

**BOROUGH OF MOUNT POCONO
MONROE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 4 of 2013

AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 160 OF THE CODE OF THE BOROUGH OF MOUNT POCONO, MONROE COUNTY, PENNSYLVANIA.

The Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania, hereby ordains that Article II of Chapter 160 of the Code of the Borough of Mount Pocono is replaced in its entirety with the following:

**ARTICLE II
ON-LOT SEWAGE MANAGEMENT PROGRAM**

§160-27. Short title; introduction; purpose.

- A. Short title. This Article shall be known and may be cited as "An Ordinance Providing for a Sewage Management Program for the Borough of Mount Pocono."
- B. Introduction. In accordance with municipal codes, the Clean Streams Law (Act of June 22, 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 the Borough of Mount Pocono 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 the Borough of Mount Pocono 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. Purpose. The purpose of this Article is to provide for the regulation, inspection, maintenance and rehabilitation of on-lot 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.

§160-28. Definitions.

- A. Terms defined. As used in this Article, the following terms shall have the meanings indicated:

BOROUGH - the Borough of Mount Pocono, Monroe County, Pennsylvania.

BOROUGH COUNCIL - the Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania.

CERTIFIED INSPECTOR – a person meeting the requirements of the Borough who is approved by the Borough Council to conduct the initial inspection of an on-lot sewage disposal system and report the findings to the sewage enforcement officer in accord with §162.32D.

COMMUNITY SEWAGE SYSTEM - 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.

COUNCIL - the Borough Council of the Borough of Mount Pocono, Monroe, County, Pennsylvania.

DEPARTMENT - the Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).

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 any waters of this Commonwealth.

MALFUNCTION - a condition which occurs when an on-lot sewage disposal system discharges sewage onto the surface of the ground, into ground waters of this Commonwealth or 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.

OFFICIAL SEWAGE FACILITIES PLAN - a comprehensive plan for the provision of adequate sewage disposal systems, adopted by the Borough Council and approved by the Pennsylvania Department of Environmental Protection, pursuant to the Pennsylvania Sewage Facilities Act.

ON-LOT SEWAGE DISPOSAL SYSTEM - 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, community sewage systems and any on-lot system listed in Attachment A.3

PERSON - any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or 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.

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

SEWAGE - any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals; any noxious or deleterious substances being harmful to the public health, 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.

SEWAGE ENFORCEMENT OFFICE (SEO) - a person certified by DEP who is employed by the Borough of Mount Pocono. 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 hereunder and this Article or any other ordinance adopted by the Borough of Mount Pocono.

SEWAGE MANAGEMENT DISTRICT - any area or areas of the Borough of Mount Pocono designated in the Official Sewage Facilities Plan adopted by the Council as an area for which a sewage management program is to be implemented.

SEWAGE MANAGEMENT PROGRAM - a comprehensive set of legal and administrative requirements encompassing the requirements of this Article, the Sewage Facilities Act, the Clean Streams Law, the regulations promulgated hereunder and such other requirements adopted by the Council to effectively enforce and administer this Article.

SUBDIVISION - 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 therefrom.

- B. Terms not defined. For the purposes of this Article, any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and regulations promulgated thereto.

§160-29. Applicability.

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

§160-30. Sewage Enforcement Officer: appointment, powers and duties.

The Council shall by resolution appoint a Sewage Enforcement Officer who shall be an individual certified by the State Board for Certification of Sewage Enforcement Officers. Such officer shall serve at the pleasure of the Council and shall have the authority to grant or deny permits for the construction or alteration of an individual sewage system or community sewage system. DEP shall be notified as to the identity of each Sewage Enforcement Officer employed by the Borough.

§160-31. Permit Requirements.

- A. Permit required. 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 to

691.1001) and the Pennsylvania Sewage Facilities Act (35 P.S. §750.1 et seq.) and the regulations adopted pursuant to those Acts

- B. Approval to cover system. 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. Inspection schedule. Applicants for sewage permits shall be required to notify the Sewage Enforcement Officer of the schedule for construction of the permitted on-lot 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. New building. No zoning, building or occupancy permit shall be issued for a new building that will contain a toilet, lavatory, shower, bathtub, sink, washing machine, drain or any other facility that will produce or discharge sewage as defined in §160-28 until a valid sewage permit has been obtained.
- E. Alteration or conversion of building. No zoning, building or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure, if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure, until 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. Permit issuance. Sewage permits may be issued only by a Sewage Enforcement Officer employed by the Borough.

