DELAWARE TOWNSHIP ON-LOT SEWAGE DISPOSAL SYSTEM MANAGEMENT ORDINANCE

ORDINANCE NO. 202 A - 2012

DRAFTED: June 6, 2012

PURPOSE

The purpose of this Ordinance is to establish regulations concerning the going maintenance of all on-lot sewage disposal systems; to require the registration of septage pumper/haulers; to permit intervention in situations which may constitute a public nuisance or hazard to the public health and to establish procedures, penalties and appeal rights necessary for the proper administration of a sewage management program.

SECTION 1 – TITLE.

This Ordinance shall be known and may be cited as the "Delaware Township On-Lot Sewage Disposal System Management Ordinance."

SECTION 2 – DEFINITIONS AND WORD USAGE.

A. Word Usage. In the interpretation of this Ordinance, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

B. Definitions.

Absorption Area Easement – A portion of a lot, tract, or parcel that encompasses the primary and replacement absorption area and which shall be delineated and preserved. The primary and replacement absorption areas need not be contiguous.

Act – The Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. (1965) 1535, No. 537, as amended, 35 P.S. Section 750.1 et seq.

Authorized Agent – A pumper/hauler licensed by the Township.

Board – The Board of Supervisors of Delaware Township, Pike County, Pennsylvania.

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

DEP/Department - The Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).

Developer – Any person, partnership, corporation or other legal entity which erects or contracts to erect a building on property owned by it with the intent to sell the building to some other party upon its full or partial completion, or upon the conveyance of property on which the building is to be built.

Individual On-Lot Sewage Disposal System – Any system of piping, tanks, or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil and any waters of the Commonwealth of Pennsylvania or by means of conveyance to another site for final disposition.

Lot – A parcel of land used or intended to be used as a building site or a separate parcel to be created as a result of approval of a subdivision or land development application.

Malfunction - The condition which occurs when a sewage system causes pollution to the ground or surface waters of the Commonwealth, contamination of private or public drinking water supplies, nuisance problems or hazards to public health.

Official Sewage Facilities Plan – A comprehensive plan for the provision of adequate sewage systems adopted by the Township and approved by the Department in accordance with the Act and with applicable Department regulations.

On-Lot Sewage Disposal System (OLDS) – Any system for the 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.

Owner – Any person having legal title to land within the Township.

Person – Any individual, association, partnership, public or private corporation whether for profit or non-profit, trust, firm, estate, or other legally recognized entity. Whenever the term "person" is used in connection with any clause providing for the imposition of a fine or imprisonment or the ordering of the action to comply with the terms of this Ordinance, the term "person" shall include the members of an association, partnership or firm or other legal entity.

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

Pumper/Hauler – Any person who is certified by Pennsylvania Septage Management Association ("PSMA") which engages in cleaning on-lot sewage disposal systems and transports the septage removed from those systems.

Retaining Tank – A watertight receptacle that receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes, but is not limited to the following:

Chemical Toilet – A permanent or portable non-flushing toilet using chemical treatment in the retaining tank for odor control.

Holding Tank – A tank, whether permanent or temporary, to which sewage is conveyed by a water-carrying system.

Privy – A tank designated to receive sewage, where water under pressure is not available.

Incinerating Toilet – A device capable of reducing waste materials to ashes.

Composting Toilet – A device for holding and processing human and organic kitchen waste employing the process of biological degradation through the action of microorganisms to produce a stable, humus-like material.

Recycling Toilet – A device in which the flushing medium is restored to a condition suitable for reuse in flushing.

Septage – The residual sum, sludge and other materials pumped from septic or aerobic treatment tanks and the systems they serve.

Sewage – Any substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substance harmful to the public health, or to animal or aquatic life or the use of water for domestic water supply or for recreation, or a substance which constitutes pollution to the waters of the Commonwealth under the Clean Streams Law (35 P.S. 691.1001), as amended.

Sewage Enforcement Office (SEO) – A person certified by the Department, who is employed/appointed by the Board to administer the provisions of this Ordinance, the provisions of the Act, and as further defined in the Act and in Chapters 71, 72 and 73 of Title 25 of the Pennsylvania Code.

Sewage Facilities – Any method of sewage collection, conveyance, treatment, and disposal, which will prevent the discharge of untreated or inadequately treated sewage into the waters of this Commonwealth, or otherwise provide for the safe treatment and disposal of sewage of other waste.

Sewage Management District – The entire township as designated in the Official Sewage Facilities Plan. See Section 8 C.

