

ORDINANCE NO. 6.2-2001

AN ORDINANCE OF UPPER BERN TOWNSHIP ESTABLISHING
MANDATORY CONNECTIONS TO THE TOWNSHIP'S
SANITARY SEWER SYSTEM, IMPOSING CERTAIN FEES AND
ESTABLISHING RULES AND REGULATIONS FOR THE
USERS OF THE SANITARY SEWER SYSTEM

WHEREAS, the Board of Supervisors of the Township of Upper Bern, Berks County, Pennsylvania (the "Township"), in order to promote and benefit the people of the Commonwealth of Pennsylvania and of the Township, has designed a sewer project to be undertaken by the Township of Upper Bern, "the Sewer System"; and,

WHEREAS, in carrying out the project so designated, the Township is in the process of constructing a public sanitary sewer system, together with the pertinent facilities; and,

WHEREAS, The Township's Supervisors, in order to promote the health, welfare and safety of the people of the Township and of the Commonwealth of Pennsylvania, and the purity of its water, deems it advisable to prohibit the use of certain privies, cesspools, septic tanks, or similar receptacles receiving sewage within the Township, in that such encourages the spread of disease and impairs public health, and to require connections to be made to such sewage system, by the owners of Dwelling Units on property adjoining, abutting, on or adjacent to the Sewer System, in accordance with this Ordinance and with the Rules and Regulations which may, from time to time, be adopted by the Township, when construction of portions thereof has from time to time been completed by the Township,

NOW, THEREFORE, the Supervisors of Upper Bern Township, Berk County, Pennsylvania, hereby ordains and enacts that:

SECTION 1:

The following words and phrases, when used in this Ordinance shall have the meanings described to them in this Section, except where the context or language clearly indicates or requires a different meaning:

(a) "Dwelling Unit" means each household unit, flat or apartment unit, store, shop, office, business, commercial or industrial unit, or family unit contained within any structure erected on a property which is within 150 feet from the Sewer System, and intended for continuous or periodic habitation, occupancy or use for any purpose whatsoever by human beings or animals, and from which structure sanitary sewage and/or industrial waste is, or may be discharged.

(b) "Equivalent Dwelling Unit" the quantify of flow which is equivalent to the average amount of water consumed by a single residential unit. For the purpose of this Ordinance an Equivalent Dwelling Unit is set at 270 gallons per day.

Equivalent Dwelling Units (EDU's) assigned to a residential Dwelling Unit regardless of water consumption is 1. The number of EDU's assigned to an industrial or other nonresidential user is calculated by dividing the quarterly average daily flow by 270. The number of EDU's for uses generating seasonal flow shall be determined by utilizing the average daily flow during peak periods of operation. The minimum number of EDU's assigned to any user shall be 1. Any calculation resulting in a fractional EDU shall be rounded up to the next whole number.

(c) "Improved Property" means any property located within the Township upon which there is an erected building or structure containing one or more Dwelling Units, intended for continuous or periodic habitation, occupancy or use for any purpose whatsoever by human beings or animals, and from which structure sanitary sewage and/or industrial waste shall be or may be discharged.

(d) "Lateral" means that part of the sewer system extending from the sewer to the curb line or, if there shall be no curb line, to the property line, or if no such lateral shall be provided, then "lateral" shall mean that portion of or place in the sewer which is provided for connection of any building's sewer.

(e) "Owner" means any person vested with ownership, legal or equitable, sole or partial, of any Improved Property.

(f) "Person" means any individual, partnership, company, association, society, corporation, group or entity.

(g) "Property accessible to the Sewer System" means an Improved Property which adjoins, abuts on, or is adjacent to, the sewage collection system.

(h) "Sanitary Sewage" means the normal water-carried household and toilet waste from residential and non-residential Improved Property, as well as any solid, liquid or gaseous substance or water-borne wastes or form of energy rejected or escaping from any industrial, manufacturing, trade or business process or from the development, recovery or processing of any resources which are suitable for discharge to the sewage system, or any other substance which constitutes pollution under the Clean Streams Law.

(i) "Sewer" means any pipe or conduit constituting a part of the Sewer System, used or usable for sewage collection purposes.

(j) "Sewer System" means all facilities, as of any particular time, for collecting, pumping, transporting, treating, and/or disposing sanitary sewage and/or industrial waste, situate in the Township.

(k) "Township" means Upper Bern Township, Berks County, Pennsylvania, a political subdivision, acting by and through its Board of Supervisors, or in appropriate case, by and through its authorized representatives.

SECTION 2:

(a) All Owners of any Dwelling Unit or Improved Property accessible to the Sewer System shall, at their own expense, connect such Dwelling Unit or Improved Property with Sewer System within forty-five (45) days after written notice to such persons from the Township, to make such connection for the purposes of discharge of all sanitary sewage and industrial waste from such improved property, subject to such limitations and restrictions as shall be established by the Township from time to time.

