

UPPER BERN TOWNSHIP ORDINANCE NUMBER 90 - 2007

An Ordinance of Upper Bern Township, Berks County, Pennsylvania, establishing certain rules, criteria, standards, specifications, procedures, permits, maintenance, inspections and other regulations pertaining to sanitary sewage and wastewater holding tanks within Upper Bern Township. This Ordinance shall be hereinafter referred to as the Upper Bern Township Holding Tank Ordinance.

Be it and it is hereby enacted and ordained by the Board of Supervisors of Upper Bern Township, Berks County, Pennsylvania, and it is hereby ordains and enacts the following provisions as the Upper Bern Township Holding Tank Ordinance:

Section 1: Purpose and Objective

The purpose and objective of this Ordinance shall be as follows:

- (A) To implement the goals, objectives, policies and recommendations contained within the Upper Bern Township Act 537 Plan Addendum of 2005 and/or any other Official Sewage Facilities Plan that has been adopted by Upper Bern Township.
- (B) To implement the goals, objectives, policies and recommendations contained within the Joint Comprehensive Plan for Northern Berks County of 2005 and/or any other Comprehensive Plan that has been adopted by Upper Bern Township.
- (C) To comply with the regulations and guidelines specified by the Pennsylvania Sewage Facilities Act and Pennsylvania Clean Streams Law.
- (D) To establish regulations for the utilization, inspection and maintenance of holding tanks for sanitary sewage and wastewater 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 holding tanks.
- (E) To protect the public health, safety and welfare of the residents and land owners of Upper Bern Township through the development and implementation of plans and ordinances for sewage disposal and water quality management.

Section 2: Definitions

- (A) The following specific terms are hereby defined for this Ordinance:

Accessible to a Municipal Sewer System: A property or dwelling, which adjoins, abuts on or is adjacent to a municipal sewer system or a street or highway in which a municipal sewer system is located, but not including any property on which the principal occupied building is located more than 200 feet from a municipal sewer system.

Act 537: The Pennsylvania Sewage Facilities Act, also referenced as PA Act 537, as amended.

Act 537 Plan: The Upper Bern Township Act 537 Plan, as adopted by Upper Bern Township and approved by the Pennsylvania Department of Environmental Protection. The Act 537 Plan may also be referenced as the Official Sewage Facilities Plan.

Applicant: A landowner or developer, as hereinafter defined, who has filed an application for a holding tank, including his heirs, successors and assigns.

Authorized Agent: The Upper Bern Township Sewage Enforcement Officer or other qualified or licensed person, who is authorized by the Board of Supervisors to function within specified limits as an agent of Upper Bern Township to administer or enforce the provisions of this Ordinance.

Board of Supervisors: The Upper Bern Township Board of Supervisors, Berks County, Pennsylvania, which shall also be referred to as the Governing Body of Upper Bern Township.

Building: Any combination of materials forming any structure, which is erected on the ground and permanently affixed thereto, whereas the framed components or structural parts are designed for the complete enclosure (with walls and a roof) and support for individuals or other uses.

Holding Tank: A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage or wastewater at another site. "Holding tanks" include but are not limited to the following structures or facilities:

Chemical Toilet: A toilet using chemicals to disinfect the waste, which is stored in a self-contained and above-ground tank. A chemical toilet is often referred to as a "portable john" or "job johnnie".

Retention Tank: A holding tank where sewage is conveyed to it by a water-carrying system.

Vault Pit Privy: A holding tank designed to receive sewage where water under pressure is not available.

Landowner: The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition). A lessee under a written lease who has written authorization of the legal owner shall be deemed to be a landowner for the purpose of this Ordinance.

Lot: A tract or parcel of land, regardless of size, held in single or joint ownership, not necessarily a lot or lots shown on a duly recorded map, which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such open spaces as are arranged, designed or required. The term "lot" shall also mean parcel, plot, site or any similar term.

Municipal Sewer System: All facilities owned and maintained by Upper Bern Township for the purposes of collecting, conveying, treating and disposing of sewage or wastewater within Upper Bern Township.

On-Lot Sewage Disposal Facilities: Any individual or community 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.

PA DEP: The Pennsylvania Department of Environmental Protection.

