

**MARION TOWNSHIP
BERKS COUNTY, PENNSYLVANIA
ORDINANCE NO. 2019-2**

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF MARION TOWNSHIP, BERKS COUNTY, PENNSYLVANIA ESTABLISHING REGULATIONS GOVERNING MUNICIPAL MANAGEMENT OF ON-LOT SUBSURFACE SEWAGE DISPOSAL SYSTEMS (OLDS) TO PROVIDE FOR THE INSPECTION, MAINTENANCE AND REHABILITATION OF ON-LOT SEWAGE DISPOSAL SYSTEMS; TO FURTHER PERMIT THE TOWNSHIP TO INTERVENE IN SITUATIONS WHICH ARE PUBLIC NUISANCES OR HAZARDS TO THE PUBLIC HEALTH AND TO ESTABLISH PENALTIES AND APPEAL PROCEDURES NECESSARY FOR THE PROPER ADMINISTRATION OF A SEWAGE MANAGEMENT PROGRAM, INCLUDING: TITLE, INTRODUCTION AND PURPOSE, TERMS AND DEFINITIONS, APPLICABILITY, SEWAGE PERMIT REGULATIONS, GROUND MARKERS, REPLACEMENT AREAS, INSPECTIONS, OPERATION, MAINTENANCE, SYSTEM REHABILITATION, MUNICIPAL LIENS, DISPOSAL OF SEPTAGE, ADMINISTRATION, APPEALS, AND PENALTIES; ADOPTING A SEPTIC TANK PUMPER'S REPORT; AND REPEALING ALL ORDINANCES INCONSISTENT WITH THIS ORDINANCE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Marion Township, Berks County, Pennsylvania, and it is hereby **ENACTED AND ORDAINED** by the authority of same that the Board of Supervisors hereby adopts the following regulations governing municipal management of on-lot subsurface sewage disposal systems (OLDS):

SECTION 1. Title: Introduction and Purpose.

1. This Ordinance may be cited as the "OLDS (On-Lot Disposal System) Management Program for Marion Township, Berks County, Pennsylvania".

2. As mandated by the municipal codes, the Clean Streams Law (35 P.S. 691.1 to 691.1001), and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. 750.1 et seq., known as Act 537), municipalities have the power and the duty to provide for adequate sewage treatment facilities and for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage. The Official Sewage Facilities Plan for Marion Township indicates that it is necessary to formulate and implement a sewage management program to effectively prevent and abate water pollution and hazards to the public health caused by improper treatment and disposal of sewage.

3. The purpose of this Ordinance is to provide for the inspection, maintenance and rehabilitation of on-lot sewage disposal systems; to further permit the Township to intervene in situations which are public nuisances or hazards to the public health and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

SECTION 2. Terms and Definitions.

1. **General Terms.** In the interpretation of this Ordinance, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

2. **Specific Terms.** For the purposes of this Ordinance, the terms used shall be construed to have the following meanings:

ACT or ACT 537 - The Pennsylvania Sewage Facilities Act, Act 537 of 1965, P.L. 1535; 35 P.S. § 750.1

ALTERNATIVE SYSTEM - A system for the disposal of domestic waste-waters not operating below ground level but located on or near the site of the building or buildings being served (e.g., composting toilets, gray water recycling systems, incinerating toilets, spray irrigation and black water recycling systems, etc.)

AUTHORIZED AGENT - A licensed sewage enforcement officer, professional engineer or sanitarian, plumbing inspector, soils scientist, or any other qualified or licensed person who is delegated to function within the specified limits as the agent of the Board of Supervisors of Marion Township to carry out the provisions of this Ordinance.

BOARD - The Board of Supervisors of the Township of Marion, Berks County, Pennsylvania.

CODES ENFORCEMENT OFFICER (hereinafter called CEO) - An individual employed by the Township to administer and enforce this and other ordinances in the Township.

COMMUNITY SEWAGE SYSTEM - Any system, whether publicly or privately owned, for the collection of sewage publicly, or industrial wastes of a liquid nature from two or more lots or uses, or two or more equivalent dwelling units, 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 DEP.

DEP - The Department of Environmental Protection of the Commonwealth of Pennsylvania or any successor agency.

DEVELOPER - Shall be defined as any person, partnership or corporation 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.

