

**ORDINANCE NO. 1168**

**AN ORDINANCE OF THE BOROUGH OF WAYNESBORO, FRANKLIN COUNTY, PENNSYLVANIA REPEALING ORDINANCE NO. 1161 OF THE BOROUGH OF WAYNESBORO AND AMENDING ARTICLE II OF CHAPTER 220 OF THE CODE OF ORDINANCES OF THE BOROUGH OF WAYNESBORO, RELATING TO THE MANDATORY CONNECTION OF BUILDINGS TO THE PUBLIC SEWER SYSTEM, EXCEPTIONS THERETO, AND ADDING A NEW ARTICLE VI TO CHAPTER 220 RELATING TO THE REGULATION OF SEWAGE FACILITIES.**

**WHEREAS**, the Borough is empowered to provide for the health, safety, morals, general welfare, comfort, and safety of the borough. See 8 Pa.C.S.A. §1202(5); and

**WHEREAS**, the Borough of Waynesboro operates and maintains a public sanitary sewer system; and

**WHEREAS**, pursuant to 8 Pa.C.S.A. § 2051, the Borough desires to enact an ordinance providing for the mandatory connection of buildings to the public sanitary sewer system and for penalties for violations thereto; and

**WHEREAS**, the Borough Council of the Borough of Waynesboro, Franklin County, Pennsylvania deems it to be in the best interest and the general welfare of the citizens and residents of the Borough to repeal Ordinance No. 1161 and amend the Code of Ordinances of the Borough of Waynesboro (the “Code”) relating to the public sanitary sewer system, in order to set forth limited circumstances under which an on-site septic system may be maintained, and the conditions upon the continuing operation and maintenance of such on-site septic systems.

**NOW THEREFORE BE IT ENACTED AND ORDAINED**, by the Mayor and Borough Council of the Borough of Waynesboro, Franklin County, Pennsylvania, and it is hereby enacted and ordained as follows:

**SECTION 1:** Ordinance No. 1161 of the Borough of Waynesboro relating to the public sanitary sewer system is hereby repealed in its entirety.

**SECTION 2:** Article II of Chapter 220 of the Code, entitled “Sewer Connection Required,” is hereby amended by removing the entire contents thereof and replacing it with the following:

§220-6. Definitions.

**AUTHORITY** – Refers to Waynesboro Borough Authority, as presently or hereafter constituted, which has been created by said Borough Council.

**BOROUGH** – The Borough of Waynesboro, Franklin County, Pennsylvania, or the duly constituted and elected municipal authorities thereof.

**INDUSTRIAL WASTE** Refers to the liquid, gaseous, or solid waste from industrial processes, as distinct from domestic sewage.

**LATERAL** Refers to that part of the sewer system extending from a public main or street sewer to curblines, or property line if there is no curb, and where the main or street sewer line is laid under a sidewalk, the word "lateral" shall mean and refer to the Y-connection from the main or street sewer line.

**MALFUNCTION** A condition which occurs when a Sewage Facility 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.

**OCCUPIED BUILDING** - Refers to any structure erected and intended for continuous or periodic habitation, occupancy or use by human beings or animals, and from which structure sewage and industrial waste, or either thereof, is or may be discharged.

**PERSON** - A natural person, firm, partnership, company, association, trust, corporation, or other legal entity. The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter, whatever appropriate.

**PROPERTY ACCESSIBLE TO THE SEWER SYSTEM** Refers to real estate which adjoins, abuts on or is adjacent to any street in which the sewer system is located, or where any portion of the real estate is within two hundred (200) feet of any portion of the sewer system.

**SEWAGE** - Refers to the normal water-carried household and toilet wastes from residences, business buildings, institutions, and industrial establishments.

**SEWAGE ENFORCEMENT OFFICER** - A person certified by DEP who is appointed and authorized by the Borough 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, 35 P.S. §§ 750.1 - 750.20, the rules and regulations promulgated thereunder, and this or any other ordinance adopted by the Borough.

**SEWAGE FACILITIES** - A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste. The term includes:

- A. *Individual sewage system*—A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance to another site for final disposal.

1. *Individual onlot sewage system*—An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating or disposing of sewage into a soil absorption area or spray field or by retention in a retaining tank.
  2. *Individual sewerage system*—An individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.
- B. *Community sewage system*—A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.
1. *Community onlot sewage system*—A community sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a soil absorption area or retaining tank.
  2. *Community sewerage system*—A publicly or privately owned community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

SEWER SYSTEM – The sanitary sewer collection system and sewage treatment plant, together with appurtenant facilities, presently constructed in and for the Borough of Waynesboro and any improvements, additions or extensions that hereafter may be made thereto by the Authority or the Borough or to any part or parts of any or all thereof.

