Chapter 18

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Part 1
CONSTRUCTION REQUIREMENTS

§ 18-101. Definitions. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

The words and phrases utilized in this chapter shall have same meaning as provided in definitions set forth in Pennsylvania Sewage Facilities Act (35 P.S. § 750.1 et seq) as the same shall be amended from time to time.

§ 18-102. Regulations. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

1. From and after the effective date of this Part I all human waste, sewage, wastewater or other effluent within Kelly Township Union County Pennsylvania shall be treated and/or discharged in accordance with the Kelly Township officially adopted plan for sewage services within Kelly Township (Act 537 Plan), the laws and regulations of the Commonwealth of Pennsylvania, and applicable provisions of the ordinances of Kelly Township.

2. No person within Kelly Township Union County Pennsylvania, shall install, construct, alter, repair or modify an individual or community on lot sewer sewage system without first obtaining all permits and/or certifications required by the applicable laws and regulations of the Commonwealth of Pennsylvania and the ordinances of Kelly Township, Union County Pennsylvania.

3. No person shall occupy or utilize any structure in Kelly Township Union County Pennsylvania without making adequate provisions for the treatment and discharge of all human waste, sewage, wastewater or other effluent originations in or being discharged from the said structure. Said adequate provisions shall be in compliance with all applicable laws and regulations of the Commonwealth of Pennsylvania and the ordinances of Kelly Township Union County Pennsylvania.

4. The Board of Supervisors of Kelly Township shall from time to time, by resolution, appoint properly trained and certified persons as the Kelly Township Sewage Enforcement Officer who shall be responsible for the implementation, administration and enforcement of this Part 1 and the applicable laws and regulations of the Commonwealth of Pennsylvania (to the extent permitted and provided for in said laws and regulations) and the applicable ordinances of Kelly Township dealing with and regulating sewage.

5. The Kelly Township Sewage Enforcement Officer or his agents shall have the authority to enter upon any land in Kelly Township for the purpose of determining if provisions of this Part 1 are being complied with by the owners and/or occupants of the said lands.

6. The Board of Supervisors of Kelly Township Union County Pennsylvania shall from time to time, by resolution, establish such fees as it deems necessary and appropriate to defray the costs of inspections, issuance of permits and other services required by this Part 1.

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Part 2
CONNECTION TO KELLY TOWNSHIP MUNICIPAL AUTHORITY SEWER SYSTEM

§ 18-200. Definitions. [Ord. No. 55, 9/6/2016]

Unless the context specifically and clearly indicates otherwise, the meaning of terms and phrases used in this Part shall be as follows:

AUTHORITY — The Municipal Authority of Kelly Township, Union County, Pennsylvania, a Pennsylvania municipality authority.

BUILDING SEWER — The extension from the sewage system of any structure to the lateral of a sewer.

IMPROVED PROPERTY — Any property located within this Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

INDUSTRIAL ESTABLISHMENT — Any improved property located in this Township used wholly or in part for the manufacturing, processing, cleaning, laundering or assembly of any product, commodity or article, or any other improved property located in this Township from which wastes, in addition to or other than sanitary sewage, are discharged.

INDUSTRIAL WASTES — Any and all wastes discharged from any industrial establishment, other than sanitary sewage.

LATERAL — That part of the sewer system extending from a sewer to the curbline or, if no such lateral shall be provided, then "lateral" shall mean that portion of, or place in, a sewer which is provided for connection of any building sewer.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of an improved property.

PERSON — Any individual, partnership, company, association, society, corporation or other group or entity.

SANITARY SEWAGE — Normal water-carried household and toilet wastes from any improved property.

SEWER — Any pipe or conduit constituting a part of the sewer system used or usable for sewage collection purposes.

SEWER SYSTEM — All facilities, as of any particular time, for collecting, transporting, pumping, treating, and disposing of sanitary sewage and/or industrial wastes, owned, maintained or operated by or on behalf of the Authority or Township.

TOWNSHIP — The Township of Kelly, Union County, Pennsylvania, acting by and through its Board of Supervisors or, in appropriate cases, by and through its authorized representatives.

§ 18-201. Use of Public Sewers Required. [Ord. No. 55, 9/6/2016]

1. The owner of any improved property located in this Township and whose property adjoins or is adjacent to the sewer system or whose principal building is within 150 feet of the sewer system shall connect such improved property to the sewer system, in such manner as this Township and the Authority may require, within 60 days after notice to such owner from this Township or the authority to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property, subject to such limitations and restrictions as shall be established herein or otherwise shall be established, from time to time, by this Township and or the Authority.