(b) All Owners of any property accessible to the Sewer System upon which a Dwelling Unit or Improved Property is hereafter erected shall, at the time of the erection of such building and at their own expense, connect the same with the Sewer System.

(c) All Owners of any Dwelling Unit or Improved Property which hereafter becomes accessible to the Sewer System shall, at their own expense, connect such building with the Sewer System within forty-five (45) days after notice to do so from the Township.

(d) Where more than one Dwelling Unit as hereinbefore defined is contained in a single structure, a single common connection to the lateral of the Sewer System may be permitted for accommodating all contained in such single structure, except that separate connections shall be required for each semi-detached or row-type house or structure provided that each Dwelling Unit shall pay all separate fees and charges for tapping, connection and operations and maintenance of the Sewer System. Grouping of more than one Dwelling Unit property on one building sewer shall be permitted under special circumstances and for good sanitary reasons or other good cause shown but only after special permission of the Township, in writing, shall have been secured and subject to such rules, regulations and conditions as may be prescribed by the Township. A separate tap fee shall be imposed on each Dwelling Unit regardless of the number of Dwelling Units utilizing a lateral.

(e) The notice by this Township to make a connection to a sewer shall consist of a written or printed document requiring the connection in accordance with the provision of this Part and specifying that such connection shall be made within 45 days from the date such notice is given. Such notice may be given at any time after a sewer is in place which can receive and convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be served upon the owner either by personal service or by certified mail or by such other method as at the time may be provided by law.

SECTION 3:

It shall be unlawful for any person owning any property in the Township accessible to the Sewer System to erect, construct, use or maintain, or cause to be erected,

constructed, used or maintained, any privy, cesspool, sinkhole, septic tank, any on-lot sewage disposal system or other receptacle on such premises for receiving sanitary sewage after the expiration of the particular period specified in Section 2 hereof, or otherwise at any time to erect, construct, use or maintain pipe, conduit, drain or other facility for the discharge of sanitary sewage into the gutters of the Township, the storm sewers of the Township, or upon public or private property or otherwise, except into the Sewer System.

SECTION 4:

Any person who erects, constructs, uses, or maintains a privy or cesspool, sinkhole, septic tank or any on-lot sewage disposal system on any property accessible to the Sewer System, or otherwise erects, constructs, uses or maintains any pipe, conduit, drain, or other facility for the discharge of sanitary sewage in violation of this Ordinance, shall be deemed and shall be declared to be erecting, constructing, or maintaining a nuisance, which nuisance the Township is authorized and directed to abate in the manner provided by law or equity. Nothing contained herein shall impair or restrict any cause of action or remedy otherwise available to the Township and/or Authority.

SECTION 5:

No connection shall be made to the Sewer System, except in compliance with the Ordinances and Resolutions, as well as such rules and regulations that may, from time to time, be enacted, adopted, approved or promulgated by the Township.

(a) No person shall uncover, connect with, make any opening into or use, alter or disturb in any manner any sewer or any part of the Sewer System without first obtaining a written permit from the Township. Application for a permit shall be made by the owner of the Dwelling Unit or Improved Property served or to be served.

(b) No person shall make or cause to be made a connection of any Dwelling Unit or Improved Property with a sewer until such person shall have fulfilled each of the following conditions:

- i. Such person shall have notified the Secretary of the Township of the desire and intention to connect to a sewer.
- ii. Such person shall have applied for and obtained a written permit.
- iii. Such person shall have given the Secretary of the Township at least 24 hours notice of the time when such connection will be made so that this Township may supervise and inspect the work of connection and necessary testing.
- iv. Such person shall have furnished satisfactory evidence to the

Secretary of the Township that any tapping fee charged and imposed by the Township against the owner of each improved property who connects such improved property to a sewer has been paid.

(c) All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to a sewer, including testing, shall be borne by the owner of the Dwelling Unit or Improved Property to be connected and such owner shall indemnify and save harmless the Township from all loss or damage that may be occasioned, directly or indirectly, as a result of a building or of connection of a building to a sewer.

(d) A building sewer shall be connected to a sewer at the place designed by the Township and where the lateral is provided. The invert of a building sewer at the point of connection shall be at the same or higher elevation than the invert of the sewer. A smooth, neat joint shall be made and the connection of a building sewer to the lateral shall be made secure and watertight.

(e) When connecting a building sewer to a sewer, a "U" trap must be located within 2 feet of the end of the lateral. The end of the lateral first must be uncovered, inspected and checked for proper gradient from the improved property to the lateral before trenching operations are commenced for the building sewer.

(f) Every building sewer shall be of ductile iron, cast iron or PVC, at least 4 inches inside diameter, and with crushing strength and sufficient to withstand the applied trench loads. The slope of the building sewer shall not be less than 1/4 inch per foot of length. Building sewers shall be properly bedded and covered by no less than 4 feet of backfill.

SECTION 6:

No person shall discharge or permit to be discharged within this Township any sanitary sewage or industrial wastes in violation of the Rules and Regulations regarding prohibitive waste, except where suitable treatment has been provided which is satisfactory to the Township.