EQUIVALENT DWELLING UNIT (EDU) - For the purpose of determining the number of lots in a subdivision or land development, that part of a multiple family dwelling, commercial, industrial establishment with sewage flows equal to four hundred (400) gallons per day.

IMPROVED PROPERTY - Any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

INDIVIDUAL SEWAGE 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 or any waters of the Commonwealth of Pennsylvania or by means of conveyance to another site for final disposal.

LAND DEVELOPMENT - A land development as defined in the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended, 53 P.S. §§ 10101 - 11202.

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 causes pollution to the ground or surface waters, contamination of private or public drinking water supplies, nuisance problems or hazard to public health. Indications of malfunctioning systems include, but are not limited to, foul odors, lush grass growing over the system, backup of wastewater in the attached buildings, soggy ground over the system, surfacing sewage effluent flowing over the ground and occurring at any time of the year.

MANAGEMENT PROGRAM - The management program shall encompass the entire area of the Township serviced by sewage facilities or any other alternative system, which discharges into the soils of the Township. All systems shall be operated under the jurisdiction of the Board regulating the subsurface disposal and/or alternate systems, and other applicable laws of the Commonwealth of Pennsylvania.

OFFICIAL PLAN - A comprehensive plan for the provision of adequate sewage disposal systems adopted by the Township and approved by the DEP in accordance with the Act and with the applicable DEP regulations.

ON-LOT SEWAGE DISPOSAL SYSTEM - Any system disposing of sewage in whole or in part into the soil or any waters of the Commonwealth of Pennsylvania or by means of conveyance to another site for final disposal, and which is located upon the lot which it serves.

OWNER - Any person, corporation, partnership, etc. holding deed/title to lands within the Township.

PERSON - Any individual, association, partnership, public or private corporation whether for profit or not-for-profit, trust, 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 penalty or the ordering of action to comply with the terms of this Ordinance, the term "person" shall include the members of an association, partnership

or firm and the officers of any public or private corporation, whether for profit or not-for-profit.

PLANNING MODULE FOR LAND DEVELOPMENT - A revision to, or exception to the revision of, the Township Official Plan submitted in connection with the request for approval of a subdivision or land development in accordance with DEP regulations.

PUMP/HAULER - Any person, company, partnership or corporation, which engages in cleaning community or individual sewage systems and transports the septage cleaned from these systems.

PUMPERS REPORT/RECEIPT - Form, which shall be used by all, licensed Pumper/Haulers to report each pumping of on-lot sewage disposal systems in the Township, a copy of which is attached to this Ordinance and incorporated herein by reference and which may be amended from time to time by resolution.

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

REPLACEMENT AREA - An area designated as the future location of an individual on lot sewage system that shall be installed should the initial individual on-lot system installed or to be installed fail or otherwise become inoperable and which shall meet all the regulations of the DEP and all applicable Township ordinances for an individual on-lot sewage system, and shall be protected from encroachment by an easement recorded on the Final Plan as filed with the Berks County Recorder of Deeds.

SEPTAGE - The residential scum and sludge pumped from septic systems.

SEWAGE - Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or any noxious or deleterious substance 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.

SEWAGE ENFORCEMENT OFFICER (hereinafter called SEO) - A person appointed by the Board to administer the provisions of this Ordinance and authorized by the DEP in accordance with "Chapter 71, Administration of Sewage Facilities Program" of "Title 25, Rules and Regulations"; to perform percolation tests, site and soil evaluation, and issue sewage permits for on-lot disposal systems.

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 and sanitary treatment of sewage.

SINGLE AND SEPARATE OWNERSHIP - The ownership of a lot by one (1) or more persons which ownership is separate and distinct from that of any abutting or adjoining lot.

SUBDIVISION -A subdivision as defined by the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended, 53 P.S. §§ 10101 - 11202.

TOWNSHIP - Marion Township, Berks County, Pennsylvania.

ZONING HEARING BOARD - The appointed Board and its designated agents.

All other definitions of words and terms used in this Ordinance shall have the same meaning as set forth in "Chapter 73, Standards for Sewage Disposal Facilities" of "Title 25, Rules and Regulations, Department of Environmental Protection."

SECTION 3. Applicability.