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2. All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer as required under this Part, shall be conducted into a sewer, subject to such limitations and restrictions as shall be established herein or otherwise from time to time by this Township or the Authority.

3. No person shall place or deposit or permit to be placed or deposited upon public or private property or into any natural culvert within this Township any sanitary sewage or industrial wastes in violation of this Part hereof.

4. Privy vaults, cesspools, sinkholes, septic tanks; cleaning and filling.

   A. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used and maintained at any time upon any improved property which has been connected to a sewer or which shall be required under this Part to be connected to a sewer.

   B. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of this Township, shall be cleaned and filled under the direction and supervision of this Township; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by this Township, cleansed and filled, shall constitute a nuisance and such nuisance may be abated as provided by law, at the expense of the owner.

5. No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.

6. The notice by this Township or the Authority, to make a connection to a sewer, referred to in this Part, shall consist of a written or printed document requiring such connection in accordance with the provisions of this Part which shall specify that such connection shall be made within 60 days from the date such notice is served. Such notice may be given at any time after a sewer is in place which can receive and convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be served upon the owner either by personal service or be registered mail or by such other method as at the time may be provided by law.

§ 18-202. Building Sewers and Connections. [Ord. No. 55, 9/6/2016]

1. Except as otherwise provided in this Part, each improved property shall be connected separately and independently with a sewer through a building sewer. Grouping of more than one improved property on one building sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown, and then only after written permission of the Authority or Township, shall have been secured.

2. All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to shall be borne by the owner of the improved property to be connected; and which owner shall indemnify and save harmless this Township and the Authority from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a building sewer or of connection of a building sewer to .

3. A building sewer shall be connected to at the place and in such manner as designated by the Authority.

4. If the owner of any improved property located in this Township and whose property adjoins or is adjacent to the sewer system or whose principal building is within 150 feet from the sewer system,

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shall fail to connect such improved property within 60 days of notice from the Township or the Authority to so do as provided in this Part, this Township or its agent or the Authority or its agent may make such connection and may collect from such owner the costs and expenses thereof. In such case, this Township or its agent or Authority or its agent shall, upon completion of the work, send an itemized bill of the cost of the construction of such connection to the owner of the improved property to which connection has been so made, which bill shall be payable immediately. In case of neglect or refusal by the owner of such improved property to pay said bill, this Township or its agent or the Authority or its agent shall file a municipal lien for said construction within six months of the date of the completion of the construction of said connection, the same to be subject in all respects to the law providing for the filing and recovery of municipal liens.

§ 18-203. Building Sewers and Connections to Sewers. [Ord. No. 55, 9/6/2016]

1. Where an improved property, at the time connection to a sewer is required, shall be served by its own sewage disposal system or device, the existing sewer line shall be broken on the structure side of such sewage disposal system or device and attachment shall be made, with proper fittings, to continue such sewer line as a building sewer in accordance with and subject to the existing or future rules, regulations and approval of the Authority.

2. No building sewer shall be covered until it has been inspected and approved by the Authority or Township. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to .

3. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.

4. Every excavation for a building sewer shall be done in such manner as to protect to all persons and property from damage and injury. Streets, sidewalks and other public property distributed in the course of installation of a building sewer shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to this Township or the Authority.

5. If any person shall fail or refuse, upon receipt of a notice of this Township or the Authority, in writing, to remedy an unsatisfactory condition with respect to a building sewer, within the time specified in the notice, this Township or the Authority may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of this Township or the Authority.

6. This Township or the Authority, from time to time, has and may adopt, by resolution, such additional rules and regulations as it shall deem necessary and proper to carry out the terms of this Part and to protect and promote the health, safety and well being of its citizens and residents and does hereby authorize the Authority or Township to adopt such rules and regulations which, to the extent appropriate, shall be and shall be construed as part of this Part. Township does hereby approve all rules and regulations heretofore adopted by the Authority which also shall be construed to be a part of this Part.

§ 18-204. Enforcement. [Ord. No. 55, 9/6/2016]

1. In the event a person shall violate any of the provisions of this Part or any of the rules and regulations heretofore or hereafter adopted by either this Township or the Authority (with the exception of rules and regulations relating solely to user fees) it shall be considered to be in violation of this Part and

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subject to the following penalties.

