

## MODEL (DRAFT) ONLOT SEWAGE MANAGEMENT PROGRAM ORDINANCE

### AN ORDINANCE GOVERNING MUNICIPAL MANAGEMENT OF ONLOT SUBSURFACE SEWAGE DISPOSAL FACILITIES THE BOROUGH OF SHINGLEHOUSE, POTTER COUNTY, PA

The Borough Council of the Borough of Shinglehouse, in the County of Potter and the Commonwealth of Pennsylvania, hereby ordains:

#### Section I. Short Title: Introduction; Purpose

- A. This ordinance shall be known any may be cited as “An ordinance providing for a Sewage Management Program for Shinglehouse Borough.”
- B. In accordance with municipal codes, the Clean Streams Law (Act of June 27, 1937, P.L. 1987, No. 394 as amended, 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), it is the power and the duty of Shinglehouse Borough 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 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.
- C. The purpose of this ordinance is to provide for the regulation, inspection, maintenance and rehabilitation of onlot sewage disposal systems; to further permit intervention in situations which may constitute a public nuisance or hazard to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

#### Section II. Definitions

- A. “Authorized Agent” shall mean a sewage enforcement officer, employee of the Borough, professional engineer, plumbing inspector, or any other qualified or licensed person who is authorized to function within specified limits as an agent of Shinglehouse Borough to administer the provisions of this ordinance.
- B. “Board” shall mean the Borough Council, Shinglehouse Borough, Potter County, Pennsylvania.
- C. “Community Sewage System” shall mean 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 on one or more lots or at any other site.
- D. “Department” shall mean the Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).
- E. “Individual Sewage System” shall mean a 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 into any waters of this Commonwealth.
- F. “Malfunction” shall mean a condition which occurs when an onlot 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 a building connected to the system or in any manner causes a nuisance or 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 condition noted above occurs for any length of time during any period of the year.

G. “Official Sewage Facilities Plan” shall mean a comprehensive plan for the provision of adequate sewage disposal systems, adopted by the Board and approved by the Pennsylvania Department of Environmental Protection, pursuant to the Pennsylvania Sewage Facilities Act.

H. “Onlot Sewage Disposal System” shall mean any system for disposal of domestic sewage involving pretreatment and subsequent disposal of the clarified sewage into a subsurface soil absorption area or retaining tank; this term includes both individual sewage systems and community sewage systems.

I. “Person” shall mean any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau of 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.

J. “Rehabilitation” shall mean work done to modify, alter, repair, enlarge or replace an existing onlot sewage disposal system.

K. “Replacement Area” shall mean an area designated as the future location of an individual onlot sewage system that shall be installed should the initial individual onlot sewage system installed or to be installed fails or otherwise becomes inoperable and which shall meet all the regulations of DEP and all applicable municipal ordinances for an individual onlot sewage system, and shall be protected from encroachment by an easement recorded on the final plan as filed with the Potter County Recorder of Deeds. This is also applicable to community onlot sewage systems.

L. “Sewage” shall mean 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.

M. “Sewage Enforcement Office (SEO)” shall mean a person certified by DEP who is employed by the Borough. Such person is authorized to conduct investigations and inspections, review permit applications, issue or deny permits and do all other activities as may be provided for such person in the Sewage Facilities Act, the rules and regulations promulgated thereunder and this or any other ordinance adopted by the Borough.

N. “Sewage Management District” shall mean any area or areas of the Borough designated in the Official Sewage Facilities Plan adopted by the Board as an area for which a Sewage Management program is to be implemented.

O. “Sewage Management Program” shall mean 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.

P. “Subdivision” shall mean 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 there from.

Q. “Borough” shall mean the Borough of Shinglehouse, Potter County, Pennsylvania.

R. For the purposes of this ordinance, any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and Regulations promulgated thereto.

### Section III. Applicability

A. From the effective date of this ordinance, its provisions shall apply in any portion of the Borough identified in the Official Sewage Facilities Plan as a sewage management district. Within such as area or areas, the provisions of this ordinance shall apply to all persons owning any property serviced by an onlot sewage disposal system and to all persons installing or rehabilitating onlot sewage disposal systems.

### Section IV. Permit Requirements

A. 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 from the sewage enforcement officer which permit shall indicate that the site and the plans and specifications of such system are in compliance with the provisions of the Clean Streams Law (35 P.S. §§691.1-691.1001) and the Pennsylvania Sewage Facilities Act (35 P.S. 750.1 et seq.) and the regulations adopted pursuant to those Acts.

B. 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 a sewage enforcement officer. If 72 hours have elapsed, excepting Sundays and Holidays, since the sewage enforcement office 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 sewage enforcement officer.

C. Applicants for sewage permits may be required to notify the sewage enforcement officer of the schedule for construction of the permitted onlot sewage disposal system so that inspection(s) in addition to the final inspection required by the Sewage Facilities Act may be scheduled and performed by a sewage enforcement officer.

D. No building or occupancy permit shall be issued for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from a sewage enforcement officer.

