

SOUTH MIDDLETON TOWNSHIP  
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 00-02

AN ORDINANCE TO ESTABLISH REGULATIONS CONCERNING THE LOCATION OF INITIAL AND REPLACEMENT INDIVIDUAL ON-LOT SEWAGE SYSTEMS WITHIN THE TOWNSHIP; ADOPTING THE PROVISIONS OF CHAPTERS 71, 72 AND 73 OF TITLE 25 OF THE PENNSYLVANIA CODE AS THE TOWNSHIP'S REGULATIONS FOR THE INSTALLATION OF AND ISSUANCE OF PERMITS FOR INDIVIDUAL ON-LOT SEWAGE SYSTEMS EXCEPT AS MODIFIED BY THIS ORDINANCE; REQUIRING THAT PERMITS BE OBTAINED PRIOR TO THE INSTALLATION OF AN INDIVIDUAL ON-LOT SEWAGE SYSTEM FOR ALL LOTS WITHIN THE TOWNSHIP REGARDLESS OF THE SIZE OF THE LOT; REQUIRING MAINTENANCE OF ALL INDIVIDUAL ON-LOT AND COMMUNITY SEWAGE DISPOSAL SYSTEMS; REQUIRING THAT REPORTS BE MADE TO THE TOWNSHIP; PROVIDING FOR PENALTIES AND REMEDIES FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING PROCEDURES FOR THE ADMINISTRATION OF THE OLDS PROGRAM; PROVIDING THAT THE TOWNSHIP SHALL NOT WARRANT OR GUARANTEE THE FUNCTIONING OR MAINTENANCE OF ANY INDIVIDUAL ON-LOT SEWAGE SYSTEM INSTALLED PURSUANT TO THE TERMS OF THIS ORDINANCE; AND REQUIRING SEPTAGE HAULERS TO MAKE REPORTS AND PROVIDE INFORMATION TO THE TOWNSHIP.

IT IS HEREBY EXACTED AND ORDAINED by the Board of Supervisors of South Middleton Township, Cumberland County, Pennsylvania, as follows:

**Section 1. TITLE**

This Ordinance shall be known and may be cited as "The Individual and Community Sewage System Management Ordinance" for South Middleton Township.

**Section 2. LEGISLATIVE INTENT**

As mandated by the Clean Streams Law (35 P.S. Sections 691.1-691.1001), and the Pennsylvania Sewage Facilities Act (Act of January 21, 1966. P.L. 1333 as amended, 35 P.S. Section 750.1 et. seq.), municipalities have an obligation to provide for adequate sewage treatment facilities and protection of the public health by preventing the discharge of untreated or inadequately treated sewage.

The Board of Supervisors recognizes that individual on-lot sewage disposal systems constitute a valid and approved manner of protecting the quality of the water and other natural resources of the Township through proper treatment of wastes generated by development within the Township. The use of individual on-lot sewage systems must be regulated in accordance with the regulations promulgated by the Department of Environmental Protection, which pertain to the location and permitted types of on-lot sewage disposal systems. In addition, the Township has determined that should the on-lot sewage system installed by a landowner fail the water quality and other natural resources of the Township may be polluted. It is especially of concern to the Board that such pollution may occur when a system fails and there is no suitable area on the lot for the installation of a replacement system. Therefore, in order to protect the water quality and other natural resources of the Township, thereby protecting the health and welfare of residents and visitors, the Board of Supervisors desires to require that all landowners provide and set aside areas for the installation of replacement individual on-lot sewage disposal systems.

It is the further intent of the Board of Supervisors to insure that on-lot sewage disposal systems are properly maintained. Failure to maintain on-lot sewage disposal systems can eventuate in malfunctions that result in the pollution of the groundwater and other natural resources of the Township. On-lot sewage disposal systems must be pumped out on a regular basis to assure their proper functioning, and it is the responsibility of all landowners to insure such maintenance is performed. In order to determine that the on-lot sewage disposal systems within the Township are being maintained properly, all landowners using on-lot sewage disposal systems shall file manifests with the Township concerning such service. The septage pumpers/haulers shall also be required to report any malfunctioning on-lot sewage disposal systems to the Township.

The Board of Supervisors also desires to provide for the proper maintenance of community sewage disposal systems installed in the Township. Proper maintenance of community sewage disposal systems is essential to preserve and protect the health and welfare of Township residents and to preserve and protect the environment.