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

SECTION 4. Sewage Permit Regulations.

1. No person shall install, construct or request bid proposals for construction or alter an individual sewage system or community sewage system or construct or request bid proposals for construction or install or occupy any building or structure for which an individual sewage system or community sewage system is to be installed without first obtaining a permit indicating that the site and the plans for specifications of such system are in compliance with the provisions of the Act and the standards adopted pursuant to that Act.

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 SEO. If seventy-two (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 Township may require applicants for sewage permits to notify the SEO of the schedule for construction of the permitted on-lot sewage disposal system so that inspections(s) in addition to the final inspection required by Act 537 may be scheduled and performed by the SEO at the cost of the applicant.

4. No zoning, building or occupancy permit shall be issued by the Township or its CEO for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from the SEO.

5. No zoning, 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 CEO and the structure's owner receive from the SEO either a permit for alteration or a replacement of the existing sewage disposal system or written notification that such a permit will not be

required. In accordance with Chapter 73 regulations, the 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 Township for that express purpose. The DEP shall be notified by the Township as to the identity of its currently employed certified SEO.

7. No sewage permit may be issued unless proof is provided that the lot of record has existed since May 15, 1972, or that Act 537 planning approval has been provided by the Township.

SECTION 5. Ground Markers.

Any person who shall install new or rehabilitated systems shall provide a marker or markers at ground level locating the subsurface waste disposal tank and other important components of the system requiring periodic inspection and maintenance. Requirements for marker types and locations will be determined by the SEO. In addition, a riser or access hatch shall be constructed so as to enable easy access to the waste disposal tank, and prevent odors from escaping and to prevent children from removing the hatch.

SECTION 6. Replacement Areas.

1. Requirements

a. After the effective date of this Ordinance, a Replacement Area for an individual on-lot sewage system shall be required for all lots or lots to be erected which are not serviced or to be serviced by the Township sewage system, or for which a valid permit for installation of an individual on-lot sewage system has not been issued. Lots existing prior to the effective date of this Ordinance shall be exempt from the requirements of this Section.

b. The Replacement Area provided shall comply with the Act and with all regulations issued by the DEP as incorporated into this Ordinance concerning individual on-lot sewage systems, including isolation distances, and with the terms of this Ordinance and any other applicable Township ordinances.

2. Identification of Replacement Area

a. Each Applicant who shall submit a plan for the subdivision or development of land or who shall apply for a permit for the installation of an individual on-lot sewage system, or who shall request approval of a Planning Module for Land Development or the adoption of a revision, exception to revision, or supplement to the Official Plan shall demonstrate to the satisfaction of the SEO that a suitable area exists on the lot or on each lot to be created for an initial individual on-lot system and for the Replacement Area. The SEO shall perform or observe all tests required for the location of an individual on-lot sewage system to confirm the suitability of the Replacement Area. Allowance of open land for the Replacement Area without testing performed or observed by the SEO shall not constitute compliance with the requirements of this Section.

b. The location of the initial individual on-lot sewage system and the Replacement Area as confirmed by the SEO shall be identified on the plot plans and diagrams submitted as part of the permit application.

c. If the application has been submitted as a part of an application for subdivision or land development approval or as part of a request that the Township approve a Planning Module for Land Development or amend its Official Plan, or a request for an exception to the revision of the Official Plan, the location of each initial individual on-lot sewage system and each Replacement Area shall be noted upon the plans. If the application is for subdivision or land development approval, a note constituting a permanent easement shall be added to the plans stating that no improvements shall be constructed upon the Replacement Area, and the deed to be recorded for each lot created as part of the subdivision or land development shall contain language reflecting this limitation.

d. Any revisions to a permit or plan affecting a Replacement Area, which previously has been approved pursuant to the provisions of this Ordinance, shall be reviewed for approval by the Board or its Authorized Agent.

3. Construction Restrictions

a. The easement for the Replacement Area noted upon the Plan and recorded with the Berks County Recorder of Deeds shall state that no permanent or temporary improvements of any character, other than shallow-rooted plant matter, shall be constructed upon the Replacement Area.

b. This provision shall be enforced by the Township unless the person who desires to construct such improvements shall demonstrate to the satisfaction of the SEO that an alternate Replacement Area, which complies with all applicable regulations of the DEP, this Ordinance and all other applicable Township ordinances, exists upon the lot. If such an alternate Replacement Area shall be identified, the alternate Replacement Area may be considered to be the Replacement Area required by this Ordinance and shall be designated as the Replacement Area. The newly designated Replacement Area shall thereafter be considered the Replacement Area for the purposes of this Ordinance.

