ("TOWNSHIP") GOVERNING MUNICIPAL MANAGEMENT OF
ON-LOT SUBSURFACE SEWAGE DISPOSAL FACILITIES**

The Board of Supervisors of the Township of Letterkenny, Franklin County, Pennsylvania, enacts and ordains as follows:

SECTION 1. SHORT TITLE.

This Ordinance shall be cited as the On-Lot Sewage Disposal Ordinance.

SECTION 2. PURPOSE.

The purpose of this Ordinance is to regulate the installation, inspection, operation, rehabilitation, and replacement of existing and future on-site sanitary waste disposal systems only within the Management District.

SECTION 3. DEFINITIONS.

A. This Ordinance incorporates by reference all definitions of words used in the Ordinance which are defined in the Clean Streams Law, 35 P.S. §691.1 *et seq.*, the Pennsylvania Sewage Facilities Act ("Act"), 35 P.S. §750.1 *et seq.*, and valid regulations promulgated pursuant thereto by the Department of Environmental Protection and published in the Pennsylvania Code, Title 25, Chapter 71.

B. In addition the following words and terms when used in this Article shall have the following meanings:

Alteration - the repair, modification or replacement of any component of a System.

Authorized agent - the Township's authorized Sewage Enforcement Officer ("SEO"), Engineer, Plumbing Inspector, Soils Scientist, Township Supervisor or any other person authorized by the Township to carry out provisions of this Ordinance.

Malfunction - the failure or inadequacy of a system whereby it causes or is likely to cause pollution of ground or surface waters, contamination of public or private drinking water supplies, or presents a hazard to public health. Indications of a malfunctioning system include, but are not limited to, foul odors, lush grass growing over the system, backup of waste water into the attached building, soggy ground over the system, surfacing, sewage, effluent flowing over the ground, indicated lack of holding tank pumping consistent with the needs of the household, and the absence of any required visual markers.

Management District - that area of the Township embracing the Village of _____ and its environs, which include the area known as _____, and as more particularly indicated by the draft attached to the Appendix and made a part hereof, indicating such area.

Person - in addition to the definition in the Act, means the entity or the adult person or persons who utilize a system as owner or tenant of any property.

Property - any tract of real estate whereon a system is or is intended to be located within the Management District.

System - an on-site sewage facility, whether publicly or privately owned, and of whatever type, subsurface or aboveground, including without limitation, a retaining (holding) tank, or septic (or aerobic) tank with drainage field within the Management District.

Township – Letterkenny Township, Franklin County, Pennsylvania.

SECTION 4. INSTALLATION OF SYSTEMS.

A. Sewage permits in compliance with "Chapter 73, Standards for Sewage Disposal Facilities" of Title 25, Rules and Regulations, Department of Environmental Protection and any ordinance of this Township regulating the design, installation and alteration of subsurface waste disposal systems or alternative systems shall be issued by the SEO. The Supervisors shall retain final authority for the conditions and issuance of permits. The permit shall incorporate at a minimum all the requirements of this ordinance relating to inspection, maintenance, operation and right of entry, among others.

B. No building permit shall be issued for a building to be serviced by a system prior to receiving a permit from the SEO or Secretary of the Supervisors authorizing the installation or rehabilitation of the system.

SECTION 5. MAINTENANCE OF SYSTEM.

A. A system shall be maintained at all times by the tenant and owner of a property in such condition as will permit it to function in the manner in which it was designed and such as to prevent the unlawful discharge of sewage.

B. Each person utilizing a system shall maintain the area around such system so as to provide convenient access to the system for inspection, maintenance and pumping.

C. A septic tank with drainage field shall be pumped out within Three (3) years from the original enactment of this Article and every Three (3) years thereafter.

D. Retaining holding tanks shall be pumped out at such intervals as will prevent overflow, leakage, backup and other malfunctions of an overloaded system. No system shall be altered, damaged, by-passed, or otherwise utilized in a manner, which is not consistent with its intended purpose to prevent sewage from entering the surrounding soil.