Person: An individual, corporation, partnership, organization, incorporator's association, trust, or other similar entity.

Sanitary Facilities: The required plumbing fixtures within a permitted use including a sink, toilet, bathtub, shower, washing machine, dish washer and/or similar plumbing fixtures, which are functioning and compliant with the codes and provisions of Upper Bern Township.

Sanitary Sewage Districts: Land areas within Upper Bern Township, which are designated as existing service areas, 5-years growth areas, 10-year growth areas, and on-lot sewage management districts, as further defined and depicted in the Upper Bern Township Act 537 Plan.

Sewage or Wastewater: Normal or standard water-carried gray-water, black-water and/or other permitted wastewater from any improved property, but shall not involve the conveyance or inclusion of any groundwater, surface water or stormwater as may be present or introduced into the system.

Sewage Enforcement Officer (SEO): A person who has been certified by the PA DEP and appointed by the Upper Bern Township Board of Supervisors to conduct all activities in accordance with: the provisions of the Pennsylvania Sewage Facilities Act; Pennsylvania Code Title 25, Chapters 71, 72 and 73; and to enforce the provisions of this Ordinance.

Township: Upper Bern Township, Berks County, Pennsylvania.

Use: The specific purpose for which land, a structure, or a building is designed, arranged or intended, or for which it may be occupied or maintained, or any activity, occupation, business or operation, which may be carried on thereon or therein.

- (B) Any word or term not defined herein shall be used with a meaning of standard usage.

Section 3: General Rules, Rights and Privileges

- (A) The Upper Bern Township Board of Supervisors is hereby authorized and empowered to undertake the control, operation and management of holding tanks for sanitary sewage and/or wastewater disposal and the collection and transportation thereof.
- (B) The Upper Bern Township Sewage Enforcement Officer is hereby authorized and empowered to license and permit holding tanks in accordance with the provisions of this Ordinance and the rules and regulations of the Pennsylvania Department of Environmental Protection, and any other rules and regulations relative to sewage enforcement that have been adopted by the Upper Bern Township.
- (C) The Upper Bern Township Board of Supervisors shall have the right and power to fix, alter, charge and collect fees, assessments and other charges in the area served by holding tanks and on-lot sewage disposal facilities. All such required fees shall cover the time, materials and expenses charged by the Upper Bern Township Sewage Enforcement Officer to administer this Ordinance.
- (D) The collection and transportation of all sewage or wastewater from any permitted building, lot or use shall be done solely by or under the direction and control of Upper Bern Township, and the disposal thereof shall be made only at such site or sites as may be approved by the Pennsylvania Department of Environmental Protection.
- (E) No person shall have the right to collect, transport and/or dispose of any sewage or wastewater from any property utilizing a holding tank in Upper Bern Township, unless it complies with this Ordinance.
- (F) Upper Bern Township has the legal authority to inspect holding tanks and order the repair of malfunctioning systems or the pumping of holding tanks, if required to eliminate potential health or environmental degradation. This authority is permitted under the Pennsylvania Sewage Facilities Act, the Pennsylvania Municipalities Planning Code and the Second Class Township Code. The Upper Bern Township Sewage Enforcement Officer shall have the right and not the obligation to evaluate any holding tank during routine inspections, suspected or reported malfunctions, and/or through the testing of systems as part of the subdivision or land development process.

Section 4: Planning Requirements, Permits, Construction and Inspections

The following provisions shall apply to the requirements involving planning, permits, construction and inspections of holding tanks:

- (A) All proposed holding tanks shall be located, designed, constructed and installed in accordance with the standards and specifications of Upper Bern Township and the Pennsylvania Department of Environmental Protection.
- (B) Holding tanks may only be utilized to provide temporary sanitary sewage disposal under the following conditions: for a building, lot or use under construction that will be connected or accessible to a municipal sewer system within a one (1) year period of time; for a malfunctioning on-lot sewage disposal system; for a site where large numbers of persons gather to witness an event for a single occasion or for a short period of time; for any other temporary measure that is consistent with the Upper Bern Township Act 537 Plan; and as indicated under the provisions of Pennsylvania Code Title 25, Chapter 73, as a temporary condition pending the installation of an on-lot sewage disposal system.