E. 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 either the structure’s owner receives a permit for alteration or replacement of the existing sewage disposal system or until the structure’s owner and the appropriate officials of the Borough receive written notification from a sewage enforcement officer that such a permit will not be required. The sewage enforcement officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

F. Sewage permits may be issued only by a sewage enforcement officer employed by the Borough. DEP shall be notified as to the identity of each sewage enforcement officer employed by Borough.

## Section V. Replacement Areas

### A. Requirements

1. Any supplements, revisions, or exceptions to the municipality's Official Sewage Facilities Plan which are prepared pursuant to the applicable regulations of DEP for subdivision or development of land within the municipality shall provide for the testing, identification, and reservation of an area of each lot or developed property suitable for the installation of a replacement onlot sewage system. This requirement is in addition to the testing, identification, and reservation of an area for the primary onlot sewage system.
2. No permit shall be issued for any proposed new onlot sewage system on any newly created or subdivided property in the municipality unless and until a replacement area is tested, identified and reserved.
3. After the effective date of this ordinance, a replacement area for an individual or community onlot sewage system shall be required for all lots or lots to be created which are not serviced or to be serviced by a public sewer system or for which a valid permit for installation of an individual or community onlot 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.
4. The replacement area provided shall comply with the Act and with all regulations issued by DEP as incorporated into this ordinance concerning individual onlot and community onlot sewage systems, including isolation distances, and with the terms of this ordinance and any other applicable municipal ordinances.

### B. Identification of Replacement Area

1. 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 onlot or community onlot 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 Sewage Facilities Plan shall demonstrate to the satisfaction of the municipality's certified SEO that a suitable area exists on the lot or on each lot to be created for a primary and reserved replacement area for an onlot sewage disposal absorption area. The municipality's certified SEO shall perform or observe all tests required for the location of an individual onlot or community onlot 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 municipality's certified SEO shall not constitute compliance with the requirements of this section.
2. The location of the initial onlot sewage system and the replacement area as confirmed by the municipality's certified SEO shall be identified on the plot plans and diagrams submitted as part of the permit application.
3. If the application has been submitted as part of an application for subdivision or land development approval or as part of a request that the municipality approve a Planning Module for Land Development or amend its Official Sewage Facilities Plan, or a request for an exception to the revision of the Official Sewage Facilities Plan, the location of each initial individual onlot or community sewage system and each replacement area shall be noted upon the plot 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.

4. 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 representative.

B. Construction Restrictions

1. The easement for the replacement area noted upon the plan and recorded with the Potter 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.
2. If a person desires to construct such improvements on the designated replacement area, such person shall demonstrate to the satisfaction of the municipality's certified SEO that an alternate replacement area, which complies with all applicable regulations of DEP, this ordinance, and all other applicable municipal 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.

Section VI. Inspections

A. Any individual or community onlot sewage disposal system may be inspected by the municipality's certified SEO or authorized agent at any reasonable time as of the effective date of this ordinance but in no case shall an inspection of every onlot sewage system be conducted less frequently than once every eight (8) years.

B. Such inspection may include a physical tour of the property, the taking of samples from surface water, wells, other groundwater 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.

C. The municipality's certified SEO or authorized agent shall have the right to enter upon land for the purposes of inspections described in this section.

D. An initial inspection shall be conducted by the municipality's certified SEO or authorized agent within one year 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 Borough records.

E. A schedule of routine inspections may be established to assure the proper functioning of the sewage systems in the sewage management district.

F. The municipality's certified SEO or 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's certified SEO or authorized agent shall order action to be taken to correct the malfunction. If total correction cannot be done in accordance with the regulations of DEP including, but not limited to, those outlined in Chapter 73 of Title 25 of Pennsylvania Code or, is not technically or financially feasible in the opinion of the municipality's

certified SEO or authorized agent and a representative of DEP; then action by the property owner to mitigate the malfunction shall be required.

G. If there arises a geographic area where numerous onlot sewage disposal systems are malfunctioning, a resolution of these area wide problems may necessitate detailed planning and a revision to the portion of the Sewage Facilities Plan pertaining to areas affected by such malfunctions. If a DEP authorized Official Sewage Facilities Plan Revision has been undertaken, repair or replacement of individual malfunctioning sewage disposal systems within the area affected by the revision may be delayed, pending the outcome of the plan revision process. However, immediate corrective action will be compelled whenever a malfunction, as determined by Borough officials and/or DEP, represents a serious public health or environmental threat.

H. A permit shall be required by the municipality for alterations or connections to an existing individual or community onlot sewage system when the alteration or connection requires the repair, replacement or enlargement of a treatment tank or retention tank, or the repair, replacement, disturbance, modification or enlargement of a soil absorption area or spray field, or the soil within or under the soil absorption area or spray field. This also includes the building sewer and any other piping.

#### Section VII. Operation

A. Only normal domestic wastes shall be discharged into any onlot sewage disposal system. The following shall not be discharged into the system.