E. The pumping requirement for septic tanks may be increased to more frequent intervals for proper operation of the system if the Township finds that the system is malfunctioning, that the system has malfunctioned in the past, that seasonal use will significantly increase use of the system, that the number of people using the system has increased, that a garbage grinder has been installed, or for other good cause. The Township shall terminate its requirement for increased frequency of pump-out upon elimination of the factor causing the requirement. An owner can appeal the determination of an increase in the required frequency of pump-out through the appeal process set forth in Section 14.

F. Upon application and for good cause, the pumping requirement for septic tanks may be reduced where the owner can demonstrate to the Township that the system can operate properly without the need for pump-out for a period longer than therein required, but in no case shall such period extend beyond Seven (7) years. Such a request shall be made at anytime and must be in writing with all supporting documents attached. The Township in making its determination shall take into account the information submitted, the sewage permit issued by the SEO upon installation or rehabilitation of the system and supporting documentation, reports of inspection and maintenance of the system and other relevant information including, but not limited to, an on-site inspection. Applicant shall bear the cost of any inspection.

G. The Township may require other maintenance activity to be performed to a system during regularly scheduled pump-out of the septic tank such as cleaning and unclogging of pipelines, connecting tank and disposal field, and cleaning out of distribution box and mechanical equipment or extension of drainage.

H. If any inspection of a system reveals the need to pump out or perform maintenance on a septic tank prior to its next regularly scheduled pump-out, owner shall complete the necessary maintenance activity within Thirty (30) days of receipt of the inspection report. If such activity is not completed within this time period, the Township may undertake the required activity and the costs therefore shall be assessed against the owner plus Fifteen (15%) Percent for overhead and supervision.

I. Each time a septic tank or retaining tank is pumped out, the Township, its authorized agent, or a private septic sewage waste hauler, whichever provides the service, shall provide for the owner of the system a signed receipt containing the following information: Date of pumping; name and address of system owner; address of tank's location if different from owner's; size of the tank, age of the system; date of last pump-out; list of other maintenance performed; any indications of system malfunction observed; amount of sewage removed; cost of pumping service; waste hauler state license number permitting it to collect and haul sewage in the Commonwealth of Pennsylvania; any recommendations. A receipt shall be submitted to the Township to serve as proof of compliance with pump-out requirements of Section 5. A copy shall be retained by the system owner.

SECTION 6. APPLICABILITY.

Both the owner(s) and occupants(s) of a property shall be responsible for complying with this Ordinance. Any contractual conditions for use of a property (lease) shall not operate to relieve the owner of any of the obligations imposed by this Ordinance, but any owner may notify the Township in writing of the names of all adult tenants of a leased property for purposes of sending notices, bills and other communications during the leasehold period. If the resident of a property shall move there from, initial responsibility for compliance shall revert back to the owner even though a valid agreement with the resident shall continue to exist.

SECTION 7. INSPECTION OF SYSTEMS.

A. The Township or its authorized agent may inspect all systems from time to time to determine whether or not the system is operating properly.

B. An inspection may be authorized If an inspection reveals a malfunctioning system, or the system has malfunctioned in the past, or if seasonal use will significantly increase the use of the system, or if the number of the people using the system increase, or for other good cause.

C. An inspection report to the Supervisors shall be made in writing when any authorized agent has inspected a property and observed a malfunctioning system. On complaint by any person of the existence of a possible malfunction, Supervisors may cause an inspection of the system to be made.

D. A copy of the inspection report shall be furnished to the occupant of the property and the owner, at the owner's last known address, and shall contain, insofar as reasonably ascertainable, the date of inspection, name and address of system owner as appears on the records of the Township, a description and diagram of the location of the system, the apparent size of the tank and disposal field, the number of users, any indications of system of malfunction observed, the results of all soil and water tests, the indicated frequency of pumping the tank and any required remedial action.