- (C) Unless otherwise permitted by Upper Bern Township and the Pennsylvania Department of Environmental Protection, holding tanks shall not be designed as part of the permanent sanitary facilities for any permitted building, structure or use that has been approved and completed in accordance with the provisions for sanitary sewage disposal facilities.
- (D) Where required, the appropriate planning modules or permits shall be submitted to Upper Bern Township and the Pennsylvania Department of Environmental Protection for review and consideration.
- (E) All permitted holding tanks shall be designed by a qualified professional with experience in wastewater disposal systems.
- (F) All permitted holding tank shall be provided with both visual and audible capacity warning devices (high water alarms), which shall be installed as a component or feature of the tank and in a conspicuous location within the building or use serviced by the holding tank.
- (G) The landowner or applicant shall be responsible for providing at least seventy-two (72) hours of notice to the Upper Bern Township Sewage Enforcement Officer prior to the installation of the holding tank and the high water alarms. No system component or holding tank utilized for on-lot sewage disposal shall be covered from view until approval has been given by the Upper Bern Township Sewage Enforcement Officer.
- (H) All construction, modification and rehabilitation permits associated with holding tanks shall be issued only by the Upper Bern Township Sewage Enforcement Officer.
- (I) A schedule of routine inspections conducted by the Sewage Enforcement Officer may be established to assure the proper functioning of the holding tank. All such inspections shall be completed under the authority and guidelines established by Upper Bern Township and the Commonwealth of Pennsylvania.

Section 5: Operation and Maintenance

The following requirements pertain to the ownership, operation and maintenance for holding tanks:

- (A) Only standard domestic wastewater shall be discharged into any holding tanks. The following wastes, solids, liquids or substances shall not be discharged into any holding tank: industrial waste; automobile oil and other non-domestic oil; toxic or hazardous substances or chemicals, including but not limited to pesticides, disinfectants, acids, paints, paint thinners, herbicides, gasoline and other solvents; and clean surface water or groundwater, including water from roof or cellar drains, springs, basement sump pumps and french drains.
- (B) No permit shall be granted to any landowner of an approved property or permitted use that utilizes a holding tank prior to that landowner presenting evidence to the Upper Bern Township Sewage Enforcement Officer that the landowner has a binding agreement with a certified hauler or sewage disposal company for the regular maintenance and disposal of the sewage and wastewater collected in the holding tank. The contract shall be in affect for a period no less than one (1) year from the date of the approved permit application for the holding tank. All fees and costs of and concerning said contract shall be paid in advance by the landowner to assure that the contractual agreement is binding and that the sewage and wastewater will be so removed in accordance with the conditions of the permit.
- (C) Each time the contents of the holding tank are removed, the approved hauler shall provide a written receipt to the landowner indicating that the solids have been completely pumped from the holding tank and the amount in gallons removed from the holding tank. The landowner shall be responsible for providing Upper Bern Township with the written receipt from the hauler whenever a septic tank is pumped.
- (D) Any person whose holding tank has been determined to require repair or replacement shall first contact the Sewage Enforcement Officer to obtain a sewage permit application for the necessary repair.
- (E) All sewage and solids that are pumped from any holding tank shall be hauled away from the property and disposed of in accordance with the requirements of the laws of the Commonwealth of Pennsylvania.

Section 6: Abandonment and Discontinuation of Holding Tanks

- (A) It shall be unlawful for any person owning or occupying a property on which there is a building or use required to be connected to the municipal sewer system, to construct or use a property with any privy, privy vault, cesspool, septic tank, holding tank, or other device for the disposal of sanitary sewage.
- (B) Upon connection to the municipal sewer system or an approved on-lot sewage disposal system, the existing holding tank serving the permitted building or use shall be properly disconnected, abandoned and discontinued. The solids shall be pumped-out by a licensed hauler and filled-in with clean gravel, soil or other permitted material within thirty (30) days following the date on which the aforesaid connection to the municipal sewer system was completed and inspected. Holding tanks shall be removed from the property within thirty (30) days from the date it has been disconnected, abandoned and discontinued.
- (C) The abandonment and discontinuation of the holding tank that previously served the permitted building or use shall be reviewed and inspected by the Upper Bern Township Sewage Enforcement Officer. The landowner or applicant shall provide at least seventy-two (72) hours of notice to the Upper Bern Township Sewage Enforcement Officer of the activities that are planned for a given site. As part of the notice procedures, the landowner or applicant shall provide a list of activities that are planned at the site over the period of time that the project will remain active under the terms of the permit.
- (D) During the final inspection, the lateral connection from the existing building or use to the abandoned holding tank shall be broken, removed or fitted with a device to prevent future use.
- (E) If any component of the abandoned and discontinued holding tank is covered prior to the inspection and approval by the Upper Bern Township Sewage Enforcement Officer, that portion of the component shall be uncovered for inspection at the cost and expense of the landowner or applicant for the permit.

