

TOWNSHIP OF MIDDLESEX
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 3 -01

AN ORDINANCE OF THE BOARD OF TOWNSHIP SUPERVISORS
OF MIDDLESEX TOWNSHIP, CUMBERLAND COUNTY,
PENNSYLVANIA PROHIBITING PERMIT-EXEMPT SEWAGE
SYSTEMS, SUPPLEMENTING ORDINANCE NO. 8-94 AND
ORDINANCE 1-99 AND PROVIDING FOR INSPECTION AND
REPORTING REQUIREMENTS APPLICABLE TO RETAINING
TANKS AND EXISTING PERMIT-EXEMPT SEWAGE SYSTEMS
AND ESTABLISHING PENALTIES AND ENFORCEMENT
REMEDIES FOR VIOLATION THEREOF.

BE IT HEREBY ORDAINED AND ENACTED and it is hereby ordained and enacted by
the Board of Township Supervisors in and for the Township of Middlesex, Cumberland County,
Pennsylvania as follows:

SECTION 1: BACKGROUND AND LEGISLATIVE PURPOSE.

WHEREAS, the Board of Township Supervisors of Middlesex Township (the "Board")
enacted Ordinance 8-94, which ordinance authorized the use of retaining tanks in Middlesex
Township for the collection of wastewater generated from residential use subject to the terms and
conditions set forth therein; and

WHEREAS, pursuant to Ordinance 1-99, the Board established an on-lot sewage system
and facilities maintenance and management program applicable to, among others, all persons
owning real estate in Middlesex Township that is served by an on-lot sewage system; and

WHEREAS, the Pennsylvania Sewage Facilities Act requires no permit to be obtained or
plan approved for the installation of an individual on-lot sewage system for a residential structure
occupied or intended to be occupied by the property owner or a member of his or her immediate
family on a contiguous tract of land 10 acres or more if the property owner was the owner of
record as of January 10, 1987 unless such a permit is required by the municipality by ordinance;
and

WHEREAS, the Board believes that it is in the best interest of Middlesex Township, its residents and others in promoting their health and safety to prohibit the use of permit-exempt on-lot sewage systems; and

WHEREAS, the Pennsylvania Sewage Facilities Act, Section 750.8(b)(4.1) (35 P.S. § 750.8(b)(4.1)) permits the setting and collection of fees necessary to support the administration and personnel costs of a maintenance inspection and enforcement programs;

WHEREAS, the Board believes it is in the best interest of Middlesex Township and its residents to require persons owning real estate in Middlesex Township served by a retaining tank or an existing permit-exempt sewage system to be subject to the same pumping and inspection requirements and procedures applicable to persons owning real estate serviced by on-lot sewage systems. Accordingly, this Ordinance is enacted for purposes of supplementing Ordinance 8-94 and Ordinance 1-99 and prohibiting permit-exempt on-lot sewage systems.

SECTION 2: DEFINITIONS.

The following words and phrases used in this Ordinance shall have the meaning as set forth in Ordinance 1-99, which meanings are incorporated by reference herein in their entirety:

"Area A", "Area B", "Area C", "Area D", "on-lot sewage system", "lot", "property owner", "owner", "person", "Pumper/Hauler", "Township", "authorized agent" and "Sewage Enforcement Officer".

The words "retaining tank" and "residential unit" as used in this Ordinance shall have those meanings ascribed to them as set forth in Ordinance 8-94, which meanings are

incorporated by reference herein in their entirety.

The words "permit-exempt system" and "permit-exempt on-lot sewage system" as used in this Ordinance shall mean and refer to those individual on-lot sewage systems for which no permit or plan revision is required pursuant to the conditions and criteria as set forth in the Pennsylvania Sewage Facilities Act, Section 750.7, (35 P.S. § 750.7) or any amended or successor sections or provisions addressing the same subject matter as 35 P.S. § 750.7.

The words "existing permit-exempt system" shall mean and refer to any permit-exempt system existing at the time of the effective date of this Ordinance, any permit exempt system proposed with or as part of any subdivision plan duly submitted and pending approval on or before the effective date of this Ordinance and any permit-exempt system proposed to be installed for which notification has been given to Middlesex Township as required by 35 P.S. § 750.7(a.1)(2) on or before the effective date of this Ordinance.