§220-7. Mandatory connection required.

- A. All Persons owning any Occupied Building now erected upon Property Accessible to the Sewer System shall, at their own expense, connect such Occupied Building with the Sewer System within 60 days from the effective date of this Ordinance, unless the following conditions are met:
1. The Occupied Building is, upon the effective date of this Ordinance, served by properly functioning Sewage Facilities (as defined in 25 Pa. Code § 73.1) as determined by the Borough's Sewage Enforcement Officer.
    - a. The temporary exemption shall expire in the event that the Borough Sewage Enforcement Officer determines that the Sewage Facilities no longer function properly, or the Persons owning the Occupied Building fail to comply with the requirements of Section 220-7 hereof, and the Person owning the Occupied Building shall have 120 days to connect said building to the Sewer System.
    - b. The temporary exemption shall expire upon the sale or transfer of the property from the Person owning the Occupied Building to any other Person, in which event, the Person owning the Occupied Building shall have 120 days to connect said building to the Sewer System.

- c. The temporary exemption shall expire if there is a change in use of the Occupied Building or the property upon which it is situate, in which case the Person owning the Occupied Building shall have 120 days to connect said building to the Sewer System.
  - d. Persons desiring to claim a temporary exemption shall not be entitled to such exemption until such time as said Person enters into a recordable agreement that runs with the land, in a form acceptable to the Borough Solicitor, incorporating the above conditions and also providing as follows:
    - i. The property owner agrees to allow the Borough Sewage Enforcement Officer access to the property for the purpose of inspecting the Sewage Facilities.
2. No Occupied Building will be eligible for the temporary exemption if connection to the Sewer System is the requirement of a previously issued permit or approval.

Said Person shall be responsible for the cost of drafting and recording said agreement.

- B. All Persons owning any Property Accessible to the Sewer System, upon which an Occupied Building is hereafter erected, shall, at the time of erection of such Occupied Building and at their own expense, connect the same with the Sewer System.
- C. All Persons owning any Occupied Building upon property which hereafter becomes Property Accessible to the Sewer System shall, at their own expense, connect such Occupied Building with the Sewer System within 60 days after notice to do so from the Borough.

§220-8. Notice to make connection; Borough to make connection at expense of defaulting owner.

- A. If the owner of a Property Accessible to the Sewer System, after 45 days' notice from the Borough to make connection of such property with the Sewer System, fails to make the necessary connection, the Borough may make such connection and collect the cost thereof from such owner by a municipal claim or lien or in an action of assumpsit, as is provided by law.

§220-8.1. Administration.

- A. The Borough shall be authorized to fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this Ordinance.
- B. Borough Council shall establish all administrative procedures necessary to properly carry out the provisions of this Ordinance.

- C. Borough Council shall include in its fee schedule, a fee sufficient to cover the costs to the Borough of administering the requirements of this Ordinance and any other administrative procedures adopted pursuant hereto.

§220-8.2. Appeals.

- A. Appeals from final decisions of the Borough or any of its authorized agents under this Ordinance shall be made to Council in writing thirty (30) days from the date of written modification of the decision in question.
- B. The Appellant shall be entitled to a hearing before Council at its next regularly scheduled meeting, if a written appeal is received at least fourteen (14) days prior to that meeting. The Borough 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 thirty (30) days of the date of the hearing.

§220-8.3. Violations and penalties.

Any Person who shall violate any provision of this Ordinance shall, for every such violation, upon conviction thereof, be sentenced to pay a fine of \$300 and costs of prosecution. Provided, each day's violation of any provision of this Ordinance shall constitute a separate violation, and each section of this Ordinance that is violated shall also constitute a separate offense.

**SECTION 3:** Chapter 220 of the Code, entitled "Sewer Connection Required," is hereby amended by adding a new Article VI entitled "Inspection, operation and maintenance of Sewage Facilities" to include the following:

§220-26. Definitions.

The definitions in Chapter 220, Article II, of the Code are incorporated herein by reference.

§220-27. Inspections and management of Sewage Facilities.