2. Whenever it appears to this Township or to the Authority that there has been a violation of any provision of this Part, the Sewer Inspector, on behalf of and as agent for the Township, and or the authority shall give notice of such alleged violation as hereinafter provided. Such enforcement notice shall:

   A. Be in writing;

   B. Be served upon the owner of record of the parcel upon which the violation has occurred or be sent to said owner by certified mail (return receipt requested), and be sent to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record;

   C. State the name of the owner of record and any other person against whom the Township or the Authority intends to take action;

   D. Indicate the location of the property in violation;

   E. Identify the specific violations(s) with a description of the requirements which have not been met, citing in each instance the applicable provision(s) of this Part or rules and regulations;

   F. Contain an outline of remedial action which, if taken, will effect compliance;

   G. Specify the date before which the steps for compliance must be commenced and the date before which the steps must be completed, all such dates shall be reasonable taking into consideration the nature and extent of the violations and its effect on health and safety;

   H. Notify the recipient of its right to appeal to the Authority Board or Township Board prior to the expiration of the time period provided in the enforcement notice; and

   I. Indicate that failure to comply with the notice within the time specified, unless extended by appeal to the Authority Board or Township Board, as the case may be, shall constitute a violation and will be prosecuted or remedied as provided herein.

3. In any appeal of an enforcement notice to the Sewer Authority Board or Township Board, as the case may be, the Sewer Inspector shall have the responsibility of presenting its evidence first.

§ 18-205. Violations and Penalties. [Ord. No. 55, 9/6/2016; as amended by A.O.]

1. Any person who violates or permits a violation of this Part 2 shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than $1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this Part that is violated shall also constitute a separate offense.

2. Enforcement of this Part or the rules and regulations heretofore or hereafter adopted pursuant hereto may be made through an action in equity in the Court of Common Pleas of Union County, which shall include the payment of this Township's and the Authority's costs including but not limited to court costs, attorney fees, witness fees, expert fees and the Sewer Inspector's fees.

3. Where there is an immediate threat to the health and safety of the citizens or residents of this

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Township or public this Township and/or Authority, upon the failure of the owner to correct the same, after reasonable notice under the circumstances, may enter upon the property and take such steps as are necessary to eliminate the immediate threat to the health and safety of this Township's citizens or residents or the public. The costs of said work shall be billed to the owner and upon non-payment of the same may be entered as a municipal lien as herein above provided or added as costs in any action in equity brought against the owner as provided herein.

A. For purposes of this Part and any rules and regulation adopted pursuant hereto by either this Township or the Authority this Township does hereby constitute and appoint the Authority and its employees as the Township's agent and does further authorize the Authority's solicitor to enforce the provisions of the Part and said rules and regulations for and on behalf of this Township.

§ 18-206. Severability. [Ord. No. 55, 9/6/2016]

In the event any provisions, sections, sentence, clause or part of this Part shall be held to be invalid, such invalidity shall not affect or impair any remaining provisions, section, sentence, clause or part of this Part, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

§ 18-207. Declaration of Purpose. [Ord. No. 55, 9/6/2016]

It is declared that enactment of this Part is necessary for the protection, benefit and preservation of the health, safety and welfare of inhabitants of this Township.

§ 18-208. Easement. [Ord. No. 55, 9/6/2016]

This Township does grant to the Authority, its successors and assigns, all easements, rights-of-way and other rights necessary and desirable in, along, over and under streets, roads, lanes, courts, culs-de-sac, alleys, public ways, public ingress, egress and regress therein and thereto, along with other persons having interests or rights therein, for use in connection with constructing, replacing, repairing, altering and maintaining the sewer system to be acquired and constructed by the Authority, as the same shall exist, from time to time.

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Part 3
EASEMENTS AND RIGHTS OF WAY

§ 18-301. Grant of Easement. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

Kelly Township does grant the Kelly Township Municipal Authority, its successors and assigns, all easements, rights-of-way and other rights and privileges necessary and desirable in, along, over and under streets, roads, lanes, courts, culs-de-sac, alleys, public ways and public squares of Kelly Township, together with free ingress, egress and regress therein and thereto, for use in connection with constructing, replacing, repairing, altering, extending, improving, operating, and maintaining a sanitary sewer system as the same shall exist, from time to time.