E. A newly installed or rehabilitated system must be built with markers, riser and access hatch. The riser and access hatch shall be constructed so as to enable easy access to the waste disposal tank and prevent odors from escaping, prevent children from removing the hatch, provide accessibility for provisional inspection, and maintenance shall be provided in the drainage fields via Four (4) inch vertical non-perforated PVC pipe connected directly to the drain tile at a minimum of four locations in the drainage field. A new or rehabilitated retaining tank shall have installed a marker or markers at ground level locating the subsurface tank and means of access to the tank to enable inspection and removal of sewage by the hauler.

F. All existing retaining tanks shall have a visual content level indicator attached which is maintained in good working order at all times.

SECTION 8. REHABILITATION OF MALFUNCTIONING SYSTEMS.

A. Any system or component thereof found to be malfunctioning shall be repaired, modified or replaced pursuant to direction of the Township or its authorized agent to correct the conditions caused by the malfunction. Rehabilitation shall be performed in accordance with Chapter 73, "Standards for On-lot Sewage Treatment Facilities" of Title 25, Rules and Regulations, Department of Environmental Protection. The SEO shall inspect rehabilitation and certify compliance with local and state standards, by issuance of a permit. The Township shall retain final authority for the conditions and issuance of a permit.

B. Repair, modification or replacement pursuant to direction of the Township or its authorized agent shall commence within Thirty (30) days of issuance of the order and shall be completed within Ninety (90) days unless seasonal conditions mandate a longer period, in which case the Township shall set the extended completion date. If work is not commenced or completed within the allotted time period, the Township or its authorized agent or a private party under contract to the Township may, but need not undertake the required repair, modification, rehabilitation or removal. If performed by private party at the direction of the Township, the private contractor shall be paid by the Township for work performed and the property owner shall be assessed for costs incurred.

C. The owner of any system shall not undertake any independent repair, modification or replacement of a system without prior notice to and approval of the SEO. Upon completion, the SEO shall inspect the rehabilitated system and certify its compliance with state and local standards by issuance of permit.

D. If, in the opinion of an authorized agent, a system cannot be repaired, modified or replaced in order to abate a malfunction, or if repairs, modification, replacement, or maintenance has not been performed within applicable time limits, notice shall be given the owner(s) and tenants(s) of such condition that operation of the system must be terminated. Either tenant or owner may appeal such determination through the appeal process detailed in Section 14, and must exhaust such appeal remedy before appealing to a Court.

SECTION 9. OPERATION OF SYSTEMS.

A. All systems shall be operated by the user in such manner as will be in full compliance with the terms of this Ordinance and state laws.

B. Only sewage and normal domestic wastes shall be discharged into a system. The following waste shall not be discharged into the system: industrial waste, fats, grease and garbage grindings, automobile oil, toxic or hazardous substance or chemicals including but not limited to pesticides, disinfectants, acids, paint, paint thinner, herbicides and solvents.

C. All sewage and discharges of water resulting from usage in a residence shall be discharged only in to the system on the property.

D. Users are encouraged to minimize water use and install water savings devices in order to increases efficiency and promote longer life of a system.

SECTION 10. RIGHT OF ENTRY; EASEMENT.

A. An authorized agent, upon presentation of proper identification, shall be permitted to enter upon any property for purpose of inspection, observation, sampling, maintenance and rehabilitation of a system in accordance with the provisions of this Ordinance and the Act.

B. Prior to entry on a property by an authorized agent, the occupant of a property shall be given advance notice of the intent to enter upon the property for inspection or other activity. The purpose of such advance notice is to enable the occupant to be personally present or by an agent at the time of such entry. If any adult occupant is personally present on the property at the time a request to enter is made by an authorized agent, any advance notice may be waived by the occupant if the purpose of the entry is inspection or sampling. Advance notice shall be given at least Twenty-four (24) hours prior to entry, unless waived, and shall be by telephone, ordinary U.S. mail, or by notice posted on the entrance to the residence or other place where it is likely to be seen by the occupant. In the event that the property appears to the authorized agent to be vacant, notice shall be given to the owner. If mail notice is given to an occupant or owner under any of these circumstances, it shall be given by ordinary U.S. mail to the last known address of the person to whom addressed at least Seven (7) days prior to intended entry. In any instance where an occupant's name and whereabouts are not known, then notice shall be given by posting on the property. The last known address for any owner shall be that address which appears in the records of the Tax Assessor's Office of Franklin County for that owner. The foregoing Section 10(B) shall not be applicable, and no notice need be given before entry where it can be observed from the public street that a system is malfunctioning or being operated improperly.