Section 7: Administration, Enforcement, Penalties and Appeals

- (A) All administrative and enforcement provisions established by this Ordinance shall be regulated and enforced by Upper Bern Township. In addition to the Sewage Enforcement Officer, the Board of Supervisors may authorize certain persons or consultants to enforce the provisions of this Ordinance as well as any other laws of Upper Bern Township and the Commonwealth of Pennsylvania.
- (B) All permits, records, reports, files and other written material relating to the installation, operation and maintenance of holding tanks within Upper Bern Township shall become the property of, and be maintained by Upper Bern Township. Existing and future records shall be available for public inspection during regular business hours at the municipal office of Upper Bern Township. All such records pertaining to sewage permits, building permits, well permits, occupancy permits and all other provisions of this Ordinance shall be made available, upon request, for inspection by representatives of the Pennsylvania Department of Environmental Protection.
- (C) All costs and expenses associated with the design, construction, permitting, inspection of any connection, modification, rehabilitation and repair to a holding tank shall be borne by the landowner of the occupied building or use to be served by the holding tank. Said landowner shall indemnify and hold Upper Bern Township harmless of any loss or damage that may be directly or indirectly a result of any connection, operation and/or malfunction of a permitted holding tank.
- (D) Any person who shall violate any provisions of this Ordinance, as the same may now be or may hereafter be amended, or any order issued by Upper Bern Township pursuant to the provisions of this Ordinance, including violations for any alterations, disturbances, modifications, permits, repairs, connections, discharges, and/or permits, shall upon summary conviction before an issuing authority having jurisdiction thereof, be punished by a fine within the range established by the Commonwealth of Pennsylvania for summary offenses in effect of the date of the violation. Each separate building, permitted use, dwelling unit, or point of discharge in respect to which a violation occurs shall constitute a separate offence and subject to the appropriate penalties. Each day in which such violation of such provisions shall continue shall be deemed a separate offense and subject to the appropriate penalties.

- (E) Appeals from any interpretation, decision or enforcement action issued by Upper Bern Township or any of its authorized agents relating to the provisions of this Ordinance shall be made in writing to Upper Bern Township within thirty (30) days from the date of the interpretation, decision or enforcement action. All appeals shall be conducted in accordance with the laws of Upper Bern Township and the Commonwealth of Pennsylvania.
- (F) Upper Bern Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary relating to the municipal sewer system or on-lot sewage disposal, which additional rules and regulations, to the extent appropriate, and shall be construed as part of this Ordinance.

Section 8: Severability and Repealer

- (A) All other provisions or Ordinances adopted by Upper Bern Township are hereby ratified and confirmed.
- (B) Any provision of any Ordinance inconsistent with the provisions of this Ordinance is hereby repealed to the extent of the inconsistency.

Section 9: Municipal Enactment

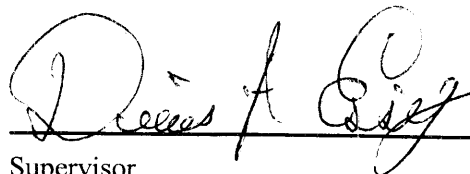
Duly enacted and ordained by the Upper Bern Township Board of Supervisors, Berks County, Pennsylvania in public session duly assembled on May 9, 2007.

Upper Bern Township Board of Supervisors
Berks County, Pennsylvania

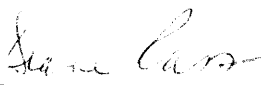
ATTEST:



Chairman



Supervisor



Upper Bern Township Secretary



Supervisor