§ 18-302. Adoption of Rules and Regulations. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

The rights and privileges granted to Kelly Township Municipal Authority under § 18-301 hereof shall be exercised by the Kelly Township Municipal Authority under and subject to such reasonable rules and regulations as shall be adopted and specified, from time to time, by resolution or ordinance of Kelly Township; and Kelly Township does reserve the right to adopt and specify, from time to time, such reasonable rules and regulations in connection with the exercise by the Kelly Township Municipal Authority of such rights and privileges.

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Part 4
INDIVIDUAL AND COMMUNITY ON-LOT SEWAGE DISPOSAL SYSTEMS

§ 18-401. Short Title; Introduction; Purpose. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; Ord. No. 43, 5/6/2014; and by A.O.]

1. This Part shall be known and may be cited as "The On-Lot Sewage Disposal Program" for Kelly Township.

2. As mandated by the municipal codes, the Clean Streams Law (35 P.S. § 691.1 et seq.), 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"), municipalities have the power and the duty 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 Kelly Township 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.

3. The purpose of this Part is to provide for the inspection, maintenance and rehabilitation of on-lot sewage disposal systems; to further permit the municipality to intervene in situations which are public nuisances or hazards to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

4. A permit shall be required by the municipality 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.

5. There may arise geographic areas within the municipality where numerous on-lot sewage disposal systems are malfunctioning. A resolution of these area-wide problems may necessitate detailed planning and a municipally sponsored revision to that area's Act 537 Official Sewage Facilities Plan. When a DEP authorized Sewage Facilities Plan Revision has been undertaken by the municipality, mandatory repair or replacement of individual malfunctioning sewage disposal systems within the study area may be delayed, at the discretion of the municipality, pending the outcome of the plan revision process. However, the municipality may compel immediate corrective action whenever a malfunction, as determined by municipal officials and/or the DEP, represents a serious public health or environmental threat.

§ 18-402. Definitions. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; Ord. No. 43, 5/6/2014; and by A.O.]

1. As used in this Part, the following terms shall have the meanings indicated:

   ACT 537 — The Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. § 750.1 et seq., known as the "Pennsylvania Sewage Facilities Act."

   AUTHORIZED AGENT — A certified sewage enforcement officer, Code Enforcement Officer, professional engineer, Plumbing Inspector, municipal secretary or any other qualified or licensed person who is delegated by the municipality to function within specified limits as the agent of the municipality to carry out the provisions of this Part.

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BOARD — The Board of Supervisors, Kelly Township, Union County, Pennsylvania.

CODES ENFORCEMENT OFFICER (CEO) — An individual employed by the municipality to administer and enforce ordinances in the municipality.

COMMUNITY ON-LOT SEWAGE DISPOSAL SYSTEM — Any system, whether publicly or privately owned, for the collection of sewage from two or more lots or uses, or two or more equivalent dwelling units, and the treatment and/or disposal of the sewage on one or more lots or at any other site.

DEP — The Department of Environmental Protection of the Commonwealth of Pennsylvania or any successor agency.

DEVELOPER — Any person, partnership or corporation which erects or contracts to erect a building on property it owns, whether with the intent to sell the building to some other party upon its full or partial completion, or upon conveyance of property on which the building is to be built, or with the intent to continue ownership of the property.

EQUIVALENT DWELLING UNIT (EDU) — For the purpose of determining the number of lots in a subdivision or land development that part of a multiple-family dwelling, commercial, industrial, or institutional establishment with sewage flows equal to 400 gallons per day for units of three bedrooms or less; for each bedroom over three, add 100 gallons.

IMPROVED PROPERTY — Any property within the municipality upon which there is erected an improvement intended for continuous or periodic habitation, occupancy or use by human beings and from which improvement sewage shall or may be discharged by any means.

INDIVIDUAL ON-LOT SEWAGE DISPOSAL 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 or by means of conveyance to another site for final disposal.

LAND DEVELOPMENT — A land development as identified in the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended, 53 P.S. § 10107.

LOT — A designated parcel, tract or area of land established by a plot or otherwise as permitted by law and to be used, developed or built upon as a unit.

MALFUNCTION — The condition which occurs when an on-lot sewage disposal system causes pollution to ground or surface waters, contamination of private or public drinking water supplies, nuisance problems or hazard to public health. Indications of malfunctioning systems include, but are not limited to foul odors, lush grass growing over the system, backup of wastewater in the attached buildings, soggy ground over the system, surfacing sewage effluent flowing over the ground and occurring at any time of the year.