### Section 3.

### ADOPTION OF STANDARDS BY REFERENCE

Chapters 71, 72, and 73 of Title 25 of the Pennsylvania Code, as promulgated by the Department of Environmental Protection of the Commonwealth of Pennsylvania, are hereby adopted as the sewage permit application and installation procedure of the Township and each and all of the regulations contained in the said Chapters are hereby adopted by the Township except as modified by this Ordinance. It is the intent of the Board of Supervisors to adopt

all subsequent amendments and revisions to the said Chapters as permitted by law and in accordance with the provisions of 1 Pa. C.S. section 1937(a). If such as intent is found invalid by a court of competent jurisdiction, it is the intent of the Board to adopt the said Chapters as they existed on the effective date of this Ordinance.

#### Section 4.

#### WORD USAGE AND DEFINITIONS.

##### 1. Interpretation

The following words are defined in order to facilitate the interpretation of the Ordinance for administrative purposes and in the carrying out of duties by appropriate officers. Unless otherwise expressly stated, the following terms shall, for the purpose of these regulations have the meaning indicated:

Words in the singular include the plural and those in the plural include the singular.

Words used in the present tense include the future tense.

The words "person", "Subdivider", "Developer", and "owner" include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual engaged in the subdivision of land and/or land development.

The word "building" includes structure and shall be construed as if followed by the phrase "or part thereof".

The word "watercourse" includes channel, creek, ditch, dry run, spring, stream and river.

The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.

The word "lot" includes the word plot or parcel.

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

##### 2. Definitions

All words and phrases not otherwise defined herein shall have the meaning provided in Section 2 of the Act, 35 P.S. section 750.2, Section 71.1 of the PADEP's Regulations, 25 Pa. Code section 71.1, or section 73.1 of the PADEP's Regulations, 25 Pa. Code section 73.1.

Act 537 - The Act of January 24, 1966, P. L. 1535 as amended, 35 P.S. Section 750.1 et. seq. known as the Pennsylvania Sewage Facilities Act.

Authorized Agent - A certified sewage enforcement officer, code enforcement officer, professional engineer, plumbing inspector, municipal secretary or any other qualified or licensed person who is delegated by the municipality to carry out the provisions of this ordinance within specified limits.

Board - The Board of Supervisors, South Middleton Township, Cumberland County, Pennsylvania.

Codes Enforcement Officer (CEO) - An authorized agent of the municipality to administer and enforce other ordinances in the municipality.

Community Sewage System - Any system, whether publicly or privately owned, for the collection of sewage from two or more lots, and the treatment and/or disposal of the sewage or industrial waste on one or more of the lots or at any other site and which shall comply with all applicable regulations of the PADEP.

Department - The Solid Waste Authority of Cumberland County.

Developer - Any person who files a planning module for land development with the Township or who files an application for approval of a subdivision or land development plan proposing the subdivision or development of land within the Township; or who makes application for a building permit; or who makes an application for a zoning permit under the Township Zoning Ordinance; or who installs, repairs, modifies, or alters an OLDS or community sewage system serving properties within this Township other than a governmental entity.

Individual Sewage System - A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part, to the soil or into any waters of the Commonwealth and which is located upon the lot which it serves.

Land Development - Any of the following activities:

The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

a group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

the division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

A subdivision of land.

Lot - A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

Malfunction - The 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 the building connected to the system or otherwise causes a nuisance 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 of the conditions noted above occur for any length of time during any period of the year.

Manifest - A written report made to the Township by a septage hauler providing service to an OLDS or a community sewage system within the Township which, at a minimum contains the name and address of the septage hauler, the name of the property owner, the address of the property upon which the OLDS or community sewage system is located, a description of all services performed by the septage hauler, a statement of the depth of scum and sludge in the tank and percentage of scum and sludge, a statement concerning the condition of the tank and inlet and outlet baffles, the location at which any sewage or solids removed from the OLDS or community sewage system will be disposed, a description of the condition of the OLDS or community sewage system, a statement noting whether any malfunctions of the OLDS or community sewage

system were observed, and a statement noting all maintenance or repairs to the OLDS or community sewage system performed. The manifest shall expressly state the condition of the baffles, whether the septage hauler informed the landowner that the baffles should be replaced, and whether the septage - hauler replaced the deteriorated baffles.

