

**SOUTH WHITEHALL TOWNSHIP  
LEHIGH COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 1087  
(Duly Adopted June 5, 2024)**

**AN ORDINANCE AMENDING CHAPTER 274 (SEWERS AND SEWAGE DISPOSAL) IN THE CODIFIED ORDINANCES OF THE TOWNSHIP OF SOUTH WHITEHALL TO ESTABLISH A NEW PART 6 TITLED “ON-LOT SEWAGE DISPOSAL” AND PROVIDING FOR DEFINITIONS, DESIGNATION OF TOWNSHIP SEWAGE ENFORCEMENT OFFICER, GENERAL REQUIREMENTS, APPLICATION PROCEDURES AND PERMIT ISSUANCE, NEW SEWAGE SYSTEMS, REPAIR SEWAGE SYSTEMS, GENERAL DEPARTMENT REQUIREMENTS, INSPECTIONS, APPLICATION AND REVIEW FEES, REVOCATIONS AND REINSTATEMENT OF PERMITS, REVIEW OF REVOCATIONS AND DENIALS, WAIVER OF LIABILITY, NUISANCES AND PENALTIES, SEVERABILITY, FAILURE TO ENFORCE NOT A WAIVER, REPEALER AND AN EFFECTIVE DATE.**

**WHEREAS**, South Whitehall Township is a political subdivision, municipal corporation, and First Class Township of the Commonwealth of Pennsylvania, being a body corporate and politic, situated in Lehigh County, duly established and lawfully existing under and pursuant to the First Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §§ 55101 et seq., as amended;

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Board of Commissioners of South Whitehall Township, Lehigh County, Commonwealth of Pennsylvania as follows:

**SECTION 1 – ADOPTION OF CHAPTER 274, PART 6.**

Chapter 274 (Sewers and Sewage Disposal) of the Codified Ordinances of South Whitehall Township is and shall hereby be amended to create a new Part 6 titled “On-Lot Sewage Disposal”, which shall state in its entirety as follows:

**ARTICLE XXVIII GENERAL PROVISIONS.**

**§ 274-140 Definitions.**

The words, terms, phrases, when used in this Part, have the identical meanings as those found in the Pennsylvania Sewage Facilities Act, 35 P.S. §§ 750.1 — 750.20a, and the rules and regulations promulgated thereunder unless a provision explicitly states otherwise.

**Board** – The South Whitehall Township Board of Commissioners

**Department** – The Pennsylvania Department of Environmental Protection (DEP)

**Township** – South Whitehall Township, Lehigh County, Pennsylvania

**§ 274-141 Designation of Township Sewage Enforcement Officer.**

A. The Board shall annually appoint a primary and alternate Sewage Enforcement Officer(s) to

administer Act 537 and the regulations promulgated thereunder.

- B. All Township Sewage Enforcement Officers shall abide by the standards of conduct specified in 25 Pa. Code, Chapters 71, 72 and 73, of the Department's regulations. Violation of any of these standards shall be grounds for dismissal by the Board.

**§ 274-142 General Requirements.**

- A. The installation of any treatment tank, subsurface absorption area or any holding tank constitutes either the installation of an individual or a community sewage system and requires a permit prior to beginning the installation of the system or beginning the construction, installation or occupancy of any building or buildings for which such a system will be installed. The installation of an individual or community sewage system shall include the repair, replacement or enlargement of any treatment tank, subsurface absorption area, or holding tank, or any piping connecting the same. A permit shall be required regardless of the acreage of the tract on which the individual or community sewage system is to be installed or repaired.
- B. The Township will issue, deny and revoke permits only by and through its Township Sewage Enforcement Officer(s).
- C. If construction or installation of an individual or community sewage system and of any building or structure for which such system is to be installed has not commenced within three years after the issuance of a permit for such system, the said permit shall expire. A new permit shall be obtained prior to the commencement of said construction or installation.
- D. Construction of a new sewage system for a newly occupied building will be known as a "new sewage system" for the purposes of this Part. The repair or replacement of an existing on-lot sewage disposal system for a structure which is occupied at the time of the application for permit issuance shall be known as a "repair sewage system" for the purposes of this Part.
- E. The minimum isolation distances prescribed in this Part shall be the same as those indicated in the Department regulations.
- F. All on-lot sewage disposal systems shall be constructed and/or installed in strict accordance with the requirements in 25 Pa. Code, Chapter 71, 72 and 73 of the Department Rules and Regulations, and the requirements of this Part, whichever are more restrictive.