4. Relief from Replacement Area Requirements:

a. If any lot held in single and separate ownership as of the effective date of this Ordinance does not contain land suitable for a Replacement Area, the applicant submitting a Land Development Plan or a Planning Module for Land Development or desiring to install an individual on-lot sewage system may request that the Board grant an exception to the requirement of providing a Replacement Area. The applicant for such an exception shall present credible evidence to the Board demonstrating (a) that the lot was held in single and separate ownership on the effective date of this Ordinance; (b) the size of the lot; (c) inability of the applicant to acquire adjacent land or the unsuitability of adjacent land which might be able to be acquired; and (d) the testing conducted to determine that the lot is not suitable to provide a Replacement Area.

b. 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. In no case shall any lot be exempted from the requirements of this Subsection 4.

SECTION 7. Inspections.

1. Any on-lot sewage disposal system may be inspected by the Township's Authorized Agent at any reasonable time as of the effective date of this Ordinance.

2. 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. A copy of the inspection report shall be furnished to the Owner and current resident which shall include all of the following information which is reasonably available to the individual or agency responsible for pumping the septic tank; date of inspection; name and address of system owner; description and diagram of the location of the system including location of access hatches, risers, and markers; sizes of tanks and disposal fields; current occupant's name and number of users; indication of any system malfunction observed; results of any and all soils and water tests; and any remedial action required.

3. The Township's Authorized Agent shall have the right to enter upon land for the purposes of inspections described above. In the event that access to inspect the property is denied, the following steps shall be taken:

a. The matter will be officially referred to the Board for action.

b. The Board may schedule a review at the next scheduled meeting of the Board, or, if the situation threatens the health or safety of the residents of the Township, the Board may commence an immediate procedure to obtain a search warrant from the District Justice.

c. Upon receipt of a search warrant to inspect the property, the Authorized Agent of the Township shall be accompanied by an officer of the Township or State Police, and the inspection shall be completed in accordance with this Section.

4. A schedule of routine inspections may be established by the Township, if necessary, to assure the proper function of the systems in the Township.

5. Upon written notification from a Township resident presented to a Township official, or its Authorized Agent, OLDS systems known to be, or alleged to be, malfunctioning shall be inspected by the Authorized Agent at a time mutually agreed upon by the Authorized Agent and the owner of the OLDS, but in no case, no later than thirty (30) days from receipt of the written notification. Should said inspections reveal that the system is malfunctioning, the Township shall take action to require the correction of the malfunction. If total correction is not

technically or financially feasible in the opinion of the Township and a representative of the DEP, action by the Owner to mitigate the malfunction shall be required.

6. There may arise geographic areas within the Township where numerous on-lot sewage disposal systems are malfunctioning. A resolution of these area-wide problems may necessitate detailed planning and a Township 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 Township, mandatory repair or replacement of individual malfunctioning sewage disposal systems within the area may be delayed, at the direction of the Township, pending the outcome of the plan revision process. However, the Township may compel immediate corrective action whenever a malfunction, as determined by Township officials and the Pennsylvania DEP, represents a serious public health or environmental threat.

SECTION 8. Operation.

1. Only normal domestic wastes shall be discharged into any on-lot sewage disposal system. 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.
- d. Clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps and French drains.

SECTION 9. Maintenance.

1. Any person owning a building served by an on-lot sewage disposal system shall have the septic tank pumped by a qualified Pumper/Hauler after the effective date of this Ordinance based on the following schedule:

- a. Properties located in Marion Township, identified as follows:

SA - NORTHWEST; Map-3

Within one (1) year of the effective date of this Ordinance.

- b. Properties located in Marion Township, identified as follows:

SA - EAST; Map-3

Within two (2) years of the effective date of this Ordinance.

- c. Properties located in Marion Township, identified as follows:

SA - SOUTH; Map-3

Within three (3) years of the effective date of this Ordinance.