Sewage Management Program – A comprehensive set of legal and administrative requirements encompassing the requirements of this ordinance, the Sewage Facilities Act, the Clean Streams Law, the regulations promulgated thereunder and such other requirements adopted by the Board to effectively enforce and administer this ordinance.

Single and Separate Ownership – The ownership of a lot by one or more persons which ownership is separate and distinct from that of any abutting or adjoining lot.

Sludge Judge – A core sampling apparatus for wastewater measurements.

Soil Absorption System – An on-lot system that uses the renovation capacity of the soil for final treatment of the effluent. The SEO permitted systems, except retention tank systems, are soil absorption systems.

Township – Delaware Township, Pike County, Pennsylvania.

Treatment Tank – A watertight tank designed to retain sewage long enough for satisfactory bacterial decomposition of the solids to take place. The term includes the following:

Septic Tank – A treatment tank that provides for anaerobic decomposition of sewage prior to its discharge to an absorption area.

Aerobic Sewage Treatment Tank – A mechanically aerated treatment tank that provides aerobic biochemical stabilization of sewage prior to its discharge to an absorption area.

Additional Definitions - All words within this Ordinance which are defined within Chapters 71, 72, or 73 of Title 25 of the Pennsylvania Code which are not otherwise defined herein shall have those definitions contained in said Regulations.

Section 3 - Applicability.

From the effective date of this ordinance, its provisions shall apply to the entire Township. The provisions of this ordinance shall apply to all persons owning any property serviced by an on-lot sewage disposal system.

Section 4 - Oberservations

A. Each Owner shall arrange for and have a licensed Pumper/Hauler conduct an initial observation of their Treatment or Retaining tank a minimum every three years conforming to the schedule in Section 8 of this Ordinance. If a component's manufacturer recommends or requires a more frequent pumping interval then that contained in this Ordinance, the Township shall be notified of that fact and that interval shall be deemed to be the minimum interval for pumping.

B. An Authorized Agent (Certified Member of Pennsylvania Septage Management Association "PSMA") may observe any on-lot sewage Treatment or Retaining tank at any reasonable time after the effective date of this ordinance, with the permission of the Owner or occupant of the property.

C. After the initial observation referred to in Section 4 A above, each Owner, at the Owner's cost and expense, shall arrange for, and have performed, routine observations by an Authorized Agent in conjunction with the minimum pumping schedule for that Owner's property as provided in this Ordinance, to assure the Treatment or Retaining tank continues to function properly. The Authorized Agent shall prepare a written report of the results of the observation, a copy of which shall be furnished to the Owner of the septic, aerobic or holding tank observed and a copy of which shall be provided to Delaware Township to be maintained in the Township's records. The ultimate responsibility for insuring that Delaware Township has received a copy of such written report shall be upon the Pumper/Hauler.

SECTION 5 – OPERATIONS.

A. Only normal sewage shall be discharged into any septic, aerobic or holding tank. The following shall not be discharged into the system:

1. Industrial waste;

2. Automobile oil and other non-domestic oil;

3. Toxic or hazardous substance or chemicals, including but not limited to, pesticides, disinfectants (excluding household cleaners), acids, paints, paint thinners, herbicides, gasoline and other solvents, and

4. Clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps and French drains.

SECTION 6 – MAINTENANCE OF SYSTEMS.

A. The owner of the property upon which a septic, aerobic or holding tank is constructed shall at all times be operated and maintained in such condition as will permit it to function in the manner it was designed and to prevent a malfunction.

B. In an event a lot owner detects conditions that indicate or could reasonably indicate a malfunction, the lot owner shall contact the SEO and, if repair and replacement is necessary apply for a permit to repair or replace the malfunctioning within ten (10) days after the determination by the SEO that repair or replacement is necessary.

1. Owners who disclose to the SEO the presence of a malfunction upon their land shall not be penalized for the disclosure, provided that voluntary repairs are scheduled and commenced with thirty (30) days after the determination by the SEO that repair or replacement is necessary, and completed within ninety (90) days after the determination by the SEO that repair or replacement is necessary, unless seasonal or unique conditions mandate a longer period, in which case the Township shall set an extended commencement and/or completion date.

2. Notwithstanding the foregoing, the Township may compel or take immediate corrective action whenever a malfunction

represents a public health hazard or environmental threat.

