

**Topic:** Sewage Management  
**Resource Type:** Regulations  
**State:** Pennsylvania  
**Jurisdiction Type:** Municipal  
**Municipality:** Township of Licking  
**Year (adopted, written, etc.):** 2002  
**Community Type - applicable to:** Suburban; Rural  
**Title:** Licking Township Sewage Sludge Ordinance  
**Document Last Updated in Database:** April 14, 2017

### ***Abstract***

This ordinance from Licking Township, Clarion County, Pennsylvania requires that each ton of sewage sludge intended for land application be tested to prove that the levels of pollutants, pathogens, and vector attractants that are listed in the Pennsylvania Municipal Waste Regulations have not been exceeded. The township is concerned regarding potential harmful effects to its residents and local environment. A tipping fee is levied to pay for the collection and testing of truckload samples. This ordinance also requires that any type of sludge applied that includes a state-mandated site access and land use restriction be recorded as a deed restriction at the county recorder's office. Since land use restrictions due to sewage sludge application can last multiple years, the township was concerned that this important information could be lost if the property was sold during the restricted time period.

### ***Resource***

Licking Township, Clarion County  
Ordinance No. \_\_\_\_

AN ORDINANCE TO MINIMIZE POTENTIAL RISK OF HARM TO HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS AND ENVIRONMENT OF LICKING TOWNSHIP BY PROVIDING FOR THE TESTING OF SEWAGE SLUDGE BEFORE LAND APPLICATION IN THE TOWNSHIP, PROVIDING FOR THE RECORDING OF AN ACTIVITY AND USE LIMITATION FOR PARCELS TO WHICH CERTAIN SEWAGE SLUDGE IS APPLIED AND BY OTHERWISE ADOPTING THE PENNSYLVANIA REGULATIONS CONCERNING THE LAND APPLICATION OF SEWAGE SLUDGE

### **Section 1-Name**

This Ordinance shall be known and may be cited as the Licking Township Sewage Sludge Ordinance.

## **Section 2-Authority**

This Ordinance is enacted pursuant to the authority granted to Licking Township by all relevant Federal and State laws and their corresponding regulations, including, without limitation, the following:

The provisions of The Second Class Township Code, as codified at 53 P.S. § 65101 et seq., which authorizes Licking Township to provide for the protection and preservation of natural and human resources, to promote, protect, and facilitate public health, safety, and general welfare, and to preserve and protect farmland, woodland, and the recreational uses of land within the Township;

The provisions of The Second Class Township Code, Article XV, as codified at 53 P.S. § 66506, which authorizes Licking Township to enact ordinances necessary for the proper management, care, and control of the township and its finances and the maintenance of peace, good government, health, and welfare of the township and its citizens, trade, commerce, and manufacturers;

The provisions of The Second Class Township code, Article XV, as codified at 53 P.S. § 66521, which empowers Licking Township to appropriate moneys toward insect, pest, and vector programs.

The provisions of The Second Class Township code, Article XV, as codified at 53 P.S. § 66527, which empowers Licking Township to adopt ordinances to secure the safety of persons or property within the township.

The provisions of The Second Class Township Code, Article XV, as codified at 53 P.S. § 66529, which empowers Licking Township to prohibit nuisances on private and public property and the carrying on of any offensive manufacture or business;

The provisions of The Second Class Township Code, Article XVI, as codified at 53 P.S. § 66601(e), which empowers Licking Township to adopt by reference all or any portion of a standard code as an ordinance of the Township;

Pennsylvania Constitution, Article I, Section 27;

Solid Waste Management Act, 35 P.S. § 6018.101 et seq., which preserves the rights and remedies of municipalities concerning solid waste within their borders;

Municipal Waste Regulations, 25 Pa. Code §§ 271, 275, 287, and 291, et seq.; and

Land Application of Sewage Sludge, 40 C.F.R. Part 503.

## **Section 3-Findings and Purpose**

In support of enactment of this Ordinance, the Board of Supervisors of Licking Township finds and declares that:

The land application of sewage sludge in Licking Township poses a potential threat to the health, safety, and welfare of the citizens and environment of Licking Township.