Municipality - South Middleton Township, Cumberland County, Pennsylvania.

Official Plan: A comprehensive plan for the provision of adequate sewage disposal systems, adopted by the municipality and approved by the Pennsylvania Department of Environmental Protection, as described in and required by the Pennsylvania Sewage Facilities Act, hereinafter called the "Act 537 Plan", it shall mean the South Middleton Township Act 537 Plan, amended March, 1991.

On-Lot Disposal System (OLDS) - Any system for disposal of sewage involving pretreatment and subsequent disposal of the clarified sewage into the soil for final treatment and disposal; including both individual sewage systems and community sewage systems.

On-Lot Management Program - A comprehensive set of legal and administrative requirements encompassing the requirements of this ordinance and other administrative requirements adopted by the municipality to effectively enforce and administer this ordinance.

PADEP - The Pennsylvania Department of Environmental Protection.

Permit - A permit issued by the Sewage Enforcement Officer after the performance of tests to determine suitability to authorize the initial installation of an OLDS or the repair, replacement or enlargement of an existing OLDS.

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.

Planning Module for Land Development - A revision to the Township Official Plan submitted in connection with the request for approval of a subdivision or land development in accordance with PADEP regulations.

Planning Submission - A planning module for land development with all components and information required by the PADEP or, if no planning module for land development is required to be approved by the Township by the Act or regulations of the PADEP prior to installation of an OLDS or community sewage system, a preliminary subdivision plan preliminary land development plan, preliminary/final subdivision plan or preliminary/final land development plan prepared in accordance with the applicable subdivision and land development ordinance and the requirements of the Pennsylvania Municipalities Planning Code.

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

Replacement Area - A location designated as the future location of an OLDS that shall be installed should the OLDS installed or to be installed fail or otherwise become inoperable and which shall meet all the regulations of the PADEP and all applicable Township Ordinances for an OLDS.

Septage Hauler - Any person licensed by the Department or the Pennsylvania Department of Environmental Protection, or registered with the Township, to remove septage or other solids from treatment tanks of OLDS or community sewage disposal systems, holding tanks, privies, aerobic tanks, cesspools, or any other sewage disposal facility within the Township.

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) - An authorized agent of the municipality, DEP-certified to issue and review permit applications and conduct such investigations and inspections as are necessary to implement Act 537 and the rules and regulations promulgated thereunder.

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.

SWACC - The Solid Waste Authority of Cumberland County.

#### **Section 5. Applicability**

From the effective date of this ordinance, its provisions shall apply in all portions of the municipality. The provisions of this ordinance shall apply to all persons owning any property serviced by an individual or community sewage disposal system and to all persons installing or rehabilitating on-lot disposal systems.

#### **Section 6. Procedure for Review of Planning Modules for Land Development and Subdivision/Land Development Plans.**

1. In order to insure compliance with the Official Plan, all developers who request approval of planning modules for land development or who request the review of subdivision plans, and land development plans providing for on-lot sewage disposal shall submit a planning submission to the Township for review in accordance with the following requirements:
2. The developer shall submit six (6) copies of the planning submission to the Township, which shall at a minimum include complete copies for the Township files, the Board of Supervisors, the Township Planning Commission, the Township Engineer and the Sewage Enforcement Officer. The Township Board of Supervisors shall determine compliance with the Official Plan, this Ordinance, and all other applicable Township ordinances and regulations within sixty (60) days of the planning submission.
3. It is the responsibility of the developer to submit the planning submission to all other reviewing agencies, including but not limited to the Cumberland County Planning Commission, in accordance with the Department's regulations. It is the responsibility of the developer to pay for the publication of any legal advertisement of the planning submission, which may be required by the Department's regulations.

4. The developer shall submit a written report detailing the planning and decision-making steps used in the selection of the method of sewage disposal. This narrative description shall address all of the requirements of Section 7 of this Ordinance.
5. Any developer who applies for approval of a planning submission shall submit an Environmental Impact Assessment prepared in accordance with the requirements of Section 714 of the South Middleton Township Subdivision and Land Development Ordinance.
6. For planning submission proposing the use of OLDS, the Sewage Enforcement Officer shall decide within ten (10) days from the date of submission whether the planning submission is complete; provided, however, that the failure to return a planning submission to a developer within the ten (10) days period shall not be deemed an acknowledgment by the Township that the application meets the requirements of this Ordinance or the regulations of the PADEP. The Sewage Enforcement Officer shall prepare a review of the general site suitability and provide guidance to the Township Planning Commission and Board of Supervisors within twenty (20) days of receipt of a complete submission.