3. If a lot owner that has disclosed the presence of a malfunction fails to make voluntary repairs, the Township may, in addition to any other rights or remedies available to it, may seek injunctive or other relief to compel the repair of the malfunction or cause the repairs to be effectuated. In the event the Township causes the repairs to be effectuated, all costs and expenses incurred by the Township in relation to the same shall be borne and paid by the lot owner. All costs and expenses incurred by the Township shall constitute a lien against the property until the time it is paid.

4. The Township shall also be entitled to the remedies as set forth in Act 90 of 2010.

C. Every Treatment or Retention tank which discharges effluent to a soil absorption area or to an individual residential spray irrigation system shall be pumped out according to the schedule in Section 8 of this Ordinance. If a component's manufacturer recommends or requires a more frequent pumping interval then that contained in this ordinance, the Township shall be notified of that fact and that interval shall be deemed to be the minimum interval for pumping.

D. When an on-lot system's Treatment or Retention tank(s) is/are pumped out, all dosing tanks, lift tanks and other tanks associated with the system shall also be pumped out.

E. Retaining tanks shall be pumped out at such intervals as will prevent overflow, leakage, backup, other malfunction, or a public health hazard or nuisance, but no less frequently than what is recommended by the manufacturer.

F. Upon completion of each observation/pumping, the pumper/hauler shall:

1. Complete a Delaware Township Sludge and Sewer Management Report ("DTSSMR");

2. Deliver the DTSSMR to the lot owner;

3. Deliver a copy of the DTSSMR to the Township by the 10th business day of the month following inspection and/or pumping; and

4. Prepare the report on the DTSSMR forms provided by the Township.

G. Each time an on-lot sewage disposal system's tank(s) are pumped, the Pumper Reports shall include the following minimum information:

1. Date of pumping, tank capacity, and Tank Type.

2. Name and address of system and lot owner;

3. Property address where tank is located, if different from owner's;

4. Description and diagram of the location of;

   a. Treatment tank;

   b. Risers; and

   c. Access hatches, pump tanks, filters, D-Box, absorption areas, etc. with distances relative to two fixed landmarks.

5. Depth of sludge;

6. Depth of effluent.

7. Amount (gallons) of septage, sludge or other material removed;

8. DEP Permit # and Site name for destination of septage; and

9. Pumper/Hauler truck operator's and pumper/hauler business owner's signature(s).

H. Initial and periodic tank observation/pumping shall be performed in accordance with these minimum standards unless an equipment manufacturer specifies other standards:

1. The main tank access (largest opening) shall be used to pump all tanks;

2. Inspection ports shall not be used for pumping; and

3. Septage shall be removed to a depth no greater than one (1) inch to the bottom of tank; if necessary, back flushing shall be employed to achieve this standard.

I. Any person owning a building served by an aerobic treatment tank or an on-lot sewage disposal system, including peat and sand filters, which includes any electrically, mechanically, hydraulically or pneumatically operated or controlled device, shall follow the maintenance recommendations of the equipment's manufacturer.

1. Owners of systems with components requiring Periodic maintenance shall submit receipts as proof that maintenance/service was performed at the intervals called for and in a manner consistent with the various components' manufacturer.

2. In no event shall the service or pumping intervals extend beyond those established in Section 8 of this Ordinance unless relief is granted by the SEO pursuant to the provisions of Section 10A(3) of this ordinance.

3. Not withstanding any of the foregoing, any residential on-lot sewage disposal system which shall be observed for the first time, need not be pumped unless the tank indicates that there is more than one-third (1/3) septage or sludge in the tank.

SECTION 7- PUMPER/HAULER REGISTRATION.

A. All pumper/hauler businesses operating within the Township shall annually, by the last business day of December:

1. Register with the Township, pay a registration fee and comply with all reporting requirements established herein;

2. Operate in a manner consistent with the provisions set forth by the Township;

3. Owners shall make the tank accessible to the pumper/hauler at the time of inspection/pumping.

SECTION 8 – MAINTENANCE DISTRICTS CREATED.

A. The Township is hereby divided into three (3) districts, designated as District 1, 2, and 3 as illustrated on the Management District Map which is attached to this Ordinance as Appendix A and incorporated herein by reference.

B. Every on-lot sewage disposal system in the Township shall be observed. Notwithstanding the immediately preceding sentence, if an Owner had their system pumped within one year immediately prior to the date of adoption of this Ordinance, and acceptable written proof of such pumping is submitted to the Township on or before the date initial system observation and/or pumping of that system is otherwise required pursuant to the provisions of this Ordinance, the Owner shall have until December 31, 2015 to have their system initially observed and pumped, regardless of the Management District in which the Owner's property is located.