**§ 274-143 Application Procedures and Permit Issuance.**

- A. Application for a permit shall be made by the property owner, owner in equity, or a person who is an authorized agent of the owner or owner in equity to the Township Sewage Enforcement Officer prior to the commencement of construction of any such system or of any building for which such system is to be installed. For purposes of this section, an authorized agent shall have written permission to apply for a permit, signed by the owner or owner in equity of the lot for which the application is made.
- B. The application shall contain the following:
  1. The information found on the application form ER-BWQ-290, which is prescribed and published by the Department and may be amended from time to time and/or replaced with a new successor form published by the Department.
  2. Such further information as may be required by the Township Sewage Enforcement Officer

to ensure that the proposed action complies with the regulations promulgated by the Department.

- C. Application forms shall be obtained from the Township.
- D. When the Township Sewage Enforcement Officer has found an application incomplete, or the Township Sewage Enforcement Officer is unable to verify the information submitted, the applicant shall be notified in writing within seven (7) days of receipt of the application. The notice shall include the reasons why the application is not acceptable. When the required information is received, the Township shall act upon the application within fifteen (15) days.
- E. Failure of the Township to act on an application does not constitute permit approval. If the Township does not act upon an application within seven (7) days of receipt, or within fifteen (15) days of receipt of supplemental information as described above, the applicant may request a hearing before the Board.
- F. Applications for permits for new sewage systems, which are not consistent with the Official Plan of South Whitehall Township, shall be denied.
- G. The Township shall maintain and make available for public inspection a permanent record of all permit applications submitted, indicating the date received, type of submission and date of disposition.

**§ 274-144 New Sewage Systems.**

- A. For new systems, the application and review process consists of the following four stages:
  1. Preliminary stage.
  2. Site evaluation stage.
  3. System design stage.
  4. Final inspection stage.
- B. In the preliminary stage, the applicant obtains a copy of form ER-BWQ-290 (as amended and any successor form published by the Department) from the Township Sewage Enforcement Officer, completes Part 1 of the form, and submits it along with the appropriate permit fee to the Township. The Township Sewage Enforcement Officer reviews Part 1 and an on-site evaluation is scheduled at a mutually agreed time.
- C. In the site evaluation stage, the Township Sewage Enforcement Officer observes the soil test pit, percolation test and slope measurements and completes Part IV of the application. It shall be the responsibility of the applicant to prepare the site for inspection, including the digging of a minimum of one soil test pit, or in accordance with current Department policy, at a maximum depth of seven feet, in accordance with 25 Pa. Code § 73.14, any general clearing of the site necessary to make slope measurements, and arranging for the preparation and testing of a minimum of one percolation test for both primary and secondary absorption areas, as appropriate, in accordance with 25 Pa. Code § 73.15. After the site evaluation stage, the applicant will be notified if the site is suitable or receive a letter of permit denial if it is not.

The applicant may request the Township Sewage Enforcement Officer to conduct the required percolation test. In this case, the permit fee shall be in accordance with the Township Fee Schedule.

- D. The system design stage involves the completion of Parts II and III of the application form by the applicant. All application information and designs must be to scale and locate all the key components with respect to two intervisible markers in a neat and legible manner and must show the following:
1. All information required under Part III of application.
  2. All test pits and percolation tests (pass or fail).
  3. Alternate absorption area location, as appropriate.
  4. Location and width of all rights-of-way, easements, building restriction lines, including any limitations on their use.
  5. Existing and proposed contour lines at two-foot intervals derived from a field survey or taken from an approved subdivision plan. Contours taken from U.S.G.S. mapping are unacceptable.
  6. Spot elevations for the following:
    - a. First floor elevation of any structure.
    - b. Elevation at each corner and high point of the proposed absorption area. If an elevated sand, or an at-grade absorption area is required, the existing grades of each corner of the toe of berm shall also be shown.
    - c. Elevation of existing grade at the proposed septic tank, and pump tank or lift station, if required.
  7. The location of all items required in Subsection § 274-144 (6)(b) and (c) and dimensions to two intervisible permanent markers.
  8. All above items shall be staked in the field prior to permit issuance and shall remain undisturbed and protected until a final Certificate of Occupancy is issued.
- The Township Sewage Enforcement Officer may provide advice and assistance, but the system design shall be the responsibility of the applicant.
- E. When the Township Sewage Enforcement Officer has determined that the application is complete and meets the requirements of 25 Pa. Code, Chapters 71, 72 and 73 of the Department's regulations and this Part, a permit shall be issued.

#### § 274-145 Repair Sewage Systems.

- A. For repair sewage systems, the application and review process consists of the following four stages:
1. Preliminary stage.
  2. Site evaluation stage.
  3. System design stage.

4. Final inspection stage.

B. Preliminary Stage. See § 274-144 (B).

C. In the site evaluation stage, the Township Sewage Enforcement Officer may require and observe soil test pits, percolation tests and/or slope measurements, and shall complete Part IV of the application. For repair sewage systems, this soils evaluation is not always required, but will be required if additional absorption area is required. If percolation tests are performed, the procedure may follow the requirements outlined in § 274-144 (C).