§160-32. Inspections of existing systems.

- A. Inspections authorized. Any existing on-lot sewage disposal system may be inspected by the sewage enforcement officer at any reasonable time.
- B. Inspection procedure. Such inspection may include a physical tour of the property, the taking of samples from surface water, wells or 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. Right to enter. The sewage enforcement officer shall have the right to enter upon land for the purposes of inspections authorized by this §160-32.
- D. Initial and routine inspections and report.
 - (1) Inspection by Borough. An initial inspection shall be conducted by the sewage enforcement officer within three years of the effective date of this Article for the purpose of determining the type and functional status of each sewage disposal system in the sewage management district.
 - (2) Inspection by certified inspector. In lieu of the Borough inspection, the property owner may retain a certified inspector to conduct the required inspection and a report of the findings shall be submitted to the sewage enforcement officer on the form provided by the Borough within three years of the effective date of this Article.
 - (3) Report. 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.
 - (4) Routine inspections. A schedule of routine inspections may be required by the sewage enforcement officer established to assure the proper functioning of the sewage systems in the sewage management district.
- E. Malfunctioning systems. The sewage enforcement officer shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning the sewage enforcement officer 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 sewage enforcement officer and a representative of DEP, then action by the property owner to mitigate the malfunction shall be required.

- F. Area-wide malfunctioning systems. If numerous on-lot sewage disposal systems are malfunctioning in specific geographic area, 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.

§160-33. Operation.

- A. Domestic wastes. Only normal domestic wastes shall be discharged into any on-lot sewage disposal system.
- B. Discharge prohibition. The following shall not be discharged into the system.
- (1) Industrial waste.
 - (2) Vehicle oil and other oil not intended for human consumption.
 - (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.
 - (4) Clean surface or groundwater, including water from roof or cellar drains, springs, basement sump pumps and french drains.

§160-34. System maintenance.

- A. Tank pumping required. 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 a qualified pumper/ hauler within three years of the effective date of this Article. Thereafter that person shall have the tank pumped at least once every three 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. Receipts from the pumper/hauler shall be submitted to the Borough within 30 days of when the system is pumped.
- B. Increased pumping frequency. 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 or for other good cause shown.
- C. Pumping receipt. Any person owning a property served by a septic tank shall submit, with each required pumping receipt, a written statement, from the pumper/hauler or from any other qualified individual acceptable to the Borough, that the baffles in 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 repair.
- D. Aerobic tanks. Any person owning a building served by an on-lot sewage disposal system which contains an aerobic treatment tank shall follow the operation and maintenance recommendations of the equipment manufacturer. A copy of the manufacturer's recommendations and a copy of the service agreement shall be submitted to the Borough within six months of the effective date of this Article. 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. Additional maintenance 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.
- F. Maintenance agreements. Maintenance agreements which may already be in place or added at any time after this Article is approved shall be followed unless the maintenance agreement is less stringent than this Article. If the maintenance agreement is less stringent than this Article then the requirements of this Article shall take precedence.

§160-35. System Rehabilitation.

- A. Malfunctions prohibited. No person shall operate or maintain an on-lot sewage disposal system in such a manner that it malfunctions. All liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged

to a treatment tank. No sewage system shall discharge untreated or partially treated sewage to the surface of the ground or into the waters of the Commonwealth unless a permit for such discharge has been obtained from DEP.

- B. Notice. 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 on-lot sewage disposal system or which is discharging sewage without a permit.
- C. Application required. Within seven 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. Authority to require repair. 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. Water conservation requirement. 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. Alternative system requirement. In the event that the rehabilitation measures in Subsections A through E are not feasible or effective, the owner may be required to apply to the Borough 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. Necessary action. Should none of the remedies described in this Section be totally effective in eliminating the malfunction of an existing on-lot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. The Borough Council may require whatever action is necessary to lessen or mitigate the malfunction to the extent necessary.

§160-36. Liens.