C. The requirements of this section shall become effective in a sequential manner as follows:

Area	First Pumping & Inspection completed by
Area 1	December 31, 2012
Area 2	December 31, 2013
Area 3	December 31, 2014

D. The inspections shall comply with the requirements of Section 4 and 6 of this Ordinance.

E. After the initial observation/pumping, all tanks in all on-lot sewage disposal systems shall be observed at a minimum regular interval of once every three (3) years from the year of the initial pumping/observation. All observations and pumping shall be performed by an Authorized Agent, arranged for by the property Owner, at the Owner's cost and expense. The Authorized Agent shall prepare the pumping and observation reports as specified in Section 6 of the Ordinance, a copy of which shall be furnished to the Owner of the property observed/pumped and a copy of which shall be provided to Delaware Township to be maintained in the Township's record. The ultimate responsibility for insuring that Delaware Township has received a copy of such written reports shall be upon the Authorized Agent.

F. Owners may choose to have their system observed and/or tanks pumped out more frequently than required by this Section of the Ordinance. In the event of a more frequent observations or pumping performed by an Authorized Agent, and the receipt by Delaware Township of the report and certification by such Authorized Agent as specified in Section 6G above, the date of the subsequent required regular observation or pump-out shall be deemed to be the last day of the month three (3) years after such voluntary observation and pump out, if applicable. The ultimate responsibility for insuring that Delaware Township has received a copy of such written report shall be upon the Authorized Agent.

G. In the event Delaware Township shall not have received a copy of the required written observation/pumping reports for any property by the expiration of the observation/pumping period applicable to that property, Delaware Township shall provide notification by mail to the Owner at the address of the Owner as set forth in the Pike County real estate tax assessment records, and request the Owner to provide a copy of the required written reports to the Township within thirty (30) days of the date of such notice. Failure of the Owner to provide a copy of the required written report to the Delaware Township within thirty (30) days of the date of such notice shall constitute a violation of this Ordinance.

SECTION 9 – DISPOSAL OF SEPTAGE

A. All septage shall be disposed of in accordance with the requirements of the Solid Waste Management Act (Act 97 of 1980, 35 P.S. subsection 6018.101 et seq.) and other applicable laws and at sites or facilities approved by DEP. Approved sites or facilities shall include the following: sewage treatment facilities, wastewater treatment plants, composting sites, and approved farm lands.

B. Pumper/Haulers of septage operating within the Township shall operate in a manner consistent with the provisions set forth by the Township and all other applicable laws.

SECTION 10 – ADMINISTRATION

A. The Township shall fully utilize those powers it possesses through enabling statutes, regulations and ordinances to effectuate the

purposes of this ordinance.

B. The Township shall employ qualified individuals to carry out the provisions of this ordinance. Those employees shall include a sewage enforcement officer and may include an administrator and such other persons as may be necessary. The Township may also contract with private qualified persons or firms necessary to carry out the provisions of this ordinance.

C. All permits, records, reports, files and other written material relating to the installation operation, maintenance and malfunction of on-lot sewage disposal system in the Township shall become the property of, and be maintained by, the Township. Existing and future records shall be available for public inspection during regular business hours at the municipal office of the Township. All records pertaining to sewage permits, building permits, occupancy permits, and all other aspects of the sewage management program shall be made available, upon request, for inspection by representative of the DEP.

D. The Board shall establish all administrative procedures necessary to properly carry-out the provisions of this ordinance.

E. The Board may by resolution establish and revise forms and a fee schedule, and authorize the collection of fees to cover the costs of the Township, in administering this ordinance.

SECTION 11 – APPEALS, HEARINGS AND REQUEST FOR RELIEF

A. Appeals from the determination of the Sewage Enforcement Officer or other Authorized Agent under this Ordinance, shall be filed with the Board of Supervisors. Such appeals shall be in writing, signed by the Appellant, addressed to Board of Supervisors at the Township's Business Office and be filed within thirty (30) days of the date of the determination. The appeal shall set forth the reasons or basis upon which relief is sought.

B. Hearings: The Board of Supervisors shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L.1133, No. 353), known as the "Local Agency Law", and in accordance with the following requirements:

1. Written Notice shall be given to the Appellant, the Sewage Enforcement Officer or other Authorized Agent whose determination is being appealed and such other persons as the Township shall designate by Ordinance to any person who has made timely requests for the same and such other persons as the Board of Supervisors shall determine. Written notice shall be given at such time and in such matter as shall be prescribed by rules of the Board of Supervisors and shall be given not less than fifteen (15) days prior to said hearing.