D. System Design Stage - See § 274-144 (D).

E. When the Township Sewage Enforcement Officer has determined that the application is complete and meets the requirements of 25 Pa. Code, Chapters 71, 72 and 73 of the Department's regulations and this Part, a permit shall be issued.

**§ 274-146 General Department Requirements.**

A. Any application for a permit for an individual or community sewage system where a license, certificate or registration or permit is required from the Department under its regulations shall receive the concurrence of the Department in writing prior to its issuance by the Township Sewage Enforcement Officer.

B. A person desiring to install an experimental on-lot sewage system shall submit complete preliminary design plans and specifications to the Township Sewage Enforcement Officer and the Department for review and comment at least 60 days prior to submitting an application for a permit. Any application for a permit for an experimental individual or community on-lot sewage system shall receive the concurrence of the Department in writing prior to its issuance by the Township Sewage Enforcement Officer. Experimental sewage systems shall be subject to the requirements specified in the Department's Regulations.

**§ 274-147 Inspections.**

A. Prior to any earth disturbance for the installation of the permitted on-lot sewage disposal system, the applicant and/or contractor for the applicant must contact the Township Sewage Enforcement Officer to arrange for a preconstruction meeting at the site. The location of all items required in § 274-144 (6)(b) and (c) and the replacement absorption area shall be staked at the time of the meeting. Any changes in the physical conditions of the lands of either the primary or replacement absorption area may result in revocation of the permit, or the requirement to conduct additional soil testing.

B. In the final inspection stage, the applicant notifies the Township Sewage Enforcement Officer when the installation is complete and ready for inspection or reinspection. The applicant may request additional inspections required to facilitate construction at the site. Fees for the additional inspections shall be in accordance with the approved fee schedule.

C. No part of any installation shall be covered nor, in the case of new systems, shall the building for which it is intended be occupied, until it is inspected and given final written approval by

the Township Sewage Enforcement Officer. The exception is that the applicant may cover the installation in absence of written approval or disapproval, at the expiration of 72 hours, excepting weekends and holidays, from the date the Township Sewage Enforcement Officer receives the notice to inspect. For the purpose of determining the above time limit, the request shall be made in writing and validated by the Township Secretary. The Township Sewage Enforcement Officer may by order require an installation to be uncovered at the expense of the applicant if the installation was covered contrary to the provisions of this section.

D. Elevated Sand Beds and Elevated Sand Trenches.

1. The first notification of inspection shall be given upon completion of scarification of system site.
2. The second notification of inspection shall be given upon completion of placement of sand.
3. The third notification of inspection shall be given upon completion of all piping and permanent installation of pump and alarm.
4. The final notification of inspection shall be given upon completion of all required backfilling and final stabilization of the absorption area to verify proper backfilling.

E. Standard (In-Ground) Beds and Trenches.

1. The first notification of inspection shall be given upon completion of excavation of the system site.
2. The second notification of inspection shall be given upon completion of all piping and the tank installation.
3. The final notification of inspection shall be given upon completion of all required backfilling and final stabilization of the absorption area to verify proper backfilling.

**§ 274-148 Application and Review Fees.**

- A. All fees paid under this Part shall be made payable and submitted to the Township and shall be in the form of either a check, money order or other payment method that is acceptable to the Township. The application fee portion of the individual permit shall be non-refundable.
- B. New system fees and repair system fees as well as any other fees made or required pursuant to this Part shall be as set forth in a resolution passed by separate action of the Board and available at the Township municipal building. The Board may adjust these fees and charges from time to time by amending resolutions. All rates, fees and charges shall be reasonable, compensatory, and nondiscriminatory.

**§ 274-149 Revocations and Reinstatement of Permits.**

- A. A permit shall be revoked by the Township Sewage Enforcement Officer at any time for any one or more of the following reasons:
  1. When any change has occurred in the physical conditions of any lands which will

materially affect the operations of any individual or community sewage disposal system covered by any permit issued by the Township Sewage Enforcement Officer under the provisions of 25 Pa. Code, Chapter 72, of the Department's regulations.

2. When one or more tests material to the issuance of the permit has not been properly conducted.
  3. When information relevant to the issuance of the permit has been falsified.
  4. When the original decision of the Township Sewage Enforcement Officer otherwise failed to conform with the provisions of the Act and the Department's regulations.
  5. When the permittee has violated the provisions of 25 Pa. Code, Chapter 71, 72 or 73 of the Department's regulations, or any provisions of this Part.
  6. When the inspection reveals that the installation of the system, water supply location or the underlying soil or geologic conditions differ from those stated in the application.
- B. The notice of revocation of a permit shall be in writing to the permit holder and shall include the reasons for revocation, notice of the permit holder's opportunity to request a hearing before the Board within 10 days of receipt of the revocation notice, and notice that no further construction or use of either the sewage system or the structure for which it is intended may take place until a new permit is issued or the revocation is reversed by the local agency.
- C. If a permit holder fails to file a written request for a hearing under this section within ten (10) days after receipt of notice of revocation, revocation shall be final.
- D. A permit which has been revoked under this section will not be reinstated. A "new permit" must be applied for and all regulations in place at the time of the application must be addressed prior to receiving a permit to utilize the currently unpermitted existing system.