The Borough Council, upon written notice from a Sewage Enforcement Officer that an imminent health hazard exists due to the failure of the property owner to maintain, repair or replace an on-lot sewage disposal system as provided under the terms of this Article, 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.

§160-37. Disposal of Septage.

- A. Disposal required. 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. Operating requirements. 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 to 6018.1003) and all other applicable laws.

§160-38. Administration.

- A. Enforcement. The Borough Council shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this Article.
- B. Personnel. The Borough Council shall employ qualified individuals to carry out the provisions of this Article. Those employees shall include a Sewage Enforcement Officer and may include an administrator and such other persons as may be necessary. The Borough Council may also contract with private qualified persons or firms as necessary to carry out the provisions of this Article.

- C. Records. All permits, records, reports, files and other written materials relating to the installation, operation and maintenance and malfunction of on-lot 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 of Mount Pocono. 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. Administrative procedures. The Borough Council shall establish all administrative procedures necessary to properly carry out the provisions of this Article.
- E. Fees. The Borough Council may establish a fee schedule, and authorize the collection of fees, to cover the cost to the Borough of administering this program.

§160-39. Notice to violators.

- A. Service of notice. Whenever the Sewage Enforcement Officer, determines that a violation of this Ordinance exists, the Sewage Enforcement Officer shall prepare a written notice to be served on the owner and/or occupant(s) of the premises on which the violation is located or originates. The written notice shall be served by one or more of the following methods:
 - 1. Personal delivery.
 - 2. Fixing a copy to the door of the building on the premises of the violation.
 - 3. Certified mail to the last known address of the owner.
 - 4. Publishing in the Borough's official newspaper once each week for two (2) consecutive weeks.
- B. Content of notice.
 - 1. The notice shall enumerate the conditions which constitute the violation and what action is required to abate the violation.
 - 2. The notice shall include a time frame for the abatement of the violation, with such time frame established by the Sewage Enforcement Officer based upon the nature of the violation and providing a reasonable period for the violator to take the required action. In certain cases, immediate correction may be required.

§160-40. Appeals.

- A. Appeal period. Appeals from final decisions of the Borough Council or any of its authorized agents, under this Article shall be made to the Borough Council in writing within 30 days from the date of written notification of the decision in question.
- B. Hearing. The appellant shall be entitled to a hearing before the Borough Council 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 less than 14 days before the next regularly scheduled meeting, the appeal shall be heard at the meeting following 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. Decision. A decision shall be rendered in writing within 30 days of the date of the hearing.

§160-41. Violations and costs.

- A. Compliance. Failure to comply with any provision of this Ordinance, and/or failure to comply with an order to abate a violation, shall be violations of this Ordinance.
- B. Costs. All costs associated with the abatement of the violation shall be borne by the owner of premises upon which the violation is located or originates.

§160.42 Penalties for violations.

Any person who has violated or permitted the violation of any of the provisions of this Ordinance shall, upon being found liable for such violation in a civil enforcement proceeding, pay a fine of not less than \$100.00, but not more than \$600.00, plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. Each day that a violation

continues shall constitute a separate violation. All fines, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the rules of civil procedure.

§160-43. Repealer.

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

§160-44. Severability.

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

ORDINANCE ORDAINED AND ENACTED this 5 day of August, 2013, by the Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania, to be effective five (5) days from its adoption.

By: 
John Finnerty, Council President

ATTEST:

Lori Noonan, Borough Secretary

APPROVED this 5th day of August, 2013

By: 
Rich Dorkoski, Mayor

ATTACHMENT A

**ALTERNATE SYSTEMS
FOR ON-LOT SEWAGE
PA DEP CHAPTER 73, §73.72**

1. Alternate individually designed composting toilet
2. Flow equalization
3. Alternate peat based system options
4. Free access gravity sand filter system option
5. CO-OP RFS III System option
6. Leaching chambers
7. Alternate aggregates
8. Grey water systems
9. At-grade bed systems
10. Modified subsurface sand filter for fast percolation, shallow bedrock sites with no water table present
11. Shallow placement pressure dosed system
12. Drip irrigation system
13. Steep slope elevated sand mound beds on slopes between 12 and 15 percent and percolation rates of 3-30 minutes per inch
14. A/B soil system (ABS system)
15. Non-infiltration, evapotranspiration bed contained within a greenhouse