- A. Any Sewage Facility within the Borough shall be subject to inspection by the Sewage Enforcement Officer during normal business hours. Notice of intent to inspect shall, where possible, be given to either the owner of the property or to the person or persons in possession of the property at least forty-eight (48) hours in advance. Notice shall not be required where there is reason to believe that a malfunction is existent.

1. The Sewage Enforcement Officer shall have the authority to enter upon land for the purposes of inspections described in this section.
2. Such inspections may include the observation of property conditions, the taking of samples from surface water, wells, other groundwater sources, the sampling of the contents of the Sewage Facilities 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.
3. The Sewage Enforcement Officer shall have the authority to inspect systems known to be, or alleged to be, malfunctioning. Pursuant to Section 220-8.1, if the Sewage Enforcement Officer determines the Sewage Facilities no longer function properly, the temporary exemption from connection to the Sewer System shall expire.
4. Each Occupied Building served by Sewage Facilities shall have the septic tank pumped by a qualified pumper/hauler no less than once every two years after the initial inspection described in Section 220-8.1 of this Chapter. Receipts and reports from the pumper/hauler shall be submitted to the Borough. Said report shall detail the condition of the Sewage Facilities.

§220-28. Operation.

- A. Only normal domestic wastes shall be discharged into any Sewage Facilities. The following shall not be discharged into any Sewage Facilities:
  1. Industrial waste;
  2. Automobile oil and other non-domestic oil;
  3. 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; and
  4. Clean surface or groundwater, including water from roof or cellar drains, springs, basement pumps and French drains.

§220-29. Maintenance.

- A. The required pumping frequency may be increased at the discretion of the Sewage Enforcement Officer 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 (and if not required to connect to the Sewer System), or for other good cause shown.

- B. Owners of Properties served by Sewage Facilities shall be responsible for the necessary maintenance of the Sewage Facilities, including but not 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, to the extent that such maintenance or repairs do not constitute, at the sole discretion of the Sewage Enforcement Officer, a failure of the Sewage Facilities to function properly.

§220-30. Payment of costs.

- A. Persons required under the provisions of this Ordinance to connect an Occupied Building to the Sewer System shall be responsible for any and all costs associated with connection, and shall be responsible for the payment of applicable tapping, connection, or other applicable fees.

§220-31. Disposal of septage.

- A. All septage from any Sewage Facilities 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.
- B. All pumpers/haulers of septage from Sewage Facilities within the Borough 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.

§220-32. Administration.

- A. The Borough shall be authorized to fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this Ordinance.
- B. Borough Council shall establish all administrative procedures necessary to properly carry out the provisions of this Ordinance.
- C. Borough Council shall include in its fee schedule, a fee sufficient to cover the costs to the Borough of administering the requirements of this Ordinance and any other administrative procedures adopted pursuant hereto.

§220-33. Appeals.

- A. Appeals from final decisions of the Borough or any of its authorized agents under this Ordinance shall be made to Council in writing thirty (30) days from the date of written modification of the decision in question.

- B. The Appellant shall be entitled to a hearing before Council at its next regularly scheduled meeting, if a written appeal is received at least fourteen (14) days prior to that meeting. The Borough 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 thirty (30) days of the date of the hearing.

§220-34. Violations and penalties.

Any Person who shall violate any provision of this Ordinance shall, for every such violation, upon conviction thereof, be sentenced to pay a fine of \$300 and costs of prosecution. Provided, each day's violation of any provision of this Ordinance shall constitute a separate violation, and each section of this Ordinance that is violated shall also constitute a separate offense.

**SECTION 4: Repealer.** All provisions of previous ordinances of the Code of the Borough of Waynesboro, which are contrary to this Ordinance, are expressly repealed.

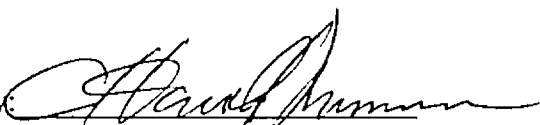
**SECTION 5: Savings Clause.** In all other respects, the Code of the Borough of Waynesboro shall remain as previously enacted and ordained.

**SECTION 6: Severability.** In any word, phrase, sentence, part, section, subsection, or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such work, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable and the remaining provisions of this ordinance and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect

**SECTION 7: Effective Date.** This Ordinance shall take effect immediately.


ENACTED, ORDAINED and APPROVED this 18<sup>th</sup> day of July, 2018.

Waynesboro Borough Council

By:   
C. Harold Mumma, President



ATTEST:

  
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Melinda Knott, Secretary

  
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Richard Starliper, Mayor