#### **§ 274-150 Review of Revocations and Denials.**

- A. Upon receipt by the applicant of a notice of denial of a permit, the applicant may request, in writing within ten (10) days of receipt of said notice, a hearing before the Board. The Board shall hold a hearing within 30 days after receipt of such a request. The Department shall be notified of the hearing by the Board at least three (3) days prior to the hearing date. The notification shall include a statement of the reasons for the appeal.
- B. Revocation of permits shall occur only after written notice and ten (10) days opportunity to request a hearing have been granted to the permittee. The Board shall hold a hearing within 30 days after receipt of such a request. The Department shall be notified of the hearing by the Board at least three (3) days prior to the hearing date. The notification shall include a statement of the reasons for the appeal.
- C. Hearings under this section shall be conducted under 2 Pa.C.S. §§ 551-555 (relating to Local Agency Law).

#### **§ 274-151 Waiver of Liability.**

Although this Part is intended to provide guidelines for the proper installation of on-lot sewage disposal systems, nothing contained herein should be interpreted as a guarantee to the applicants or owners that systems installed under the provisions of this Part will function as intended. Uncontrollable variables such as soil characteristics, actual water usage and material or construction inadequacies, may cause a system malfunction, even though the general guidelines of the Department and this Part are followed.

#### § 274-152 Nuisances and Penalties.

- A. Any person who shall be found to be discharging untreated or partially treated sewage to the surface of the ground, or to waters of the Commonwealth, shall be deemed to be creating a nuisance, and upon written notice, shall be required to repair the sewage system to eliminate such nuisance. The repair shall be satisfactorily completed within thirty (30) days of the receipt of the notice.
- B. Any person who shall violate any of the provisions of this Part, or the rules and regulations of standards promulgated hereunder, or who resists or interferes with any officer, agent or employee of the Township, shall, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs to be paid to the Township and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days, and shall be required to rectify the violation if such violation is causing or could cause pollution of a health hazard. Each day that a violation of this Part continues or each section of this Part which shall be found to have been violated shall constitute a separate offense.
- C. Upon notice to any person violating this section in the manner described in Subsection A to abate or eliminate the nuisance and upon failure of such person to so abate or eliminate the nuisance in the time period described in Subsection A, the Township may take such steps as are necessary to abate or eliminate the nuisance and charge said person violating said section with all costs thereof, together with a collection fee of 10%, or file a municipal claim against said person for all the costs thereof, together with a collection fee of 10%, or file an action of assumpsit, without the filing of a claim, with the Prothonotary of Lehigh County for all the costs thereof, together with a collection fee of 10%.

#### SECTION 2 – SEVERABILITY.

The provisions of this Ordinance are declared to be severable. If any sentence, clause, section, term, phrase, 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, terms, provisions, or parts of this Ordinance. It is hereby declared the intent of the Board of Commissioners for South Whitehall Township that this Ordinance would have been adopted had such an unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

#### SECTION 3 – FAILURE TO ENFORCE NOT A WAIVER.

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.



016221

**SECTION 4 – REPEALER.**

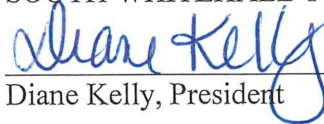
This repeal shall not affect or impair any act done or offense committed, or liability, penalty, forfeiture, or punishment incurred prior to the time such repeal takes effect, but the same may be enforced or prosecuted as fully and to the same extent as if such repeal had not been affected. Furthermore, all actions and proceedings commenced under or by virtue of the laws repealed hereby and pending immediately prior to the taking effect of the repeal of said laws may be prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

**SECTION 5 – EFFECTIVE DATE.**


This Ordinance shall become effective five (5) days following the date of adoption by the Board of Commissioners.

**DULY ORDAINED AND ENACTED** this **5th** day of **June 2024** by a majority of the Board of Commissioners of the Township of South Whitehall Township, Lehigh County, Pennsylvania, at a duly advertised meeting of the Board of Commissioners at which a quorum was present. As part of this Ordinance, the Board of Commissioners has directed that the President, or Vice-President in the absence of the President, execute this Ordinance on behalf of the Board.

BOARD OF COMMISSIONERS  
SOUTH WHITEHALL TOWNSHIP

  
\_\_\_\_\_  
Diane Kelly, President

ATTEST:

  
\_\_\_\_\_  
Tricia Dickert, Twp. Secretary

016222

Government Forms & Supplies 844-224-3338