SECTION 3: APPLICABILITY.

This Ordinance shall apply to all persons owning any real estate in Middlesex Township served by a retaining tank or an existing permit-exempt system and where noted, to Pumper/Haulers and to persons owning any real estate in Middlesex Township served by an on-lot sewage system.

SECTION 4: PERMIT-EXEMPT SYSTEMS PROHIBITED.

Permit-exempt systems are hereby prohibited in Middlesex Township. A permit shall be required for the installation of any and all individual on-lot sewage systems in Middlesex Township in accordance with 35 P.S. § 750.7(a)(1) or any amended or successor provisions of the Pennsylvania Sewage Enforcement Act and the provisions of Ordinance 1-99. Section 4.b.2

of Ordinance 1-99, which exempts permit-exempt systems from the permit requirements of Ordinance 1-99, is hereby specifically repealed. This Section shall not apply to existing permit-exempt systems.

SECTION 5: MAINTENANCE AND INSPECTION OF RETAINING TANKS.

A. Schedule of Required Pumping and Inspection.

Any person owning real estate in Middlesex Township served by a retaining tank shall, at said owner's expense, have the retaining tank pumped and inspected by a qualified Pumper/Hauler after the effective date of this Ordinance, based upon the following schedule:

Real estate located within Area A, Area B, Area C and Area D: within 12 months of the effective date of this Ordinance.

Thereafter, the retaining tank shall be pumped and inspected for purposes of compliance with this Ordinance once every three (3) years by a Pumper/Hauler.

B. Report of Pumping and Inspection.

Each time a retaining tank is pumped and inspected as part of the schedule for pumping and inspection as required by this Ordinance, the Pumper/Hauler shall provide to the owner of the property on which the retaining tank is located, as well as to the authorized agent of the Township, within thirty (30) days of the pumping and inspection, a complete report on a form provided by the authorized agent of the Township, which report shall at a minimum contain the

following information:

1. Name and business address of the Pumper/Hauler;
2. Date of pumping;
3. Name and address of the property and retaining tank owner;
4. Address of the retaining tank location, if different from the property owner's address;
5. Description and diagram of the location of the retaining tank, including the location of any markers, risers, access hatches, size of retaining tank and structures in proximity to the retaining tank;
6. A statement that the retaining tank baffles have been inspected and a statement of their condition;
7. The date the retaining tank was installed;
8. The last date the retaining tank was pumped;
9. A list of any maintenance, other than pumping, performed;
10. A statement of any system or retaining tank malfunction observed;
11. The amount or volume of sewage removed;
12. A statement of any recommendations for retaining tank repair or for better operation of the system and retaining tank;
13. Destination of the sewage removed and the identity of the treatment facility;
14. A statement that the warning devices comprising the two alarms specified in Ordinance 8-94 are properly functioning; and
15. The signature of the Pumper/Hauler or his, her or its authorized representative, made under penalty of unsworn falsification to authorities, swearing or affirming the information completed on the form is true and correct based upon knowledge, information and belief.

SECTION 6: MAINTENANCE AND INSPECTION OF EXISTING PERMIT-EXEMPT SYSTEMS.

A. Schedule of Required Maintenance and Inspection.

All persons owning real estate in Middlesex Township served by an existing permit-exempt system shall, within six (6) months of the effective date of this Ordinance, or within six (6) months of the installation of the permit-exempt system, whichever shall first occur, at such owner's expense, have the permit-exempt system inspected by the Sewage Enforcement Officer and any tank which is part of the system pumped by a Pumper/Hauler. Thereafter, the permit-exempt system shall be inspected and pumped for purposes of compliance with this ordinance once every three (3) years by the Sewage Enforcement Officer and a Pumper/Hauler, respectively. It shall be the responsibility of the property owner to schedule and coordinate the inspection and pumping to take place at the same time and date.