MANAGEMENT PROGRAM — The management program shall encompass individual and community on-lot sewage disposal systems which discharge into the soils of the municipality. All systems shall be operated under the jurisdiction of the municipal governing body and other applicable laws of the Commonwealth of Pennsylvania.

MARGINAL SOILS — Soils that exhibit characteristics which are not ideal for the installation of conventional on lot sewage systems as determined by an SEO.

MUNICIPALITY — Kelly Township, Union County, Pennsylvania.

OFFICIAL SEWAGE FACILITIES PLAN — A comprehensive plan for the provision of adequate sewage disposal, adopted by the municipality and approved by DEP in accordance with the Act and with applicable DEP regulations.

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OWNER — Any person, corporation, partnership, etc. holding deed/title to lands within the municipality.

PERSON — Any individual, association, public or private corporation whether for profit or not for profit, partnership, firm, trust, estate, or other legally recognized entity. Whenever the term "person" is used in connection with any clause providing for the imposition of a fine or penalty or the ordering of action to comply with the terms of this Part, the term person shall include the members of an association, partnership or firm and the officers of any public or private corporation whether for profit or not for profit.

PLANNING MODULE FOR LAND DEVELOPMENT — A revision to, or exception to the revision of, the municipal Official Plan submitted in connection with the request for approval of a subdivision or land development in accordance with DEP regulations.

PUMPER/HAULER — Any person, company, partnership or corporation which engages in cleaning community or individual sewage systems and transports the septage cleaned from these systems.

PUMPERS REPORT/RECEIPT — Form which shall be used by all permitted pumper/haulers to report each pumping of on lot sewage disposal systems in the municipality.

REHABILITATION — Work done to modify, repair, enlarge, or replace an existing on lot sewage disposal system.

REPLACEMENT AREA — An area designated as the future location of an individual on lot sewage system that shall be installed should the initial individual on lot system installed or to be installed fail or otherwise become inoperable and which shall meet all the regulations of the DEP and all applicable municipal ordinances for an individual on lot sewage system, and shall be protected from encroachment by an easement recorded on the final plan as filed with the Union County Recorder of Deeds.

SEPTAGE — The residual scum and sludge pumped from septic systems.

SEWAGE — Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation.

SEWAGE ENFORCEMENT OFFICER (SEO) — A person appointed by the municipality to administer the provisions of this Part and authorized by DEP in accordance with Chapter 72, "Administration of Sewage Facilities Program" of Title 25, "Rules and Regulations" to perform percolation tests, site and soil evaluation, and issue sewage permits for on-lot disposal system.

SEWAGE FACILITIES — A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste.

SINGLE AND SEPARATE OWNERSHIP — The ownership of a lot by one or more persons which ownership is separate and distinct from that of any abutting or adjoining lot.

SUBDIVISION — A subdivision as defined by the Pennsylvania Municipalities Code, Act of July 31, 1968, P.L. 805, No. 247, as amended, 53 P.S. § 10107.

2. All other definitions of words and terms used in this Part shall have the same meaning as set forth in "Chapter 73, Standards for Sewage Disposal Facilities" of "Title 25, Rules and Regulations, Department of Environmental Protection."

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§ 18-403. Applicability. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

From the effective date of this Part, its provisions shall apply to all persons owning any property in the municipality serviced by an individual on-lot sewage disposal system or a community on-lot sewage disposal system and to all persons installing such on-lot sewage disposal systems.

§ 18-404. Permit Requirements. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

1. Regardless of lot size, 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 SEO indicating that the site and the plans and specifications of such system are in compliance with the provisions of the Pennsylvania Sewage Facilities Act (hereinafter called Act 537" or "Act") and the standards adopted pursuant to that Act.

2. 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 the municipal SEO. If 72 hours have elapsed, excepting Sundays and Holidays, since the SEO 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 SEO.

3. The municipality or SEO may require applicants for sewage permits to notify the municipality's certified SEO 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 Act 537 may be scheduled and performed by the municipality's certified SEO at the cost of the applicant.

4. No building or occupancy permit shall be issued by the municipality or its codes enforcement officers for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from the municipality's certified SEO.

