

ORDINANCE NO 268

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF LONGSWAMP TOWNSHIP PROVIDING PROVISIONS FOR WATER CONSERVATION WITHIN THE TOWNSHIP AND REAFFIRMING AND SUPPLEMENTING ORDINANCES NO. 200 AND NO. 237 AND PROVIDING PERMIT REQUIREMENTS, APPLICATION REQUIREMENTS AND WATER USAGE REQUIREMENTS FOR PRIVATE WELLS, COMMERCIAL WELLS AND COMMUNITY WELLS WITHIN THE TOWNSHIP.

WHEREAS, the Board of Supervisors of Longswamp Township (the "Township") has determined that the health safety and welfare of Township residents is best served by the adoption of regulations and rules governing water usage in the Township including the construction and permitting of private wells, community wells and commercial wells within the Township; and

WHEREAS, in 1994 the Township embarked on a water study that determined that water is a vital and limited resource in the Township and that water must be protected and conserved within the boundaries within the Township which includes the limitation on the sale of water sources outside the boundaries of the Township; and

WHEREAS, such study has demonstrated that as of the time of such study the water sources within the Township can provide for the water needs of the Township as of that time, but the Township does not have enough water for unplanned growth or use of water outside of the Township; and

WHEREAS, the Township desires to take immediate steps to protect existing groundwater within the Township and to provide regulations to manage groundwater resources appropriately, and thereby promote the general good health and welfare of all Township residents; and

WHEREAS, Article I, Section 27, of the Constitution of the Commonwealth of Pennsylvania provides that "the people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people"; and

Section 1. Applicability. This Ordinance shall apply to all existing and proposed water supply wells located in Longswamp Township whose design or actual use is over two thousand (2,000) gallons per day. Exempt from this Ordinance are:

- A. Geothermal Wells.
- B. Blast holes or core drilling holes three and one-half inches (3 ½") or less in diameter.
- C. Water supply wells servicing not more than <sup>ell.</sup>ten (10) residential dwelling units.

Section 2. Definitions.

COMMUNITY WATER SYSTEM or COMMUNITY WELL - A publicly or privately owned water system or well which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

OWNER - The holder of the record title to real property or the person entitled to use the property.

PERSON - Any individual, company, municipality, corporation, partnership, association, or any agency of Local, County, State or Federal Government as well as a natural person. This term shall include the officers, employees, and agents of any of the above listed entities.

TOWNSHIP - Shall refer to Longswamp Township, Berks County, Pennsylvania.

WELL - Any artificial opening or artificial altered natural opening that is drilled, cored, bored, driven or otherwise constructed for the location, diversion or acquisition of groundwater or charging of water into underground strata.

WELL DRILLER - Any water well contractor licensed by the Commonwealth of Pennsylvania, his employees or representatives in responsible charge of drilling or otherwise constructing a well.

Section 3. Compatible Ordinances. This Ordinance is intended to supplement and reaffirm the provisions of Ordinance No. 200 and No. 237 relating to provisions for the drilling and/or testing of water supply wells within the Township.

Section 4. Permit; Construction and Operation. A permit shall be required for the installation and operation of any well, whether a private well, a community well or a commercial well, within the Township. No construction, drilling, boring, reconstruction, major repair or other change of or for any well/ water supply for the production of water for domestic, commercial, industrial or agricultural purposes, for which potable water usage is intended or may be used, shall commence unless the Owner or his/her duly authorized agent shall apply for and receive a well permit. Further, in the case of any existing or future community well, an operation license shall be required prior to operation upon satisfactory completion of all construction requirements based upon any applicable local, State or Federal community well construction permit. The owners of existing community wells shall apply for an operation license within ninety (90) days of the effective date of this Ordinance.

Section 5. Application.

A. An application for a well construction permit and well operation license shall be made upon a form supplied by the Township and shall be submitted to the duly appointed Code Enforcement Officer. In the event such permit or license shall involve a well that is necessary for any existing or proposed subdivision or land development within the Township such permit or

license application shall also be submitted for review by the Township Engineer. The application and supporting documents shall be provided as one (1) original and two (2) copies.

B. Application Information. The application shall be completed in full and be signed and dated. The Township shall require any such additional information as deemed necessary to document compliance with the provisions of this Ordinance, including copies of all permits issued by PA DEP or the Berks County Conservation District or other applicable agency for existing wells.

C. Site Plan. The application shall provide a site plan of the premises drawn to scale showing:

1. Property owner, address, the tax parcel identification number and lot area.
2. The boundary lines of the premises upon which the well is located or proposed and the name of the adjoining street.
3. The existing or proposed location of the well.
4. The location or proposed location of all buildings within four hundred (400) feet of the well. Aerial mapping as available through the County or other sources is acceptable.
5. The location or proposed location of septic tanks and drain fields within four hundred (400) feet of the well.
6. The names of adjoining property owners.
7. Such other information as may be required to document compliance with the isolation distance and other requirements of this Ordinance or applicable sections of Ordinances 200 and 237.