In April 2002, the Inspector General of the Environmental Protection Agency (EPA), which oversees state sewage sludge regulations, issued a report in which it concluded, "EPA cannot assure the public that current land application practices [of sewage sludge] are protective of human health and the environment." Among the Inspector General's concerns were the following: "failure to properly manage sludge may have adverse effects on human health and the environment"; "EPA does not have an effective program of ensuring compliance with land application requirements"; and state officials have criticized the lack of EPA oversight, staffing, and commitment toward ensuring the safety of land applied sludge.

In 1994, eleven-year-old Tony Behun from Rush Township, Centre County, Pennsylvania, died from a staph infection shortly after being exposed to sewage sludge. The following year, fourteen-year-old Daniel Pennock from Reading, Pennsylvania, died from a staph infection shortly after being exposed to sewage sludge. The U.S. Environmental Protection Agency (EPA) recognizes staph as a potential pathogenic component of sewage sludge.

In spite of these risks, Licking Township is powerless under current state and federal law to prohibit the land application of sewage sludge that complies with all applicable laws and regulations.

In order to minimize the potential risk of harm to the health, safety, and welfare of the residents of Licking Township, the soil, groundwater, surface water, flora, fauna, and the practice of sustainable agriculture, it is necessary to test each load of sewage sludge before it is land applied within the Township to determine if the level of pollutants, pathogens, or vector attractants exceed the levels allowed under applicable laws and regulations. Further, as there is no guarantee that any landowner will retain records of land application of sludge pursuant to 25 Pa. Code § 271.918 provided such landowner does not prepare or apply sludge, or that the DEP will request such records pursuant to 25 Pa. Code § 271.919, it is reasonable to require that a deed restriction, in the form of an Activity and Use Limitation, be recorded for any parcels to which Class B sludge or residential septage is applied to ensure the maintenance of site restrictions set forth in 25 Pa. Code § 271.931(b)(5) or 25 Pa. Code § 271.931(c) should ownership of such property be transferred within the time period of those restrictions.

DEP does not possess sufficient funding or personnel to ensure that persons or corporations land applying sewage sludge in Licking Township are doing so in compliance with state laws and regulations, so Licking Township must have the option of enforcing those laws and regulations itself.

Licking Township's cost of testing sewage sludge prior to land application should be borne by those persons or corporations land applying sewage sludge in the Township.

#### **Section 4-Interpretation**

Anyone interpreting, implementing, or applying this Ordinance shall give priority to the findings and purposes stated in Section 3 over such considerations as economy, efficiency, and scheduling factors.

#### **Section 5-Definitions**

The following terms shall have the meanings defined in this section wherever they are used in this Ordinance.

**Activity and Use Limitation (AUL):** A Notice of Activity and Use Limitation to be recorded at the Clarion County Records Office identifying the landowner, parcel, site restrictions and the time periods of site restrictions.

**Beneficial Use:** Use or reuse of residual waste or material derived from residual waste for commercial, industrial, or governmental purposes where the use or reuse does not harm or threaten public health, safety, welfare, or the environment, or the use or reuse of processed municipal waste for any purpose where the use or reuse does not harm or threaten public health, safety, welfare, or the environment. (See 25 Pa. Code Chapter 271, Subchapter A, § 271.1.)

**DEP:** Pennsylvania Department of Environmental Protection.

**Land Applicant or Sewage Sludge Applicant:** Any person or corporation responsible for complying with all Federal, State, and local laws and regulations concerning the land application of sewage sludge.

**Land Application or Land Apply:** The spraying or spreading of sewage sludge onto the land surface for beneficial use; the injection of sewage sludge below the land surface for beneficial use; or the incorporation of sewage sludge into the soil for beneficial use so that the sewage sludge can either condition the soil or fertilize crops for vegetation grown in the soil. (See 25 Pa. Code Chapter 271, Subchapter J, § 271.907.)