5. 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 the municipality's codes enforcement officers and the structure's owner receive from the municipality's SEO either a permit for modification or replacement of the existing sewage disposal system or written notification that such a permit will not be required. In accordance with Chapter 73 regulations, the certified SEO shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

6. Sewage permits may be issued only by a certified SEO employed by the municipality for that express purpose. DEP shall be notified by the municipality as to the identity of their currently employed primary and alternate certified SEOs.

7. No sewage permit may be issued unless proof is provided the owner of record has owned the lot since May 15, 1972, or that Act 537 planning for that lot has been provided by the municipality and approved by DEP.

8. No final approval of a subdivision or land development plan may be made and no recording of deeds for newly created lots completed until formal Act 537 planning approval by DEP is received.

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§ 18-405. Replacement Areas. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

1. Requirements.

   A. Any supplements, revisions, or exceptions (Component I or II) to the municipality's Official Sewage Facilities Plan which are prepared pursuant to the applicable regulations of the DEP for subdivision or development of land within the municipality shall provide for the testing, identification, and reservation of an area of each lot or property to be developed suitable for the installation of a replacement on-lot sewage disposal system. This requirement is in addition to the testing, identification, and reservation of an area for the primary sewage disposal system.

   B. No permit shall be issued for any proposed new on-lot sewage disposal system on any newly created or subdivided property or unimproved tract of land or lot in the municipality unless and until a replacement area is tested, identified and reserved.

   C. After the effective date of this Part, a replacement area for an individual on lot sewage system shall be required for all unimproved lots, or all lots to be created within a subdivision, which are not serviced or to be serviced by a community sewerage system. Improved lots existing prior to the effective date of this Part and serviced by an on lot sewage system shall be exempt from the requirements of this section.

   D. The replacement area provided shall comply with the Act and with all regulations issued by DEP concerning individual on-lot and community on-lot sewage systems, including isolation distances, and with the terms of this Part and any other applicable municipal ordinances, law, statutes or regulations.

2. Identification of Replacement Area.

   A. Each applicant who shall submit a plan for the subdivision or development of land or who shall apply for a permit for the installation of an individual on-lot or community on-lot sewage system, not already serviced by an on lot system or who shall request approval of a planning module for land development or the adoption of a revision, exception to revision, or supplement to the official plan shall demonstrate to the satisfaction of the certified SEO that a suitable area exists on the lot or on each lot to be created for an initial individual on lot sewage system and for the replacement area. The certified SEO shall perform or observe all tests required for the location of an individual on-lot or community on-lot system to confirm the suitability of the replacement area. Allowance of open land for the replacement area without testing performed or observed by the certified SEO shall not constitute compliance with the requirements of this section.

   B. The location of the initial individual on lot sewage system and the replacement area as confirmed by the certified SEO shall be identified on the plot plans and diagrams submitted as part of the permit application.

   C. Other identification.

      (1) If the application has been submitted as part of an application for subdivision or land development approval or as part of a request that the municipality approve a planning module for land development or amend its official plan, or a request for an exception to the revision of the official plan, the location of each initial individual on-lot or community on-lot sewage system and each replacement area shall be noted upon the plot plans. If the

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application is for subdivision or land development approval, a note constituting a permanent easement shall be added to the plans stating that no improvements shall be constructed upon the replacement area, and the deed to be recorded for each lot created as part of the subdivision or land development shall contain language reflecting this limitation.

(2) If the application is for an unimproved tract of land or lot not serviced by an existing on lot system the owner of said tract of land or lot shall execute and record a document in the Office of the Recorder of Deeds in and for Union County, Pennsylvania establishing a permanent easement for the location of the on lot system and the replacement system.

D. Any revisions to a permit or plan affecting a replacement area which previously has been approved pursuant to the provisions of this Part shall be reviewed for approval by the municipal board or its authorized representative and the provisions of this Part with regard to recording shall apply.

3. Construction Restrictions.

A. The easement for the replacement area noted upon the plan and recorded with the Union County Recorder of Deeds shall state that no permanent or temporary improvements of any character, other than shallow rooted plant matter shall be constructed upon the replacement area.

B. If a person desires to construct such improvements on the designated replacement area, such person shall demonstrate to the satisfaction of the certified SEO that an alternate replacement area, which complies with all applicable regulations of the DEP, this Part, and all other applicable municipal ordinances, exists upon the lot. If such an alternate replacement area shall be identified, the alternate replacement area may be considered to be the replacement area required by this Part and shall be designated as the replacement area.