D. In addition to the application procedures and documents set forth herein, three (3) copies of the following documents shall be sent to the Township for wells that have not been permitted by PA DEP:

1. All correspondence, applications, and the required submissions and/or reports by the Applicant to PA DEP and/or the Berks County Conservation District or any other applicable agency.

2. All reports and/or correspondence received by the Applicant from PA DEP or the Berks County Conservation District or any other applicable agencies.

3. Any permits issued by PA DEP or the Berks County Conservation District or any other applicable agency.

E. The application for an operation license or renewal of an operation license shall also include three (3) copies of the following:

1. The State PWS Permit (if applicable).

2. The latest operation report and the water quality test provided to the State Department of Environmental Protection.

3. A plan showing the area and parcels served by the water supply.

4. Applicable Township Agreement or Township Authority approval for use of water within Longswamp Township.

An Operation License automatically expires after three (3) years of issuance, but the landowner or person to whom the license was issued can apply for and receive a license renewal subject to verification of compliance with Township Ordinances. Such application for renewal shall follow the requirements as described for the original license, except that the only supporting documents needed are those required in Section E.

Section 6. Incomplete or Inadequate Information. When the Township Code Enforcement Officer finds an application incomplete, or is unable to verify the information submitted, the application shall be rejected.

Section 7. Inspection; Permit Issuance, Denial and Revocation.

A. Site Inspection. Upon receipt of a complete application for a construction permit or for an operation license, the Code Enforcement Officer and/or Township Engineer (depending upon whether the application is submitted in conjunction with a subdivision and/or land development plan) shall perform an inspection of the premises on which the well is to be constructed or is constructed to determine if the location conforms to the standards of this Ordinance.

B. Well and Lot Line Locations. The location of the well and all lot lines shall be clearly marked on the premises by the Applicant.

C. Action. Upon completion of the inspection, the Code Enforcement Officer shall either:

1. Issue a permit to the Applicant indicating the approved location for the well and special instructions for construction and/or operation, if any; or

2. Deny the issuance of the permit, and in such event, provide the Applicant with written reasons for such denial.

D. Time for Action. Permits shall be issued, including issuance with conditions, or denied within forty-five (45) days after receiving a completed application for permit.

E. Revocation. A permit shall be revoked by the Code Enforcement Officer for any one (1) or more of the following reasons, which shall be incorporated into a written revocation:

1. When any change has occurred in the physical conditions of any lands which will materially affect the operation of the well.

2. When information material to the issuance of the permit has been falsified.

3. When the Permittee or Licensee has violated any of the provision of this Ordinance.

F. No construction shall commence until a proof of Contractor's liability insurance shall be on file with the Township.

Section 8. Effective Dates.

A. All construction permits or operation licenses shall be in effect as of the date of issuance and shall remain in effect for a period of three (3) years. If construction has not been completed or operation started within the three-year period, the permit or license shall expire, all fees shall be forfeited, and a new permit shall or license be required.

B. A request for an extension of time for said permit or license must be submitted to the Township in writing forty-five (45) days prior to the expiration of the date of the original permit or license. Extensions are limited to one (1) year. Subsequent requests must be accompanied by an application for a new permit or license with the appropriate fee.

C. Once construction is complete and operation has begun, operation licenses can be renewed every three (3) years for additional three (3) year terms, as long as the Owner is not in violation of Township Ordinances.

D. In the event that a permit or license expires and construction has not begun and/or operation has not begun, as the case may be, an application for a new permit or license must be submitted with the appropriate fee.

E. Expiration of a permit during construction or expiration of an operating license will result in the land owner, or person to whom the permit was issued, being prosecuted in accordance with the violations provisions of this Ordinance.

Section 9. Fees. The application for a well construction permit and operation license shall be accompanied by a fee payable to the Township in accordance with a schedule of fees established from time to time by resolution of the Township. Any and all fees associated with the review of such well construction permit and operation license application shall be borne by the Applicant. Such fees shall include any and all professional fees incurred by the Township including those for zoning review, review by the Township Engineer, Township Solicitor and/or any other professional person engaged by the Township to review such application pursuant to any provisions of any ordinance of the Township.

Section 10. Limitations on Water Usage. Any and all water drawn from any well shall be utilized exclusively within the Township or the Borough of Topton, such water may not be used outside the Township or the Borough, whether by way of piping or by way of a bottled water operation.

Section 11. Use of Water. The use of a community water system or community well shall be limited to the operation by the Township, an Authority of the Township or a municipal authority of which the Township has majority voting rights, or an entity contracted with the Township to provide water service to residents of the Township. While the Township acknowledges that the Borough of Topton has wells located within

the Township, such wells shall not be utilized to serve areas of the Township unless the Township approves by way of Agreement the distribution and sale of such water. Longswamp Township does not recognize, nor has it entered into an intermunicipal agreement, for the sale of water by any municipal, any authority or Pennsylvania Public Utility Commission regulated private company as of the date of this Ordinance. Any sale of water from wells located within the Township to Township property owners shall require an agreement with the owner of the water supply or distribution system.