**Laboratory or Qualified Laboratory:** A facility that is qualified to test sewage sludge samples for pollutants, pathogens, and vector attractants for compliance with all applicable laws and regulations concerning sewage sludge.

**Ordinance:** The Licking Township Sewage Sludge Ordinance, as amended.

**Sewage Sludge or Sludge:** Liquid or solid sludge and other residue from a municipal sewage collection and treatment system, and liquid or solid sludge and other residue from septic and holding tank pumps from commercial, industrial, or residential

establishments. The term includes material derived from sewage sludge. The term does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of sewage sludge at a municipal sewage collection and treatment system, or grit, screenings, or inorganic objects from septic and holding tank pumpings. (See 25 Pa. Code Chapter 271, Subchapter A, § 271.1.)

**Sewage Sludge Applicant:** See Land Applicant

**Substantially Owned or Controlled:** A person or corporation substantially owns or controls another person or corporation if he has the ability to evade the intent of Section 12.6 of this Ordinance by using that person or corporation to land apply sewage sludge in Licking Township.

**Township:** Licking Township in Clarion County, Pennsylvania, its Board of Supervisors, or its representatives or agents.

**Truckload:** A load containing a maximum of approximately 23 (twenty-three) tons of sewage sludge, based upon Licking Township's understanding that sewage sludge for land application typically is delivered in tri-axle trucks that can hold about this much sludge.

## **Section 6-Adoption of State Regulations**

Licking Township hereby adopts as local law the Pennsylvania regulations concerning the land application of sewage sludge, including without limitation those codified at 25 Pa. Code §§ 271, 275, 287, and 291, et seq., as amended.

## **Section 7-General Requirements**

Section 7.1: It shall be unlawful for any person, corporation, or other entity to violate the Pennsylvania regulations concerning the land application of sewage sludge, including without limitation those codified at 25 Pa. Code §§ 271, 275, 287, and 291, et seq., as amended.

Section 7.2: It shall be unlawful for any person, corporation, or other entity to land apply sewage sludge in Licking Township without first complying with the requirements in section 8 of this Ordinance.

## **Section 8-Testing Requirements**

Before each and every truckload of sewage sludge is land applied in Licking Township, the sewage sludge applicant must do the following:

Section 8.1: Provide to the Township written documentation containing the name and address of the sewage sludge applicator, the name and address of the landowner on whose land the sewage sludge is to be land applied, the location of the land on which the sewage

sludge is to be land applied, and a copy of all DEP and other applicable state and federal permits pertaining to the land application.

Section 8.2: Arrange for and allow Licking Township to collect the necessary sewage sludge samples from the truckload to be land applied to have a qualified laboratory test the sludge for pollutants, pathogens, and vector attractants regulated by DEP at 25 Pa. Code § 271.914 (pollutants), § 271.932 (pathogens), § 271.933 (vector attractants), and at all other applicable state and federal regulations, as amended.

Section 8.3: Provide Licking Township with written proof of the Class of sewage sludge to be land applied. If the sludge is Class A, provide Licking Township with written proof of the Alternative in 25 Pa. Code § 271.932(a) under which the sludge qualifies as Class A. If the sludge is Class B, provide Licking Township with written proof of the Alternative in 25 Pa. Code § 271.932(b) under which the sludge qualifies as Class B. The purpose of this subsection is to identify the testing that Licking Township must conduct on the sewage sludge and the requisite testing and collection fees under Section 8.4 of this Ordinance.

Section 8.4: Pay Licking Township the testing and collections fees as set by resolution of the Board of Supervisors and, when indicated, provide Licking Township with the written documentation requested below. Licking Township shall determine testing fees by requesting bids from laboratories through a publicly advertised bidding process and estimating its internal costs to collect and transport sewage sludge samples. If necessary, the Township may by resolution adopt interim fees and contract with an interim laboratory to minimize potential risk of harm to health, public welfare and the environment until such a publicly advertised bidding process can be completed. Licking Township may alter these fees by resolution as necessary to adjust for changes in the cost to collect, transport, and test sewage sludge samples. Fees shall be assessed and documentation provided for the following:

**Pollutants:** For all classes of sewage sludge, a testing fee for pollutants included in 25 Pa. Code § 271.914(a)(1) per truckload of sewage sludge to be land applied.