SECTION 7:

No privy, vault, cesspool, sinkhole, septic tank, on-lot sewage disposal system, or similar receptacle shall be used or maintained at any time upon any improved property which has been connected to a sewer, which shall be required under Section 2(a) to be connected to a sewer. Every such privy, vault, cesspool, sinkhole, septic tank, on-lot sewage disposal system or similar receptacle in existence shall be abandoned, and shall be cleansed and filled at the expense of the owner of such Improved Property, and any such privy, vault, cesspool, sinkhole, septic tank, on-lot sewage disposal system, or similar

receptacle not so abandoned, cleansed and filled, shall constitute a nuisance, and such nuisance may be abated as provided by law, or equity, at the expense of the owner of such improved property.

SECTION 8:

(a) Where an improved property, at the time connection to a sewer is required, shall be sewered by its own sewage disposal system or device, the existing property sewer line shall be broken on the structure side of such sewage disposal system or device and attachment shall be made, with proper fittings, to continue such property sewer line as a building sewer.

(b) No building sewer shall be covered until it has been inspected and approved by the Township. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to a sewer.

(c) Every building sewer of any Dwelling Unit or Improved Property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.

(d) Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and other public property disturbed in the course of installation of a building sewer shall be restored at the cost and expense of the owner of the Dwelling Unit or Improved Property being connected in a manner satisfactory to the Township.

(e) If any person shall fail or refuse, upon receipt of written notice from the Township, to remedy any unsatisfactory condition with respect to a building sewer, within ten (10) working days of receipt of such notice, the Township may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of the Township.

(f) The Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and the Sewer System, which additional rules and regulations, to the extent appropriate, and shall be construed as a part of this Ordinance.

SECTION 9:

There is hereby imposed a minimum connection fee of \$1,500.00 for each connection to be made to the sewer system at the curb or property line. The connection fee shall be based upon actual cost if the connection cost exceeds \$1,500.00.

SECTION 10:

Any person discharging any waste which, in the judgment of the Township, causes any extraordinary maintenance expenses in the form of damage to the system or biological processes shall be billed by the Township in the amount of said expenses. The billing amount shall be determined by the Township and shall include charges for labor of Township personnel and other costs incurred by the Township.

SECTION 11:

After the expiration of the particular period specified in Section 2 of this Ordinance, if any owner of any Dwelling Unit or Improved Property accessible to the Sewer System shall have failed to connect such property with the Sewer System as required by Section 2, the Township shall cause to be served on the owner of such property so failing to connect to said Sewer System, and also upon the occupants of the building in question, a copy of this Ordinance, and a written or printed notice requiring such connection to be made, and such notice shall further state that its requirements shall be complied with within thirty (30) days from the date thereof.

SECTION 12:

The provisions of this Ordinance are declared to be for the health, safety, and welfare of the citizens of the Township and persons violating any provisions of this Ordinance, upon conviction before any District Justice of Berks County, shall be fined \$300.00 and costs. Each day during which such violation of such provisions shall continue, shall be deemed to be separate offense. Each Improved Property, as hereinbefore defined, whether or not the owners thereof shall be permitted to connect two or more occupied buildings or units by a single common connection to a lateral of the Sewer System, or shall be required to make separate connections for each Dwelling Unit, shall constitute a separate or distinct unit under the provisions of this Ordinance and the persons owning an Improved Property consisting of multiple Dwelling Units contained in the same structure who violate any of the provisions of this Ordinance shall be subject to the aforesaid fine for each and every one of such Dwelling Units which are in violation of the provisions of this Ordinance.

SECTION 13:

(a) In addition to any penalties hereinbefore set forth, nothing contained herein shall be deemed or construed to limit or impair any rights or causes of action that the Township may have to file a municipal claim or lien or file a suit in law or equity to compel compliance and to enforce the provisions of this Ordinance.

(B) If any person shall fail or refuse to pay in full any sums due the Township and an action for recovery of same is instituted, the persons liable for the payment of any sums adjudged to be due shall be assessed a 25% fee for collection, payable to the

Township's attorney, together with interest and costs of suit.

SECTION 14:

If any provision, sentence, clause, section or part of this Ordinance, or the application of any provisions 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 that it is the intent of the Board of Supervisors that this Ordinance would have been enacted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not been included herein.

SECTION 15:

All ordinances or parts of ordinances in conflict or inconsistent with this Ordinance are repealed to the extent of the inconsistency.

SECTION 16:

This Ordinance hereby declared to be urgent for the preservation of the peace, health and comfort of the Township and shall take effect and be in force immediately after its passage.

DULY ENACTED THIS 7 DAY OF Aug, 2001, BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF UPPER BERN, BERKS COUNTY, PENNSYLVANIA, IN LAWFUL SESSION DULY ASSEMBLED.

TOWNSHIP OF UPPER BERN,
BERKS COUNTY, PENNSYLVANIA

Paul J. Mogel (SEAL)
Chairman, Board of Supervisors

Attest: Jane Lass
Township Secretary