Thereafter that person shall have the tank pumped at least once every four (4) years. Receipts from the Pumper/Hauler shall be submitted to the Township as required herein.

2. Any person providing a receipt or other written evidence showing that their tank had been pumped within three (3) years of the first year anniversary of the effective date of this Ordinance, then the Township may delay that person's initial required pumping to conform to the general four (4) year frequency requirement.

3. The Township may allow septic tanks to be pumped out at less frequent intervals when the owner can demonstrate to the Township that the system can operate properly without the need for pumping out for a period longer than four (4) years, but in no case shall such period extend beyond six (6) months prior to the date when the next required pumping is to be completed. The request must be in writing with all supporting documents attached. The Township, in making its determination, shall take into account the information submitted by the applicant, the sewerage permit issued by the SEO upon installation or rehabilitation of the system and supporting documentation, reports of inspection and maintenance of the system, and other relevant information, and may conduct an on-site inspection. The applicant shall bear the cost of any inspection, surface or subsurface, and soil or wastes sampling conducted for the purpose of evaluating the request. The applicant shall receive a decision within sixty (60) days of accumulation of all necessary information by the Township.

4. 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.

5. Each time a septic tank or other subsurface waste disposal system tank is pumped out, the Township, its Authorized Agent, or a private septage Pumper/Hauler, whichever provides the service, shall provide to the owner of the sub-surface waste disposal system a signed Pumpers Report/Receipt containing at a minimum the following information:

- a. Date of pumping.
- b. Name and address of system owner.
- c. Address of tank's location, if different from owners.
- d. Description and diagram of the location of the tank, including the location of any markers, risers, and access hatches and size of the tank.
- e. The date existing system was installed.

- f. Last date of pump out.
- g. List of other maintenance performed.
- h. Any indications of system malfunction observed.
- i. Amount of septage or other solid or semi-solid material removed.
- j. List of recommendations.
- k. Destination of the septage (name of the treatment facility).

6. Upon completion of each required pumping, the Township, its Authorized Agent, or a private septage waste hauler, shall fill out and submit a Pumper Report/Receipt, copies of which shall be provided by the Township to all licensed Pumpers/Haulers. The Township's Authorized Agent, or a private septage Pumper/Hauler shall provide one (1) copy of the Pumper's Report/Receipt to the Owner and one (1) copy to the Township. Copies must be received at the Township's business office within thirty (30) days of the date of pumping. The Pumper's Report/Receipt will include verification that the baffles in the septic tank have been inspected and found to be in good working order.

7. Any person owning a building served by an alternative system or on-lot sewage disposal system which 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 Township within six (6) months of the effective date of this Ordinance. Thereafter, service receipts shall be submitted to the Township at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals exceed those for those required for septic tanks.

8. Any person owning a building served by a cesspool or dry well shall have that system pumped according to the schedule prescribed for septic tanks in this Section.

9. The Township 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, the diversion of surface water away from the disposal area, etc.

SECTION 10. 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 of Pennsylvania unless a permit to discharge has been obtained from the DEP.

2. The Township shall issue a written notice of violation to any person who is the owner of a property in the Township 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 Township that a malfunction has been identified, the owner shall make application to the SEO for a permit to repair or replace the malfunctioning system. Within thirty (30) days of initial notification by the Township, construction of the permitted repair or replacement shall commence. Within sixty (60) days of the original notification by the Township, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case the Township shall set an extended completion date.

4. The 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 the gravity distribution system with a pressurized system, replacing the system with a holding tank, other alternatives as appropriate for the specific site.

5. In lieu of, or in combination with, the remedies described in Subsection 4 above, the 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 repaired 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 Subsection 5 above are not feasible or do not prove effective, the Township may require the owner to apply for a permit to construct a holding tank in accordance with the Township's ordinances. Upon receipt of said permit, 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 owner is not absolved of responsibility for that malfunction. The Township may require whatever action is necessary to lessen or mitigate the malfunction to the extent that it feels necessary.

SECTION 11. Liens.

The Township, upon written notice from the SEO that an imminent health hazard exists due to failure of a property owner to maintain, repair or replace an on-lot sewage disposal 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 SEO. The owner shall be charged for the work performed and, if necessary, a lien shall be entered therefor in accordance with the law.