## Section 7.

## Planning Policies and Methodology

1. All developers within the Township shall design sewage disposal systems in accordance with the planning policies and methodology set forth in this Section. The developer shall include a narrative with any planning submission, which shall demonstrate the procedure, used by the developer in determining the sewage disposal facilities proposed for the development. If the developer is not required to submit a planning submission, the developer shall present information sufficient to demonstrate compliance with this Section with his or her application to the Sewage Enforcement Officer for a permit to install, repair, alter or modify an OLDS.
2. The Township requires use of OLDS wherever feasible outside of the present and future public sewer service area as defined by the Official Plan of the Township. Outside of the public sewer service area, developers shall use planning policies which foster the non-sewer approach and the conservation of groundwater resources. At a minimum, the developer shall address the following Township policies:
  - a) Establish OLDS and community sewage disposal system ownership and maintenance responsibilities with the individual lot owner, a

homeowners' association, condominium unit owners' association or the developer.

- b) Provide water conservation and waste flow reduction by the use of water-saving devices and other state of the art water conservation methods for new construction and the replacement of any components of existing structures.
- c) Recycle wastewater by relying upon OLDS for groundwater recharge via subsurface disposal of treated wastewater.
- d) Restrict subsurface community sewage disposal systems to resolution of sewage related problems of existing structures.
- e) Sewage Testing Required for all Proposed Lots. After the effective date of this Ordinance, no requests for approvals of planning modules for land development and no revisions or supplements to the Official Plan shall be granted by the Board unless the applicant presents to the Board evidence that each lot or lot to be created contains a suitable location for the installation of an initial OLDS except when such lots or lots to be created are to be served by a community sewage system. All tests required by the PADEP and this Ordinance for the location of an OLDS to confirm the suitability of the location shall be performed as approved by the PADEP.
- f) Replacement Location for On-lot Sewage Disposal Systems Required.
  - (1) After the effective date of this Ordinance, a Replacement Location for an OLDS shall be required for all lots or lots to be created which are not serviced or to be serviced by a community sewage system operated by a governmental entity or for which a valid permit for an OLDS has not been issued. The Replacement Location shall comply with the Act and with all regulations issued by the PADEP as incorporated into this Ordinance concerning OLDS, including isolation distances, and with the terms of this Ordinance and any other applicable Township ordinances.
  - (2) New or proposed subdivisions or land developments which will utilize OLDS shall provide for the testing, identification and reservation of an on-lot system replacement location on

each lot or developed property. This requirement is in addition to the testing, identification and reservation of an area for the primary on-lot disposal system (Section g) above). No sewage permit shall be issued for any OLDS on a newly-created or subdivided property unless and until a replacement area is tested, identified and reserved.

(3) Construction of Improvements upon Replacement Location Prohibited.

(a) No person shall construct or install any permanent or temporary improvements of any character, including the planting of trees or shrubs, upon the Replacement Location unless the person who desires to construct such improvements shall demonstrate to the satisfaction of the Sewage Enforcement Officer that an alternate Replacement Location which complies with all applicable regulations of the PADEP, this Ordinance and all other applicable Township ordinances exists upon the lot. Other plant matter such as grasses and flowers shall be permitted.

(b) If such an alternate Replacement Location must be identified, the alternate Replacement Location may be considered to be the Replacement Location required by this Ordinance and shall be designated as the Replacement Location. The newly designated Replacement Location shall thereafter be considered the Replacement Location for the purposes of this Ordinance.