Section 12. Agreement with Municipality. Prior to construction of any such community water system or community well, the Applicant shall enter into a developer's improvements agreement to provide for the securement of construction and maintenance costs for such a system or well based upon terms required by the Township for such construction and maintenance for eighteen (18) months. Any applicant for any community water system or community well operation license shall complete an agreement with the Township as to operation, maintenance and construction requirements with the Township. Such Agreement shall include, but shall not be limited to, provisions for ongoing maintenance, operator provisions, hardware requirements, and fees for the ability of the Township to enter into, inspect and provide for safe water standards within the Township. Such agreement shall include terms as deemed necessary by the Township and shall be duly recorded at the recorder of deeds in and for Berks County.

Section 13. Township Options. The provisions as to agreements noted above shall apply to community water system and/or community well at the discretion of the Township and may be included within the terms of any agreement for the sale of water with such PUC supplier and/or municipal authority created by or agreed upon by the Township.

Section 14. Other Standards. This Ordinance is not intended to preempt design requirements for community systems and/or commercial design and construction standards and/or the technical operation and maintenance regulations by the Pennsylvania Department of Environmental Protection and/or the Delaware River Basin Commission. However, this Ordinance is intended to supplement and provide additional standards for such water systems and wells in order to meet the unique needs of the Township and to provide regulations as to the use of such water within the boundaries of the Township.



Section 15. Well Protection

A. It shall be the responsibility of the owner of a well to maintain a water well on their property in accordance with the provisions of this Ordinance. Any defect that exists or occurs in any well or abandoned well that could cause damage to the well water or the aquifer shall be corrected immediately by the Owner upon the order of the PA DEP.

B. All water wells shall be protected against breakage through accident and secured from vandalism. The Owner of a well shall be responsible for corrective action caused by contamination that enters a water system or the groundwater through their well.

C. Any well deemed by the Code Enforcement Officer to be in a vulnerable location shall be protected against breakage through accident. Means to protect the well may include guard posts, locking caps, fences, installation in an invulnerable location, and other such means to protect the well from undesired intrusion.

D. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, cover, deface, or tamper with any structure, appurtenance, property, or equipment which is a part of or used in conjunction with a community water supply or community well or which could result in damage to the groundwater. Any such action shall be a violation of this Ordinance.

Section 16. Waste Disposal Prohibition. No well(s) shall be drilled, driven, bored, dug or otherwise constructed nor shall any existing well(s) be used for the purpose of disposal of any liquids, fluids, gaseous, and/or solid waste resulting from domestic, commercial, industrial or animal sources or activities.

Section 17. Liability. No responsibility or liability for the construction or operation of any well/water supply nor guaranties of the quantity or quality of the water from that source shall be deemed to be assumed or accepted by Longswamp Township or its officers, engineers, agents, representative or employees by virtue of the terms of this Ordinance or otherwise.

Section 18. Violations.

The provisions of this Ordinance are declared to be for the health, safety and welfare of the citizens of the Township and:

1. Any person who violates any of the provisions of this Ordinance shall be subject to prosecution by the Township, and upon conviction before a District Justice shall be subject to a fine of five hundred dollars (\$500) and costs.

2. Upon discovery of any violation of this Ordinance, the Township may, at its option, forego any prosecution hereunder, and may grant to the Owner a period of thirty (30) days to comply with the provisions of this Ordinance. Upon failure of the Owner to effect such compliance, the Township may initiate prosecution as herein above set forth.

3. For the purpose of this Ordinance, each day of a continuing violation shall be considered a new and additional violation of this Ordinance.

4. The Township may at its option, in addition to any other remedies available to it, institute an action in equity to enjoin, or any other appropriate action or proceeding, to restrain or prevent any violation of the provisions of this Ordinance.

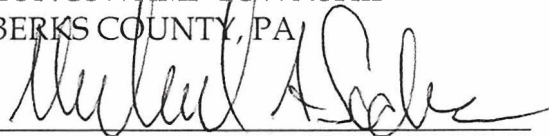
Section 19. Severability. The provisions of this Ordinance shall be servable. If any provision, sentence, clause, section or part of this Ordinance, or the application of any provision hereof, is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Township that this Ordinance would have been enacted has such unconstitutional, illegal or invalid provision, sentence, clause, section or part hereof not been included.

Section 20. Repealer. All Ordinances or parts of Ordinances in conflict or inconsistent herewith, are hereby repealed.

Section 21. Effective Date. This Ordinance is hereby declared to be urgent for the preservation of the peace, health and comfort of the people of the Township and shall take effect and be enforced five (5) days after it is enacted by the Board of Supervisors.

**ORDAINED and ENACTED** as an Ordinance by the Board of Supervisors of the Township of Longswamp, Berks County, Pennsylvania, in lawful session duly assembled this 10<sup>th</sup> day of January, 2012.

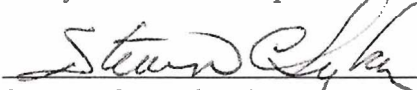
BOARD OF SUPERVISORS  
LONGSWAMP TOWNSHIP  
BERKS COUNTY, PA



Michael A. Sacks, Supervisor



Maryann Lantz, Supervisor



Steven C. Wyka, Supervisor

Attest:



Township Secretary