



ORDINANCE NO. 2023 - 02

**AN ORDINANCE OF THE BOROUGH OF JIM THORPE
ESTABLISHING AN ONLOT SEWAGE MANAGEMENT
PROGRAM**

SECTION 1: Short title, introduction; purpose.

- A. This article shall be known and may be cited as “An ordinance providing for a Sewage Management Program for Jim Thorpe Borough.”
- B. As ordinance governing municipal management of on-lot sewage disposal systems. In accordance with municipal codes, the Clean Streams Law (Act of June 27, 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, 1955, P.L. 1535, as amended, 25 P.S. § 750.1 et. seq., known as “Act 537”), it is the power and the duty of Jim Thorpe Borough 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 Jim Thorpe Borough 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. 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.

SECTION 2: Definitions.

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

AUTHORIZED AGENT - A Sewage Enforcement Officer, employee of the Borough, professional engineer, plumbing inspector, or any other qualified or licensed person who is authorized to function within

specified limits as an agent of Jim Thorpe Borough to administer or enforce the provisions of this article.

BOROUGH – Jim Thorpe Borough, Carbon County, Pennsylvania.

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, Jim Thorpe Borough, Carbon County, Pennsylvania.

DEPARTMENT – The Department of Environmental Protection of the Commonwealth of Pennsylvania (PADEP).

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 water of this Commonwealth.

MALFUNCTION- A condition which occurs when an on-lot sewage disposal system discharges sewage onto the surface of the ground, into groundwaters of this Commonwealth, into surface waters of the 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 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 and community sewage systems.

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 and any noxious or deleterious substances being harmful or adverse to the public health, or 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 OFFICER (SEO) – A person certified by PADEP who is employed by the Borough. 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 thereunder and this or any other ordinance adopted by the Borough.

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 thereunder, 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. For the purpose of this article, any term that is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and the regulations promulgated thereto.

SECTION 3. Applicability.

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.

SECTION 4. Permit requirements.

- A. No person shall install, award a contract for construction or construct an individual or community on lot sewage system, or install, construct, occupy or use as a building to be served by that system without first obtaining a permit from the Borough's Sewage Enforcement Officer. A permit shall also be required by the Borough Sewage Enforcement Officer for alterations or connections to an existing individual or community on-lot sewage system when the alteration or connection requires the repair, replacement or enlargement of a treatment tank or retention tank, or the repair, replacement, disturbance, modification or enlargement of a soil absorption area or spray field, or the soil within or under the soil absorption area or spray field.
- B. 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 Saturdays, Sundays and holidays, since the Sewage Enforcement Officer 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. 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. No building or occupancy permit shall be issued for a new building which will be served by an on-lot sewage disposal system until a valid sewage permit has been obtained from a Sewage Enforcement Officer.
- E. No 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. Sewage permits may be issued only by a Sewage Enforcement Officer employed by the Borough. The Pennsylvania Department of Environmental Protection shall be notified as to the identity of each Sewage Enforcement Officer employed by the Borough.

SECTION 5. Inspections.

- A. Any on-lot sewage disposal system may be inspected by an authorized agent at any reasonable time as of the effective date of this article.
- B. Such inspection may include a physical tour of the property, the taking of samples from the surface water, wells, 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. An authorized agent shall have the right to enter upon land for the purpose of inspections described in this section.
- D. An authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the authorized agent shall order action to be taken to correct the malfunction. If total correction cannot be done in accordance with the regulations of PADEP, including, but not limited to, those

outlined in Chapter 72 of Title 25 of the Pennsylvania Code; or is not technically or financially feasible in the opinion of the authorization agent and a representative of PADEP, then action by the property owner to mitigate the malfunction shall be required.

- E. If there arises, geographic areas where numerous on-lot sewage disposal systems are malfunctioning, a resolution of these area-wide problems may necessitate detailed planning and a revision to the portion of the Sewage Facilities Plan pertinent to areas affected by such malfunctions. If a PADEP 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 the Department, represents a serious public health or environmental threat.

SECTION 6. Operation.