(c) The developer shall identify the location of each OLDS and each Replacement Location upon the plans. The developer shall include a note on the plans stating that no improvements shall be constructed upon the Replacement Location, and the deed to each lot created as a part of the subdivision or land development shall contain language reflecting this limitation.

g) Evaluate individual OLDS in the order listed below. The approved individual wastewater treatment systems within the Township are septic tanks, aerobic treatment units, spray irrigation systems and,

if no other method is feasible, individual stream discharge systems (small flow treatment facilities). These treatment methods may be used with the various effluent treatment and disposal methods outlined below:

- (1) Conventional subsurface absorption system. If a site is suitable in accordance with PADEP regulations for conventional sewage disposal systems such as a septic or aerobic tank with an absorption area (standard trench, seepage bed, subsurface sand filter or elevated sand mounds), the appropriate combination of wastewater treatment and effluent disposal system shall be selected as the most cost-effective OLDS.
  - (2) Alternate systems. The developer shall evaluate alternate systems if there are inadequate soils or other concerns on the site that prevent the use of conventional septic systems. These systems shall use technology that has been proven successful. The design of the alternate system shall be approved in accordance with the regulations of the PADEP and the Act.
  - (3) Conventional spray irrigation. If site is not suitable for a conventional subsurface absorption system or an alternate system, and if the site is suitable in accordance with PADEP regulations for a individual residential spray irrigation system, the spray irrigation system shall be selected.
  - (4) Experimental systems. The Township does not encourage experimental systems. A developer may propose the use of an experimental system only in areas where none of the above alternatives is available. The developer shall submit all documentation required for approval of the experimental system in accordance with the regulations of the PADEP and the Act. Testing, monitoring and permitting of these systems shall comply with the requirements of the PADEP.
- h) Examine combined individual and community systems. As a remedial action, a developer may propose the connection of an existing, malfunctioning OLDS to a new development to solve the malfunctioning condition.

- i) Examine community sewage systems. The developer may evaluate community sewage systems only if it is not feasible to provide for sewage disposal through OLDS. The developer shall provide on-site or off-site wastewater treatment. The developer shall review each collection alternative and shall select an effluent disposal method from the various alternatives. Community sewage systems shall be utilized only for correction of sewage-related problems of existing OLDS or community sewage systems unless the community sewage system is operated by a governmental entity in accordance with the Township Official Plan.
  - j) Small Flow Sewage Treatment Facilities, a.k.a. stream discharge system. If a site is not suitable for a conventional subsurface absorption system, an alternate system or a individual residential spray irrigation system, the owner/ developer may apply for installation of stream discharge system. Small Flow treatment Facilities are not OLDS. Permits for Small Flow Treatment Facilities are issued by the PADEP. The Township Engineer shall review planning submissions for Small Flow Treatment Facilities.
3. The developer shall evaluate the construction cost, operation and maintenance costs, and environmental impacts of each method of sewage disposal. The developer shall present the evaluation to the Township as part of its planning submission.

#### **Section 8. System Installation and Permit Requirements**

1. No person shall install, construct, alter or repair an on-lot disposal system or occupy any building or structure for which an on-lot disposal system is to be installed without first obtaining a sewage permit indicating that the site and the plans and specifications of such system are in compliance with the provisions of the Pennsylvania Sewage Facilities Act and the standards adopted pursuant to that Act. Sewage permits shall be obtained from the SEO. Sewage permit applications shall comply with Section 7.1.
2. No system or structure designed to provide individual or community sewage disposal shall be covered from view until approval to cover the same has been given by the municipal SEO. If 72 hours have elapsed, excepting Sundays and Holidays, since the SEO issuing the permit received notification of completion of construction, the applicant may cover said system or structure unless permission has been specifically refused by the SEO.

3. The municipality may require applicants for sewage permits to notify the municipality's certified SEO of the schedule for construction of the permitted on-lot sewage disposal system so that inspection(s) in addition to the final inspection required by Act 537 may be scheduled and performed by the municipality's certified SEO.
4. No building, zoning or occupancy permit shall be issued by the municipality or its codes enforcement officer for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from the municipality's certified SEO.
5. 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 the municipality's codes enforcement officer and the structure's owner receive from the municipality's SEO either a permit for alteration or replacement of the existing sewage disposal system or written notification that such a permit will not be required. The certified SEO shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.
6. Sewage permits may be issued only by a certified SEO employed by the municipality for that express purpose. The PADEP of Environmental Protection shall be notified by the municipality as to the identity of their currently employed certified SEO.
7. Identification of Replacement Location.
  - a) Each person who shall apply for a permit under this Ordinance shall demonstrate to the satisfaction of the Sewage Enforcement Officer that a suitable area exists on the lot or on each lot to be created for an initial OLDS and for the Replacement Location. All tests required by the PADEP and this Ordinance for the location of an OLDS to confirm the suitability of the Replacement Location shall be performed as approved by the PADEP. Allowance of open land for the Replacement Location without testing performed or observed by the Sewage Enforcement Officer shall not constitute compliance with the requirements of this Section.
  - b) The developer shall identify the location of the initial OLDS and the Replacement Location as confirmed by the Sewage Enforcement

Officer on the plot plans and diagrams submitted as a part of the permit application.