SECTION 12. Disposal of Septage.

1. All septage Pumper/Haulers operating within the Township shall be included on an approved list with the Township and shall comply with all reporting requirements established by the Township.

2. All septage originating within the municipal sewage management area shall be disposed of at sites or facilities approved by the DEP. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment facilities (WWTF), composting sites, and approved farm lands.

3. Septage Pumper/Haulers operating within the Township 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), and Regulations adopted pursuant to such Act.

a. Any septage Pumper/Hauler who violates any of the provisions of this Ordinance shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine not exceeding One Thousand Dollars (\$1,000.00), plus costs, and in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day the violation continues shall constitute a separate offense.

b. If any Pumper/Hauler shall have been convicted on two (2) occasions of any violation of this Ordinance, or for violating the conditions of this State permit, or of any State or local law governing its operation, the Board shall have the power to suspend said Pumper/Hauler from operating within the Township for a period of not less than six (6) months or more than two (2) years for each violation, as determined by the Township. Each day the violation continues shall constitute a separate offense.

4. Upon the discontinuance of the use of any tank for sewage disposal purposes, whether by mandatory or voluntary connection to a community sewage system or abandonment for any other reason, the owner thereof shall have the tank pumped and flushed by a Pumper/Hauler and, at the owner's option, either physically remove from the premises or filled with soil and/or stone.

5. When the owner elects to have the tank filled with stone as permitted above, said tank may then be used for the discharge of storm water, sump pump discharge, or other effluent not qualifying for discharge into the community sewage system, providing said discharge is otherwise permitted by applicable law.

SECTION 13. Administration.

1. The Township shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this Ordinance.

2. The Township shall employ qualified individuals to carry out the provisions of this Ordinance. Those employees shall include a certified SEO, a CEO, a secretary,

administrator or other persons as required. The Township 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 shall become the property of the Township. Existing and future records shall be available for public inspection upon written request. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the Township's OLDS Management Program shall be made available, upon request, for inspection by representatives of the DEP.

4. The Board shall establish all administrative procedures necessary to properly carry out the provisions of this Ordinance.

5. The Board may establish a fee schedule, and subsequently collect fees, to cover the cost to the Township of administering OLDS management.

SECTION 14. Appeals.

1. Appeals from decisions of the Township or its Authorized Agent under this Ordinance shall be made to the Zoning Hearing Board in writing with thirty (30) days from the date of the decision in question.

2. The appellant shall be entitled to a hearing before the Zoning Hearing 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 Township shall thereafter affirm, modify, or reverse the aforesaid decision. The hearing may be postponed for a good cause shown by the appellant or the Township. Additional evidence may be introduced at the hearing provided that it is submitted with the written notice of appeal.

3. A decision shall be rendered in writing within forty-five (45) days of the date of the hearing. If a decision is not rendered within forty-five (45) days, the relief sought by the appellant shall be deemed granted.

SECTION 15. Penalties.

Any person, other than a Pumper/Hauler, who violates any of the provisions of this Ordinance shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not less than five hundred dollars (\$500.00) and costs, and not more than Five Thousand Dollars (\$5,000.00) and costs, or in default thereof shall be confined in the county jail for a period of not more than thirty (30) days. Each day of noncompliance shall constitute a separate offense.

SECTION 16. Repealer.

Any and all ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

SECTION 17. Severability.

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

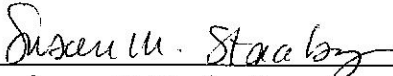
SECTION 18. Effective Date.

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

DULY ENACTED AND ORDAINED this 19th day of December, 2019.

MARION TOWNSHIP
BOARD OF SUPERVISORS

By: 
(Vice) Chairman

ATTEST: 
Susan M. Staaby, Secretary

MUNICIPAL CERTIFICATION

I, Susan M. Staaby, the Secretary of Marion Township, Berks County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 2019 - 2 was advertised in the *Reading Eagle*, a daily newspaper of general circulation in Marion Township, on Wednesday, December 11, 2019, and was duly enacted and approved as set forth at a Regular Meeting of the Board of Supervisors held on Thursday, December 19, 2019.

[SEAL]

Susan M. Staaby
Susan M. Staaby, Secretary