**Pathogens:** For all Class A sludge under 25 Pa. Code § 271.932(a), a testing fee for fecal coliform and salmonella sp. per truckload of sewage sludge to be land applied.

For Class A sludge under Alternatives 3 and 4 of 25 Pa. Code § 271.932(a), a testing fee for viable helminth ova per truckload of sewage sludge to be land applied.

For Class A sludge under Alternatives 3 and 4 of 25 Pa. Code § 271.932(a), a testing fee for enteric viruses per truckload of sewage sludge to be land applied.

For Class B sludge under Alternative 1 of 25 Pa. Code § 271.932(b), testing fee to test seven samples for fecal coliform per truckload of sewage sludge to be land applied.

For Class B sludge under Alternatives 2 and 3 of 25 Pa. Code § 271.932(b), the sewage sludge applicant shall submit written proof that the sludge to be land applied has been treated as required under the applicable Alternative.

**Vector**

**Attractants:**

For sewage sludge that purportedly satisfies vector attraction requirements under 25 Pa. Code § 271.933(b)(1), (2), or (3), a testing fee for mass of volatile solids per truckload of sewage sludge to be land applied.

For sewage sludge that purportedly satisfies vector attraction requirements under 25 Pa. Code § 271.933(b)(4), a testing fee for SOUR per truckload of sewage sludge to be land applied.

For sewage sludge that purportedly satisfies vector attraction requirements under 25 Pa. Code § 271.933(b)(5), (6), (7), (8), (9), or (10), the sewage sludge applicant shall submit written proof that the sludge to be land applied satisfies the requirements under the applicable Alternative.

**Collection:**

For Class A sewage sludge, a fee for collection and transportation of the sewage sludge samples for testing per truckload of sewage sludge to be land applied.

For Class B sewage sludge, a fee for collection and transportation of the sewage sludge samples for testing per truckload of sewage sludge to be land applied.

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**Section 8.5:** Store the sewage sludge pursuant to all applicable DEP, federal, and state regulations (including without limitation those at 25 Pa. Code §275.204 and 25 Pa. Code Chapter 285) until the Township notifies the sewage sludge applicator whether the sewage sludge is in compliance with all criteria and may be applied in Licking Township.

**Section 8.6:** If the land applicator does not receive permission to land apply the sewage sludge in Licking Township, it shall follow all applicable state and federal regulations for

handling or disposing of sewage sludge that violates laws or regulations concerning levels of pollutants, pathogens, or vector attractants.

Section 8.7: If the land applicator receives notice that the sewage sludge meets all requirements and may be applied in Licking Township, it shall do so in compliance with all applicable federal, state, and local laws and regulations.

### **Section 9-Testing**

When Licking Township receives all of the following; an application pursuant to section 8.1 of this Ordinance; information required under Section 8.3 of this Ordinance; and the requisite testing and collection fees pursuant to Section 8.4 of this Ordinance; it shall do the following:

Section 9.1: Collect the necessary sewage sludge samples for testing by a qualified laboratory for compliance with DEP's pollutant regulations at 25 Pa. Code § 271.914, pathogen regulations at § 271.932, vector attractant regulations at § 271.933, and all other applicable state and federal regulations, as amended.

Section 9.2: Inform the sewage sludge applicator of the results of testing conducted pursuant to Section 9.1 within seventy-two (72) hours after receiving the results.

Section 9.3: If the testing reveals that the sewage sludge contains levels of pollutants, pathogens, or vector attractants that violate DEP regulations at 25 Pa. Code § 271.914 (pollutants), § 271.932 (pathogens), § 271.933 (vector attractants), or at any other federal or state laws or regulations, as amended, the Township shall deny permission for the sewage sludge to be land applied in Licking Township. Otherwise the Township shall grant permission for the land application.