- c) The Board or its authorized representative shall approve any revision to a permit affecting a Replacement Location, which previously has been approved.

8. Relief from Requirements of Designation of Replacement Location.

- a) If any lot held in single and separate ownership as of the effective date of this Ordinance shall not contain land suitable for a Replacement Location, the applicant for a permit under the Ordinance or an installation permit for an OLDS may request that the Board grant an exception to the requirement of providing a Replacement Location.

- b) Applicants for relief under this Section shall submit a written application setting forth the information required by this Section and shall include the application fee established by resolution or ordinance by the Board of Supervisors. The applicant for such an exception shall present credible evidence to the Board demonstrating that the lot was held in single and separate ownership on the effective date of this Ordinance;

- (1) the size of the lot;
- (2) inability of the applicant to acquire adjacent land or the unsuitability of adjacent land which might be able to be acquired; and
- (3) the testing conducted to determine that the lot is not suitable to provide a Replacement Location.

- c) At all times the burden to present credible evidence and the burden of persuasion shall be upon the applicant for an exception from the terms of this Ordinance.

**Section 9. Inspections**

- 1. The municipality's authorized agent may inspect all on-lot sewage disposal systems at any reasonable time after the effective date of this ordinance.

The 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.

2. The municipality's authorized agent shall have the right to enter upon land for the purposes of inspections described above.
3. The municipality's authorized agent shall conduct an initial inspection within three years of the effective date of this ordinance for the purpose of determining the type and functional status of each sewage disposal system in the sewage management district. A written report shall be furnished to the owner of each property inspected and a copy of said report shall be maintained in the municipal records.
4. A schedule of routine inspections shall be established by the municipality to assure the proper function of the systems in the Township.
5. The municipality and its authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the municipality and its authorized agent shall take action to require the correction of the malfunction. If total correction is not technically or financially feasible in the opinion of the authorized agent, then action by the property owner to mitigate the malfunction shall be required.
6. There may arise geographic areas within the municipality where numerous on-lot disposal systems are malfunctioning. A resolution of these area-wide problems may necessitate detailed planning and a municipally sponsored revision to that area's Act 537 Official Sewage Facilities Plan. When a DEP authorized Official Sewage Facilities Plan Revision has been undertaken by the municipality, mandatory repair or replacement of individual malfunctioning sewage disposal systems within the study area may be delayed, at the discretion of the municipality, pending the outcome of the plan revision process. However, the municipality may compel immediate corrective action whenever a malfunction, as determined by municipal officials, represents a serious public health or environmental threat.

Section 10.

Operation .

1. Only normal domestic wastes shall be discharged into any on-lot sewage disposal system.
2. The following shall not be discharged into the system:
  - a) Industrial waste;
  - b) Automobile oil and other non-domestic oil;
  - c) Toxic or hazardous substances or chemicals, including but not limited to, pesticides, disinfectants, acids, paints, paint thinners, herbicides, gasoline and other solvents; and,
  - d) Clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps and french drains.

#### Section 11. Maintenance

1. Any person owning a building served by an on-lot sewage disposal system that contains a septic tank shall have the septic tank pumped by a qualified pumper/hauler within 3 years of the effective date of this ordinance. Thereafter that person shall arrange for the removal of septage or other solids from the septic tank once every 3 years or whenever an inspection program reveals the septic tank is filled with solids in excess of 1/3 the liquid depth of the tank or with scum in excess of 1/3 the liquid depth of the tank. Receipts from the pumper/hauler shall be submitted to the municipality within the prescribed initial period and subsequent required pumping periods.

The required pumping frequency may be increased at the discretion of the 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 their system tank had been pumped within three years of the six month anniversary of the effective date of this ordinance, then the municipality may delay that person's initial required pumping to conform to the general three year frequency requirement.