- 1 Industrial waste.
- 2 Automobile oil and other non-domestic oil.

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

- 3 Clean surface or groundwater, including water from roof or cellar drains, springs, basement sump pumps and french drains.

#### Section VIII. Maintenance

A. Each person owning a building served by an on-lot sewage disposal system which contains a septic tank shall have the septic tank pumped by an authorized agent of the Borough within three (3) years of the effective date of this Ordinance. Thereafter that person shall have the tank pumped at least once every five years or whenever an inspection reveals that the septic tank is filled with solids or with scum in excess of 1/3 of the liquid depth of the tank. Justification, including sufficient evidence that the septic tank does not require pumping every five years, may be submitted to the SEO for review and approval. Receipts from the authorized pumper/hauler shall be submitted to the Borough within the prescribed three and five year periods.

B. The required pumping frequency may be increased at the discretion of the Borough 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.

C. Any person owning a property served by a septic tank shall submit, with each required pumping receipt, a written statement, from the authorized pumper/hauler or from any other qualified individual acceptable to the Borough, that the baffles of 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 a Sewage Enforcement Officer for approval of the necessary permit.

D. Any person owning or building served by an onlot 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 Borough within one year of the effective date of this ordinance.

Thereafter, service receipts shall be submitted to the Borough at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for aerobic treatment tanks exceed those required for septic tanks.

E. Additional maintenance activity may be required 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 IX. System Rehabilitation

A. No person shall operate or maintain an onlot 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 for such discharge has been obtained from DEP.

B. A written notice of violation shall be issued to any person who is the owner of any property which is found to be served by a malfunctioning onlot sewage disposal system or which is discharging sewage without a permit.

C. Within seven (7) days of notification by the Borough that a malfunction has been identified, the property owner shall make application to the sewage enforcement officer for a permit to repair or replace the malfunctioning system. Within 30 days of initial notification by the Borough, construction of the permitted repair or replacement shall commence. Within 60 days of the original notification by the Borough, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case the Borough shall set an extended completion date.

D. A sewage enforcement officer 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 areas, replacing the existing disposal area, replacing a gravity distribution system with a pressurized system, replacing the system with a holding tank, or any other alternative appropriate for the specific site.

E. In lieu of, or in combination with, the remedies described in Subsection D above, a sewage enforcement officer 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.

F. In the event that the rehabilitation measures in Subsections A through E are not feasible or effective, the owner may be required to apply for a permit to install an individual spray irrigation treatment system or to DEP for a single residence treatment and discharge system. Upon receipt of said permit the owner shall complete construction of the system within 30 days.

G. Should none of the remedies described in this Section be totally effective in eliminating the malfunction of an existing onlot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. The Borough may require whatever action is necessary to lessen or mitigate the malfunction to the extent necessary.

## Section X. Liens

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

## Section XI. Disposal of Septage

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

B. Pumper/haulers of septage operating within the sewage management district shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35 P.S. §§6018.101–6018.1003) and all other applicable laws.

## Section XII. Administration

A. The Borough shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this ordinance.

B. The Borough 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 Borough may also contract with private qualified persons or firms as necessary to carry out the provisions of this ordinance.

C. All permits, records, reports, files and other written materials relating to the installation, operation and maintenance and malfunction of onlot sewage disposal systems in the sewage management district shall become the property of, and be maintained by, the Borough. Existing and future records shall be available for public inspection during regular business hours at the official office of the Borough. 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 representatives of DEP.

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

E. The Borough Council may establish a fee schedule, and authorize the collection of fees, to cover the cost to Borough of administering this program.

## Section XIII. Appeals

A. Appeals from final decisions of the Borough or any of its authorized agents under this ordinance shall be made to the Board of Supervisors in writing within 30 days from the date of written notification of the decision in question.

B. The appellant shall be entitled to a hearing before the Board of Supervisors at its next regularly scheduled meeting, if a written appeal is received at least 14 days prior to that meeting. If the appeal is received within 14



days of the next regularly scheduled meeting. If the appeal is received within 14 days of the next regularly scheduled meeting, the appeal shall be heard at the next regularly scheduled 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 Borough. Additional evidence may be introduced at the hearing provided that it is submitted with the written notice of appeal.

C. A decision shall be rendered in writing within 30 days of the date of the hearing.

Section XIV. Penalties

Any person failing to comply with any provision of this ordinance shall be subject to a fine of not less than Five-Hundred dollars (\$500) and costs, and not more than Five Thousand dollars (\$5,000) and costs, or in default thereof shall be confined in the county jail for a period of not more than 90 days. Each day of noncompliance shall constitute a separate offense.

Section XV. Repealer

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section XVI. Severability

If any section or clause of this ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions which shall be deemed severable there from.

Duly Enacted and Ordained this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the Borough Council of the Borough of Shinglehouse, Potter County, Pennsylvania, in lawful sessions duly assembled.

Borough of Shinglehouse, Potter County,  
Pennsylvania

ATTEST:

BY:

Secretary

Borough Council President