Only normal domestic wastes shall be discharged into any on-lot sewage disposal system. The following shall not be discharged into the system:

- A. Industrial waste.
- B. Automobile oil and other nondomestic oil.
- C. 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.
- D. Clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps and French drains,

SECTION 7. Maintenance.

- A. Each person owning a building served by an on-lot sewage disposal system that contains a septic tank shall have the septic tank pumped by a qualified pumper/ hauler no later than December 31 of the year notice is received that such pumping is required. 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, whichever comes first. Receipts from the pumper/hauler, along with a pumping report, shall be submitted to the Borough within the prescribed period.

- B. The required pumping frequency may be increased at the discretion of an authorized agent 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. If any person can prove that their septic tank has been pumped on or after January 1, 2020, they shall be exempt from the first pumping cycle as long as they can provide the Borough with a dated pumper's receipt except where inspection reveals a need for more frequent pumping frequencies.
- C. Any person owning a building served by an on-lot sewage disposal system that 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 one year 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 require for septic tanks.
- D. Any person owning a building served by a cesspool shall have the system pumped according to the schedule prescribed for septic tanks to mitigate potential pollution. As an alternative to this scheduled pumping of the cesspool and pending any scheduled replacement of the substandard system as identified in the Official Sewage Facilities Plan, the owner may apply for a sewage permit from a Sewage Enforcement Officer for a septic tank to be installed.
- E. Additional maintenance activity 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.

SECTION 8. System rehabilitation.

- A. 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 PADEP.
- B. 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. Within seven days of the 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 Sewage Enforcement Officer shall set an extended completion date.
- D. 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 area, 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. 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. In the event that the rehabilitation measures in Subsections A through E are not feasible or effective, the owner may be required to apply for a permit to install an individual spray irrigation treatment system or apply to PADEP 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. 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 may require whatever action is necessary to lessen or mitigate the malfunction to the extent necessary.

SECTION 9 Liens.

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

SECTION 10. Disposal of septage.

- A. All septage 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 PADEP. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites, and approved farmlands.
- B. Pumpers/haulers of septage 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.

- C. Pumpers/haulers of septage who remove septage from tanks located within Jim Thorpe Borough shall obtain a Jim Thorpe Borough Sewage Pump/Hauling License on an annual basis. The annual fee shall be set by Resolution of Borough Council.
- D. The pumper/hauler will be required to complete a written report (on forms provided by the Borough) of the condition of the septic tank/cesspool, condition of the baffles and general condition of the absorption area. This report, along with a copy of the pumping receipt, shall be submitted to Jim Thorpe Borough within 30 days of the date the pumping occurs. Any person who is in need of repair or replacement of any component part of their septic system shall first contact the Sewage Enforcement Officer for approval of the necessary repair or replacement.

SECTION 11. Administration.

- A. The Borough shall fully utilize those powers it possesses through enabling statutes and ordinances to affect the purposes of this article.
- B. The Borough 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 may also contract with private qualified persons or firms as necessary to carry out the provisions of this article.
- C. All permits, records, reports, files and other written material relating to the installation, operation and maintenance and malfunction of on-lot sewage disposal systems shall become the property of, and be maintained by, the Borough.
- D. The Board shall establish all administrative procedures necessary to properly carry out the provisions of this article.
- E. The Borough may establish a fee schedule, and authorize the collection of fees, to cover the cost of the Borough of administering this program.

SECTION 12. Appeals.

- A. Appeals from final decisions of the Borough 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. 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 following 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. A decision shall be rendered in writing within 30 days of the date of the hearing.

SECTION 13. Violations and penalties.

Any person who violates or permits a violation of this article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough before a District Justice, pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Borough in the enforcement of this article. No judgment shall be imposed until the date of the determination of the violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

This Ordinance was duly adopted at a meeting of Borough Council of Jim Thorpe Borough held on the 8th day of June 2023.

BOROUGH OF JIM THORPE


GREGORY STRUBINGER, PRESIDENT

ATTEST:


BROOKE KLOTZ, SECRETARY

EXAMINED AND APPROVED this 8 day of June 2023.


MICHAEL SFRANKO, MAYOR