### **Section 10-Activity and Use Limitation**

Section 10.1: Upon the land application of Class B sewage sludge or residential septage to any parcel or portion of a parcel in the Township, the landowner or landowner's agent must record a Notice of Activity and Use Limitation (AUL) with the Clarion County Records Office for such parcel or portion thereof within 7 days of the commencement of such application or 7 days of the effective date of this Ordinance, whichever is later. The AUL may be recorded on a form provided by the Township, but must contain at a minimum the Landowner(s) name(s), the parcel tax assessment map number, the book and page number on which the deed is recorded, and identification of the site restrictions and timeframes of such restrictions pursuant to 25 Pa. Code § 271.932(b)(5) or § 271.932(c), as applicable. If the AUL is to apply to a portion of a parcel, then that portion shall be identified through maps, drawings, or description sufficient to readily identify the portion of the parcel to which the AUL applies.

Section 10.2: Upon the expiration of the timeframes of site restrictions pursuant to 25Pa. Code § 271.932(b)(5) or (c), the landowner or landowner's agent may, at their election,

record a Termination of Notice of Activity and Use Limitation at the Clarion County Recorders Office. Such a notice may be on a form provided by the Township, but must include at a minimum the book and page number on which the Notice of Activity and Use Limitation was recorded, the specific restriction(s) that is(are) being terminated if not all restrictions are being terminated, a statement that such site restrictions are no longer applicable, and the following certification:

“I certify, under penalty of law, that these site restrictions pursuant to 25 Pa. Code § 271.932(b)(5) or (c) have been met and there is no reason for such restrictions to continue to apply. I am aware that there are significant penalties for false certification including fines and imprisonment.”

Section 10.3: Within 30 days of recording a Notice of Activity and Use Limitation pursuant to Section 10.1, the landowner or landowner’s agent shall provide a copy of such notice along with the book and page number on which it was recorded to the Township.

### **Section 11-Administration**

This Ordinance shall be administered by Licking Township. The Township may, but is not required to, administer and enforce any and all regulations that it has adopted pursuant to Section 6 of this Ordinance.

### **Section 12-Enforcement**

Section 12.1: Licking Township shall enforce this Ordinance by an action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. (See 53 P.S. § 66601(c.1)(2).)

Section 12.2: Any person or corporation who violates any provision of this Ordinance shall be guilty of a summary offense and, upon conviction thereof by a district justice, shall be assessed a fine of \$300 for first-time violations and \$600 for each subsequent violation, and may be imprisoned to the extent allowed by law for the punishment of summary offenses. (See 53 P.S. § 66601(c.1)(2).)

Section 12.3: A separate offense shall arise for each day or portion thereof that a violation occurs and for each section of this Ordinance found to be violated. (See 53 P.S. § 66601(c.1)(5).)

Section 12.4: Licking Township may also enforce this Ordinance through an action in equity brought in the Court of Common Pleas of Clarion County. (See 53 P.S. § 66601 (c.1)(4).)

Section 12.5: All fines collected for violation of this Ordinance shall be paid to the Treasurer of Licking Township.

Section 12.6: Any person or corporation who violates or is convicted of violating this Ordinance two or more times shall be permanently prohibited from land applying sewage

sludge in Licking Township. This prohibition applies to that person or corporation's parent, sister, and successor companies, subsidiaries, and alter egos, and to any person or corporation substantially owned or controlled by the person or corporation (including its officers, directors, or owners) that twice violates this Ordinance.

**Section 13-Effective Date and Existing DEP Permit Holders**

This Ordinance shall be effective five (5) days after the date of its enactment, at which point the Ordinance shall apply to any and all land applications of sewage sludge in Licking Township regardless of the date of the applicable DEP permits.

**Section 14-Severability**

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The Board of Supervisors of Licking Township hereby declares that in the event of such a decision, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

**Section 15-Repealer**

Licking Township hereby repeals the provisions of any prior ordinance that are inconsistent with this Ordinance only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this \_\_\_ day of September, 2002, by the Board of Supervisors of Licking Township.

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attest: \_\_\_\_\_