C. Any property on which a system is presently under construction or is to be constructed in the future shall not be conveyed by the owner without inclusion of language in the deed granting the Township the right to enter upon that property for purposes of inspection, sampling, maintenance or rehabilitation of the system or any other activity necessary to effectuate the provisions of this Ordinance, upon due notice.

D. Failure to give due notice as provided herein shall not give rise to any cause of action against the Township for trespass, invasion of privacy or any other damages whatsoever. The Township shall be responsible, however, to the occupant or owner as the case may be, for any physical damage caused to the property by such entry.

SECTION 11. CHANGES OF OWNERSHIP OR TENANCY.

A. In the event of a change of tenancy in any leased property an owner shall notify the Township at least Five (5) business days in advance of the intended change of occupancy. The Township may conduct an inspection of such system in accordance with Section 7 of this Ordinance without prior notice. If the system is found to be malfunctioning, remedial measures shall be taken to correct the problem including, but not limited to, maintenance and rehabilitation of the system. If inspected, a written report shall be furnished to the owner and tenant and if satisfactory a permit shall be issued.

B. In the event of a sale of a property advance notice of the intended settlement date shall be given to the Township at least Five (5) business days in advance of the intended sale. The Township may conduct an inspection of such system in accordance with Section 7 of this Ordinance without prior notice. If the system is found to be malfunctioning, remedial measures shall be taken to correct the problem including, but not limited to, maintenance and rehabilitation of the system. If inspected, a written inspection report shall be furnished to the buyer and seller or their agent, and if satisfactory a permit will be issued.

C. Where the inspection report indicates conditions which are not in conformity with this Ordinance or the Act, conditional use of the system may be granted for a limited period not exceeding Six (6) months wherein the tenant or owner agrees to complete the required remedial measures to the satisfaction of the Township.

D. It is the desire of the Township to conduct an investigation of each property as to which a transfer of tenancy or occupancy is intended to occur, but this provision shall not create a mandate that it do so. No permit or report shall be deemed a guarantee or warranty by the Township to any party. A property with multiple tenancies serviced by one system shall not be subject to the foregoing notice requirement in the event of change in one, but not all, of the tenants.

SECTION 12. DISPOSAL OF SEWAGE.

A. All sewage disposed of within the Township by pumping out shall be disposed of at sites or facilities approved by the Pennsylvania Department of Environmental Protection and operated in accordance with state regulations.

B. The Township may provide for the pumping out of any system within the Management District, either by its own operators and equipment or by contract with an approved hauler. In the event the Township undertakes to operate or contract for a pumping out of systems all persons within that area shall either contract with the Township for regular pumping out or contract with a hauler approved by the Township and shall not undertake pump-out in any other manner.

C. In the event the Township provides for disposal of sewage at a site or facility owned and operated by it, acceptance of sewage not collected within the Management District may be restricted and if such restriction exists, the waste hauler must certify to the disposal site or facility operator upon delivery of the sewage that the entire contents of the truck comes from systems located within the Management District, failing which the entire truck load may be refused.

D. All sewage waste haulers doing business in the Township must possess a copy of the permit issued by the Pennsylvania Department of Environmental Protection authorizing the disposal of sewage or waste sludge and must notify the Township that they are operating in the Township. Any sewage waste hauler who violates any local or state law, conditions of its state permit, or regulations of the Township including, but not limited to, disposal of sewage at non-approved disposal sites or facilities, disposal of sewage from outside the Township at sites or facilities that only accept sewage from within the Township, or failure to clean up after disposing of its sewage may be prohibited by the Township from operating in the Township. Such action may be appealed by the aggrieved party through the administrative appeal process detailed in Section 14 of this Ordinance.