B. Reporting of Pumping and Inspection.

Each time an existing permit-exempt system is inspected or inspected and pumped as part of the schedule established by this Ordinance, the Sewage Enforcement Officer shall provide the property owner and the authorized agent of the Township within thirty (3) days of the inspection a written report containing the following information:

1. Address of the property and name and address of the permit-exempt system owner;
2. A description of the permit-exempt system and a diagram of the location of the system and its components as well as any pertinent features or structures in proximity to the system;
3. Date when the inspection was conducted;
4. Identity of the Pumper/Hauler who pumped any tank, if applicable;

5. The amount of sewage removed;
6. Last date any tank which is part of the system was pumped;
7. A list of maintenance, other than pumping, performed on the system;
8. A statement of any system malfunctions observed;
9. A statement of any recommendations for repair or better operation of the system;
10. Any other information the authorized agent of the Township may require from time to time; and
11. The signature of the Sewage Enforcement Officer made under penalty of unsworn falsification to authorities, swearing or affirming the information contained on the report is true and correct based upon knowledge, information and belief.

SECTION 7: ADMINISTRATION BY THE MIDDLESEX TOWNSHIP MUNICIPAL AUTHORITY.

A. General Administration.

The Middlesex Township Municipal Authority (the "Authority") as the authorized agent of the Township shall have the authority to conduct inspections at any reasonable time and establish schedules of routine inspections of septic tanks, retaining tanks and existing permit-exempt systems and to administer the pumping and inspection schedules and to maintain all records as set forth in this Ordinance and in Ordinance 1-99. The Authority shall be authorized to administer such other provisions of this Ordinance in accordance with future Resolutions of the Board.

B. Records to become property of the Township.

All permits, records, reports, files and other materials relating to pumping, maintenance and inspection of existing permit-exempt systems, retaining tanks and on-lot sewage systems shall become the property of the Township.

SECTION 8: ISSUANCE OF PUMPING PERMITS, LICENSES AND THE COLLECTION OF FEES.

A. Permit Fees.

The Authority as authorized agent for Middlesex Township under Ordinance 1-99 and this Ordinance is authorized to charge and collect a permit fee, from and payable by each property owner subject to the pumping, maintenance and inspection requirements of Ordinance 1-99 and this Ordinance. Said fee shall be charged and collected by the Authority as a condition of the issuance of a pumping and inspection permit, which permit shall be required to be obtained before any septic, retaining tank or existing permit-exempt system is pumped and/or inspected in accordance with the schedule established by Ordinance 1-99 and this Ordinance. The pumping and inspection permits shall require such information as the Authority, in its discretion, determines to be reasonable and necessary to implement its administrative responsibilities under Ordinance 1-99 and this Ordinance and any reporting requirements under Pennsylvania state law or regulation.

B. Licensing Fees.

The Authority as agent for Middlesex Township under Ordinance 1-99 and this Ordinance is authorized to charge and collect an annual license fee from each Pumper/Hauler operating within Middlesex Township as a condition of the issuance of an annual Pumper/Hauler license by the Authority. The application for such license shall require such information as the

Authority, in its discretion, determines to be reasonable and necessary to implement its administrative responsibilities under Ordinance 1-99, this Ordinance and any reporting requirements under Pennsylvania state law or regulation.

SECTION 9: FEE SCHEDULE.

The Board of Supervisors may establish and authorize the collection of reasonable fees to cover the cost of administering this Ordinance and Ordinance 1-99.

A. Permit Fees For Owners of Property Containing Septic Systems or Retaining Tanks.

All owners or property containing septic tanks or retaining tanks which are subject to the pumping, maintenance and inspection requirements of this Ordinance and Ordinance 1-99 shall pay a permit fee of \$10.00; thereafter, provided the property owner has complied with the pumping, inspection and permit requirements of Ordinance 1-99 and this Ordinance, the permit fee shall be \$5.00.

B. Permit Fees For Owners of Property Containing Existing Permit-Exempt Systems.

All owners of property containing existing permit-exempt systems shall pay a permit fee in an amount of the sum of \$10.00. In addition, the property owner shall pay as a condition of the issuance of the permit the inspection charge charged to the Township by the Sewage Enforcement Officer for inspection of the system, which inspection charge shall be based upon the then current rate approved by the Board for the Sewage Enforcement Officer's inspection service. Thereafter, provided the property owner has complied with the inspection and applicable pumping requirement, the permit fee as described above shall be reduced by the amount of \$5.00.