2. The Township may prescribe reasonable fees with respect to hearings, which may include Notice and Advertising costs and necessary administrative overhead connected with the hearing.

3. The hearing shall be held within sixty (60) days after the date the appeal is properly filed with the Board of Supervisors, unless the Appellant has agreed, in writing, to an extension of time.

4. The hearing shall be conducted by the Board of Supervisors, two (2) of the members of which shall constitute a quorum.

5. The decision of the Board of Supervisors shall be made in writing within forty-five (45) days after the conclusion of the hearing, unless the Appellant has agreed, in writing, to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their appearance and requested a copy of the decision, at the addresses provided by them either by personal delivery or by First Class Mail, postage prepaid.

6. The Chairman or acting Chairman of the Board of Supervisors or presiding officer shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

7. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence. Reasonable examinations and cross examinations shall be permitted.

8. Formal Rules of Evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

9. The Board of Supervisors may, but is not required to, make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Board of Supervisors, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.

10. The Board of Supervisors shall not communicate directly or indirectly with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memorandum, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or any party's representative unless all parties are given an opportunity to be present.

C. No lot shall be completely exempted from the requirements of Section 4 of this Ordinance regarding initial system inspection and/or periodic tank pumping.

1. The required pump-out frequency for treatment tanks may be altered by the Township. The SEO may reduce (shorten) the interval between pump outs to assure proper operation of the system based on:

   a) Loading rates which are greater than described in the permit for the system; or

   b) For other good cause.

2. The SEO may lengthen the required pump out interval upon application where the owner can demonstrate that the system can operate properly without the need for pump-out for a period longer than three years, provided that supporting documents conclusively verify:

a) Reduced system loading; or,

b) Accumulation of sludge, scum or other residual materials at a level of less than one third the liquid capacity of the tank; or,

c) For aerobic and septic tanks and peat and sand filters, the manufacturer's recommendations may indicate a greater interval is appropriate;

d) A report from the SEO resulting from a site evaluation indicating that no apparent malfunction exists on the property; or

e) The system is consistent with the permit that was issued for the property.

3. Any altered pumping frequency shall automatically end when the factors upon which the altered requirements are predicated are removed or are no longer applicable.

SECTION 12 – VIOLATIONS / PENALTIES/SUPPENSIONS

A. This Ordinance shall be enforced by action brought before a District Justice in the same manner provided for the enforcement of Summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this Ordinance shall, upon conviction in a summary proceeding, pay a fine of One Thousand and 00/100 ($1,000.00) Dollars per violation, plus all court costs and reasonable attorney fees incurred by Delaware Township in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Each section of the Ordinance that is violated shall also constitute a separate violation. Further, the appropriate officers or agents of Delaware Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this Ordinance. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid to Delaware Township for its general use.

B. Any pumper/hauler which has been convicted on two (2) occasions for violations of this Ordinance, or with respect to which a final determination has been made by the DEP or a Court of competent jurisdiction that there has been a violation of the conditions of the pumper/hauler's DEP permit relating to the handling, treatment, or disposition of septage materials, or of any State law or other Township ordinance governing the operations of the pumper/hauler, shall be barred from operating within the Township for a period of not less than six (6) months nor more than two (2) years as determined by the Board.

C. The foregoing rights and remedies are in addition to any other rights and/or remedies available to the Township in equity or at law, including but not limited to, assessment of civil penalties as described in the Pennsylvania Sewage Facilities Act.

SECTION 13 – INCORPORATION BYREFERENCE OF ORDINANCE 202 A

The provisions of Delaware Township Ordinance 202 pertaining to the requirement for permit for on-lot sewage disposal system and any other provision of said Ordinance are incorporated herein by reference and shall be deemed to be a part hereof.

SECTION 14 – SEVERABILITY

If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionally, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Board that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 15 – REPEALER

All other ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency only and no further.

SECTION 16 – EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED into an Ordinance this _____ day of _____, 2012.

BOARD OF SUPERVISORS OF DELAWARE TOWNSHIP

BY: _____
THOMAS M. RYAN, CHAIRMAN

BY: _____
THADDEUS PARSELL, VICE CHAIRMAN

BY: _____
ROBERT LUCIANO