E. The Township shall encourage and assist public agencies and private parties in developing sewage disposal sites or facilities or in altering existing facilities to enable them to accept wastes.

SECTION 13. SERVICE CHARGES; LIENS.

A. The fees for any application, inspection, review or other matters undertaken by the Township or authorized agents under this Ordinance shall be sufficient to cover the fair and reasonable expenses of those activities and shall be such as are prescribed by Resolution of Supervisors on the minutes of a Township meeting from time to time.

B. Pumping out of retaining tanks or septic or septic tanks shall be charged as established from time to time by contracted pumper/haulers.

C. The Township shall have authority to contract with any private person, partnership, corporation or any public agency to undertake any activity necessary to fulfill the requirements of this Ordinance.

D. The established fee for processing an application to permit construction or rehabilitation of a system shall be payable to the Secretary/Treasurer of the Township upon the issuance of the permit.

E. All other charges incurred by or on behalf of the Township and all charges for inspection, re-inspection or other matters undertaken by the Township under this Ordinance shall be billed to the owner(s) of a property and be payable within Fifteen (15) days. Thereafter a late payment penalty of One (1%) Percent per month for each month in which the payment is not made will be assessed.

F. Outstanding delinquent charges shall constitute an assessment and lien against the property and may be filed as a municipal claim with the Prothonotary of Franklin County.

SECTION 14. APPEALS.

Appeals from decisions made under this Ordinance shall be made to the Township Supervisors by any aggrieved party in writing within Thirty (30) days from the date of the decision concerning frequency of inspection, frequency of maintenance, rehabilitation, disposal of sewage or termination of operation of a system. Appellant shall be entitled to an administrative hearing before the Township Supervisors at their next regularly scheduled meeting if made at least Fourteen (14) days prior to the meeting or at a subsequent meeting. The Township Supervisors may thereafter reverse, modify or affirm the decision and the hearing may be postponed for good cause shown by the appellant or the Township. Additional evidence may be introduced at a hearing provided it is submitted with the written notice of appeal. A party may be represented by another person empowered to act on appellant's behalf. No transcript of the hearing shall be necessary and the Supervisors shall render a decision within Thirty (30) days thereof. If no decision is rendered within such time the relief sought by appellant shall be deemed granted.

SECTION 15. PENALTIES.

A. Any person who violates any provision of this Ordinance shall be sent written notice by the Township stating the nature of the violation and the penalties prescribed in Section 15(B), and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice permanently cease such violation or violations.

B. This Ordinance shall be enforced by an action brought before the District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Municipal Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa. R. Crim. P. No. 83(c) (relating to trial in summary cases).

Any person who violates or permits a violation of this Ordinance shall, upon conviction in a summary proceeding be punishable by a fine of up to \$1,000.00 or imprisonment for a period not to exceed Ninety (90) days.

C. It shall not be a defense for any penalty herein imposed that written notice of the violation and correction period has not been actually received by a person alleged to be in violation of this Ordinance if the same is (A) mailed by ordinary U.S. mail to the last known address of the person as ascertained by the Assessor's Office of Franklin County, or local Tax Collector or (B) posted on the property. Notice to one of multiple owners shall be deemed notice to all.

SECTION 16. SEVERABILITY.

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

SECTION 17. REPEALER.

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance shall be and the same expressly are repealed.

SECTION 18. EFFECTIVE DATE.

The provisions of this Ordinance shall become effective on and be applicable to any document made, executed, delivered, accepted or presented for recording on or after _____.

DULY ENACTED AND ORDAINED this 27th day of March, 2007, by the Board of Supervisors of the Township of Letterkenny, Franklin County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF LETTERKENNY
Franklin County, Pennsylvania

Charles H. Myers
Charles H. Myers

Jack R. Holmes
Jack R. Holmes

Daniel B. Timmons
Daniel B. Timmons

ATTEST:

Joann V. Wright
Secretary

(seal)