2. 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 municipality, 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 the municipality's certified SEO for approval of the necessary repair.

3. 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 municipality within six months of the effective date of this ordinance. Thereafter, service receipts shall be submitted to the municipality at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for aerobic treatment tanks exceed those for those required for septic tanks.
4. Any person owning a building served by a cesspool or dry well shall have that system pumped under the initial pumping program. The owner must secure a sewage permit from the certified SEO for a septic tank to be installed preceding the cesspool or dry well. A septic drain system must also be installed, if possible, to remove the treated liquids from the septic tanks.
5. The municipality may require additional maintenance activity 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 and the diversion of surface water away from the disposal area.
6. Any person who owns a lot upon which an OLDS or community sewage system is installed, any person who occupies a lot upon which an OLDS or community sewage system is installed and any septage hauler pumping out or otherwise maintaining an OLDS or community sewage system shall report any malfunctioning of such OLDS or community sewage system to the Township. Such report shall be made as soon as possible but in no case later than three (3) days after discovery of the malfunction.

**Section 12. Compliance With Tank Maintenance Requirements.**

1. When a septic tank is "pumped out" and septage removed for disposal, the hauler responsible for septage removal shall provide the owner of the system a signed receipt containing:
  - a) Date of pumping
  - b) Name and address of system owner
  - c) Size of tank
  - d) Any indication of system malfunction
  - e) Estimated amount of septage removed in gallons
  - f) Designated disposal area

2. The property owner of any on-lot sewage disposal system must certify that the septage does not contain any substances or chemical compounds not considered sewage by definition in this ordinance as defined in Section 10.
3. The receipt shall be submitted to the Sewage Enforcement Officer or an authorized agent of South Middleton Township to serve as proof of compliance with the requirement for septage removal in Section 11. of this Ordinance. The system owner shall retain a copy and a copy shall be provided to the site or facility accepting the septage for disposal.

### **Section 13. System Rehabilitation**

1. No person shall operate and 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 to discharge has been obtained from the Pennsylvania Department of Environmental Protection.
2. The municipality shall issue a written notice of violation to any person who is the owner of a property in the municipality 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.
3. Within seven (7) days of notification by the municipality that a malfunction has been identified, the property owner shall make application to the municipality's certified SEO for a permit to repair or replace the malfunctioning system. Within thirty (30) days of initial notification by the municipality, construction of the permitted repair or replacement shall commence. Within sixty (60) days of the original notification by the municipality, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case the municipality shall set an extended completion date.
4. The municipality's certified SEO shall 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, and other alternatives as appropriate for the specific site.

5. In lieu of, or in combination with, the remedies described in 4 above, the municipal SEO 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 and appliances. Wastewater generation in the structure may also be reduced by requiring changes in water usage patterns in the structure served. The use of laundry facilities may be limited to one load per day or discontinued altogether, etc.
6. In the event that the rehabilitation measures in 1 through 5 are not feasible or do not prove effective, the municipality may require the owner to apply:
  - a) for a permit to install an Individual Spray Irrigation Treatment System (IRSIS); or,
  - b) to the Pennsylvania Department of Environmental Protection for a permit for a single residence treatment and discharge system.

Upon receipt of either of the above permits, the owner shall complete construction of the system within thirty (30) days.

7. Should none of the remedies described above prove 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 municipality may require whatever action is necessary to lessen or mitigate the malfunction to the extent that it feels necessary.

#### **Section 14. Liens**

The municipality, upon written notice from the municipal SEO that an imminent health hazard exists due to failure of a property owner to maintain, repair or replace an on-lot sewage 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 certified SEO. The owner shall be charged for the work performed and, if necessary, a municipal lien shall be entered therefore in accordance with law. The municipality reserves the right to pursue all other lawful remedies.