C. License Fees.

All Pumper/Haulers as a condition of operating within the Township shall pay an annual license fee of \$25.00.

D. Changes in Permit and License Fees.

The Board by subsequent Resolution, may change the permit and license fees to cover the costs of administering this Ordinance and Ordinance 1-99 from time to time.

SECTION 8: REQUIREMENTS APPLICABLE TO PUMPER/HAULERS.

A. Pumper/Haulers to comply with all requirements.

All Pumper/Haulers operating with the Township shall comply with all reporting requirements established by the Township in Ordinance 1-99 and this Ordinance.

B. Disposal at approved sites.

All sewage removed from sewage systems and retaining tanks originating in the Township shall be disposed of at sites or facilities approved by the Pennsylvania Department of Environmental Protection. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites and approved farms lands.

C. Violation and Penalties Pertaining to Pumper/Haulers.

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. §§ 6018.101-6018.1003). Any Pumper/Hauler who violates any of the provisions of this Ordinance, Ordinance 1-99 or any other Ordinance or regulations of the Township, the conditions of its State permit, or of any State or local law governing its operation, shall, upon conviction thereof, be

sentenced to pay a fine not exceeding one thousand dollars (\$1,000.00) and costs, and in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. If any Pumper/Hauler shall have been convicted on two (2) occasions of any violation of this Ordinance, Ordinance 1-99 or for violating the conditions of its 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.

SECTION 9: PENALTIES AND ENFORCEMENT.

A. Civil Penalties, Fines and Fees.

The Township, after notice and hearing, may assess a civil penalty against any person for violation of this Ordinance and Ordinance 1-99. In addition, the Township may assess the cost of damages caused by such violation. The procedure to be followed for the assessment of civil penalties shall be those set forth and required in the Pennsylvania Sewage Facilities Act, as amended (35 P.S. § 750.13a), as amended, which procedures are incorporated by reference herein.

Costs and penalties shall be collectible in any manner provided by law for the collection of debts. If any person is liable to pay such costs and penalties and refuses to pay same after demand, the amount of same, together with interest and any costs that may accrue, shall constitute a judgment in favor of the Township upon the real estate of the person from the date it has been entered and docketed on record by the Prothonotary of Cumberland County.

The Township may at any time transmit to the Prothonotary certified copies of judgments to be entered, docketed and indexed.

B. Criminal Penalties for Violation.

Any person who shall violate any provision of this Ordinance or Ordinance 1-99 who is the owner of a property on which a on-lot sewage system, retaining tank or permit-exempt system exists, shall be guilty of a summary offense and subject to an enforcement action before the District Justice. Upon conviction thereof, such person shall be sentenced to pay a fine of not less than \$500.00 or more than \$1,000.00 for each violation, plus costs, or to imprisonment not to exceed ninety (90) days or both.

A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section or portion thereof which is found to have been violated.

C. Other Remedies.

Nothing in this Ordinance shall be construed as limiting, waiving or precluding any remedies available to the Township for a violation of this Ordinance or Ordinance 1-99, whether or not said remedies are expressed herein or therein. All remedies available to the Township, whether or not expressed herein, are deemed to be cumulative and not exclusive.

SECTION 10: EFFECT OF ORDINANCE.

This Ordinance is intended to supplement and add to Ordinance 8-94 and Ordinance 1-99, not to abridge, diminish or in any way alter the obligations, responsibilities, rights and remedies set forth therein.

SECTION 11: SEVERABILITY.

The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is declared to be the legislative intention that this Ordinance would have been enacted had the unconstitutional, illegal or otherwise invalid provisions not been included in this Ordinance.

SECTION 12: EFFECTIVE DATE

This Ordinance shall take effect in accordance with existing law.

ENACTED AND ORDAINED this 11th day of July, 2001.

TOWNSHIP OF MIDDLESEX

By: Charles W. Fugate
Vice Chairman, Board of Township
Supervisors

ATTEST:

Mary S. Just
Township Secretary

(Township Seal)