§ 18-406. Inspections. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

1. Any on-lot disposal system may be inspected by the municipality's certified SEO or authorized agent at any reasonable time after the effective date of this Part.

2. Any person owning a building served by an on lot sewage disposal system shall have an initial basic inspection conducted in conjunction with the initial pumping required by § 18-408 of this Part for the purpose of determining the type and functional status of each sewage disposal system in the municipality. Thereafter that person shall have a basic inspection in conjunction with each pumping required by § 18-408 of this Part to assure the proper function of all systems in the municipality.

3. A basic inspection will include a physical tour of the property, a visual inspection of the septic tank, and a determination as to whether or not a more detailed inspection is necessary. Upon completion of the basic inspection and septic tank pumping, a copy of the municipality-provided basic inspection/pumping report shall be furnished to the owner and current resident, and to the municipality within 30 days of the date of inspection/pumping by the person making the inspection and/or pumping. The report shall include (at a minimum) all of the following information:

A. Date of basic inspection/pumping;

B. Name and address of system owner;

C. Address of system/tank's location, if different from owner's;

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D. Description and diagram of the location of the system;

E. Size of tanks and disposal field;

F. Current occupant's name and number of users;

G. Amount of septage or other solid or semi-solid material removed;

H. Destination of septage (name of treatment facility);

I. Indication of need (or lack of need) for a more detailed inspection;

J. Name, address and telephone number of the person or entity making the inspection and/or pumping.

4. If deemed necessary through the basic inspection, a more detailed inspection by the municipality's certified SEO or authorized agent will occur. This detailed inspection may include a physical tour of the property, the taking of samples from surface water, wells, other ground water 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 the ultimate destination of wastewater generated in the structure. A detailed inspection report shall be furnished to the owner, current resident, and the municipality within 30 days of the date of the inspection by the person making the inspection. The report shall include (at a minimum) all of the following information:

   A. Date of detailed inspection;

   B. Name and address of system owner;

   C. Address of system/tank's location, if different from owner's;

   D. Description and diagram of the location of the system, including location of access hatches, risers, and markers;

   E. Size of tanks and disposal field;

   F. Current occupant's name and number of users;

   G. Indication of any system malfunction observed;

   H. Results of any and all soils and water tests;

   I. Any remedial action required; and

   J. The name, address and telephone number of the person making the inspection.

5. The municipality's certified SEO or authorized agent shall have the right to enter upon land for the purposes of inspections described above. In the event access to inspect the property is denied, the following steps shall be taken:

   A. The matter will be officially referred to the governing body of the municipality for action.

   B. The governing body of the municipality may schedule a review at the next scheduled meeting of the municipal board or, if the situation threatens the health or safety of the residents of the municipality, the Board may commence an immediate procedure to obtain a search warrant from the Magisterial District Judge.

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C. Upon receipt of a search warrant to inspect the property, the certified SEO or authorized agent of the municipality shall be accompanied by an officer of the municipal or state police and the inspection shall be completed in accordance with this subsection.

6. The municipality's certified SEO or authorized agent shall inspect systems as described above. Should said inspections reveal that the system is malfunctioning; the municipal certified SEO shall take action to require the correction of the malfunction. If total correction is not technically or financially feasible in the opinion of the municipal certified SEO and a representative of the DEP, then action by the property owner to mitigate the malfunction shall be required.

§ 18-407. Operation. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

1. 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 non-domestic oil.

C. Toxic or hazardous substances or chemicals, including but not limited to, pesticides, disinfectants, acids, paints, paint thinners, herbicides, gasoline and other solvents.

D. Clean surface- or groundwater, including water from roof or cellar drains, springs, basement sump pumps and French drains.

§ 18-408. Maintenance. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; Ord. No. 43, 5/6/2014; Ord. No. 68, 3/2/2021; and by Ord. No. 82, 9/5/2023]

1. Any person owning a building served by an on-lot sewage disposal system shall have the septic tank pumped by a qualified pumper/hauler within three years of the effective date of this Part. Thereafter, that person shall have the tank pumped at least once every three years or as described in § 18-408, Subsections 2 and 3. Basic inspections of the on-lot disposal system required by § 18-406 of this Part shall occur in conjunction with each pumping. Provided, however, that the description and diagram of the location of the system as provided in § 18-406 shall not be required on the report submitted by the person conducting the inspection if a previous inspection report included the description and diagram of the location and the said location has not changed.