## Section 15.

## Disposal of Septage

1. All septage originating within the municipality shall be disposed of at sites or facilities approved by the Pennsylvania Department of Environmental Resources. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites, and approved farmlands.
2. Pumper/haulers shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35 P.S. Sections 6018.101 -6018.1003).
3. Registration of Septage Haulers Required.
  - a) Each septage hauler who performs maintenance upon an OLDS or community sewage system within the Township, including but not limited to pumping out the OLDS or community sewage system, shall register annually with the Township. Such registration shall include any applicable fee, the name, address, and telephone number of the hauler, whether the hauler has been certified by the Pennsylvania Septage Management Association, and the location(s) at which the hauler proposes to dispose of septage collected in the Township and shall be valid for the calendar year. Registrants shall also provide proof of licensure by the Department. A septage hauler may register for the next succeeding calendar year in December of each calendar year.
  - b) The septage hauler shall pay the annual registration fee imposed by ordinance or resolution of the Board of Supervisors at the time of registration.
  - c) No person other than a septage hauler who has registered with the Township for the calendar year shall be permitted to remove septage from or maintain any OLDS or community sewage systems in the Township.
  - d) The Township shall maintain a list of registered septage haulers.
4. Each septage hauler who performs maintenance upon an OLDS or community sewage system within the Township, including but not limited to pumping out the OLDS or community sewage system, shall file a

manifest with the Township for each OLDS or community-sewage system serviced within the Township within three (3) weeks of the date of such maintenance.

**Section 16. Administration**

1. The municipality shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this ordinance.
2. The municipality shall employ qualified individuals to carry out the provisions of this ordinance. Those employees shall include a certified SEO and may include a codes enforcement officer, secretary, administrator or other persons as required. The municipality may also Contract with private qualified persons or firms as necessary to carry out the provisions of this ordinance.
3. 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 the municipality. Existing and future records shall be available for public inspection during normal business hours at the official municipal office. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the municipality's sewage management program shall be made available, upon request, for inspection by representatives of the Pennsylvania Department of Environmental Protection.
4. The municipality shall establish all administrative procedures necessary to properly carry out the provisions of this ordinance.
5. The municipality may establish a fee schedule, and subsequently collect fees, to cover the cost of administering this program.

**Section 17. Appeals**

1. Appeals from decisions of agents under this ordinance shall be made to the Board of Supervisors in writing within thirty (30) days from the date of the decision in question.
2. The appellant shall be entitled to a hearing before the Board at its next regularly scheduled meeting, if the 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 subsequent meeting. The municipality shall thereafter affirm, modify, or reverse the aforesaid decision. The hearing may be postponed for a good cause shown by the appellant or the municipality. Additional evidence may be introduced at the hearing provided that it is submitted with the written notice of appeal, according to Local Agency Law, 2 Pa. C.S.A. Sections 551 - 555.

3. A decision shall be rendered in writing within sixty (60) days of the date of the hearing. If a decision is not rendered within sixty (60) days the relief sought by the appellant shall be deemed granted.

#### **Section 18. Penalties**

1. Any person who shall violate or fail to comply with any provisions of this Ordinance shall be liable, upon summary conviction for the first offense and upon summary conviction for each subsequent offense, to a fine of not less than \$300.00 nor more than \$500.00, together with the costs of prosecution, in each case. Each day of continuance of a violation of this Ordinance shall constitute a separate offense and shall be punishable as such. The fines and costs imposed hereunder shall be enforceable and recoverable in the manner and at the time provided by applicable law.
2. The discharge by the municipality of its obligations as set forth in this Ordinance shall create no liability upon the municipality, its officials, employees or agents.

#### **Section 19. Continuation**

The provisions of this Ordinance, so far as they are the same as those Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and not as new enactments. Provisions of this Ordinance shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any Ordinance repealed by this Ordinance.

#### **Section 20. Effective Date**

This Ordinance shall become effective in accordance with law. The implementation of this Ordinance and the provisions contained herein will be effective upon enactment of this Ordinance.

Section 21. Severability

The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as the legislative intent of the Township that this Ordinance would have been amended as if such unconstitutional, illegal or invalid provision or provisions had not been included herein.

REPEALER

All Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance hereby adopted are hereby repealed

ENACTED AND ORDAINED this 3<sup>rd</sup> day of February 2000.

ATTEST:

BOARD OF SUPERVISORS  
SOUTH MIDDLETON TOWNSHIP:

Sandra A. Quickel  
Sandra A. Quickel  
Township Secretary

Linda G. Adcock  
Linda G. Adcock, Chairman

Phyllis W. Givler  
Phyllis W. Givler, Vice Chairman

James N. Baker  
James N. Baker, Member

R. Duff Manweiler  
R. Duff Manweiler, Member

Thomas E. Faley  
Thomas E. Faley, Member