A. To facilitate the pumping of septic tanks Municipality shall, by resolution, establish separate districts within the Municipality and a pumping and inspection of septic tanks and on-lot sewage disposal systems scheduled for each district. Any person owning a building situate in the Municipality that is served by an on-lot sewage disposal system shall comply with the schedule established by the Municipality by resolution and shall have the said septic tank pumped and said inspection performed in compliance with the said schedule. After the initial pumping and inspection all tanks and systems shall be pumped and inspected every three years.

2. An option will be provided to allow the property owner to request a waiver from pumping, and therefore basic inspection, every three years if, because of tank size, household size, or seasonal use, it is determined by the municipality's certified SEO that such pumping is not needed. In such cases, a waiver can be granted at the discretion of the municipality's certified SEO. This waiver will be applicable for a maximum of six years between pumpings, meaning that only one pumping/inspection cycle can be missed as a result of the waiver. Also, a waiver shall be non-transferable upon sale of

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the property.

3. The required pumping and therefore basic inspection frequency may be increased at the discretion of the municipality's SEO or 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 reasons as determined by the SEO or agent.

4. If any person can prove that their system tank had been pumped within three years of the six-month anniversary of the effective date of this Part, the SEO or agent may delay that person's initial required pumping and inspection to conform with the general pumping/inspection frequency requirement.

5. 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 municipality within six months of the effective date of this Part. Thereafter, service receipts shall be submitted to the municipality at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for aerobic treatment exceed those required for septic tanks.

6. Any person owning a building served by a cesspool or dry well shall have that system pumped and inspected according to the schedule prescribed for septic tanks as noted in § 18-408. As an alternative to this scheduled pumping of the cesspool or dry well, the owner may secure a sewage permit from the certified SEO for a septic tank to be installed preceding the cesspool or dry well. For a system consisting of a cesspool or dry well preceded by an approved septic tank, only the septic tank must be pumped at the prescribed interval.

7. The municipality may require additional maintenance activity as needed including, but not limited to, cleaning and unclogging of piping, servicing and the repair of mechanical equipment, leveling of distribution boxes, tanks and lines, removal of obstructing roots or trees, the diversion of surface water away from the disposal area, etc.

8. Upon completion of each required pumping and basic inspection, the pumper/hauler shall complete the municipality provided basic inspection/pumping report which includes information as specified in § 18-406 of this Part. Provided, however, that the description and diagram of the location of the system as provided in § 18-406 shall not be required on the report submitted by the person conducting the inspection if a previous inspection report included the description and diagram of the location and the said location has not changed. Copies shall be furnished to the owner, current resident and to the municipality within 30 days of the date of the pumping/inspection by the person performing the inspection and/or pumping.

9. Any person or entity performing the inspection or pumping services as provided in this Part 4 shall register with the entity administering the provisions of this Part 4 by completing such forms as the entity shall require and shall obtain and maintain liability insurance in the amount of $500,000 with an insurance company authorized to do business in the Commonwealth of Pennsylvania. The said insurance policy shall name Kelly Township and the entity as additional insured and include defense coverage. The said person or entity shall provide Kelly Township and the entity with proof of said insurance annually within 10 days of the effective date of said policy.

§ 18-409. System Rehabilitation. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

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1. No person shall operate and maintain an on lot sewage disposal system in such a manner that it malfunctions. All liquid wastes, including but not limited to kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment system or 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 to discharge has been obtained from the DEP.

2. The municipality or its authorized agent shall issue a written notice of violation to any person who is the owner of a property in the municipality which is found to be served by a malfunctioning on lot sewage disposal system or which is discharging raw or partially treated sewage without a permit.

3. Within seven days of notification by the municipality that a malfunction has been identified, the property owner shall make application to the municipality's certified SEO for a permit to repair or replace the malfunctioning system. Within 30 days of initial notification by the municipality, construction of the permitted repair or replacement shall commence. Within 60 days of the original notification by the municipality, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case the municipality or its authorized agent shall set an extended completion date.

4. The municipality's certified SEO 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 or other alternatives as appropriate for the specified site.

5. In lieu of, or in combination with, the remedies described in Subsection 4 above, the municipal SEO 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 and appliances. Wastewater generation in the structure may also be reduced by requiring changes in water usage patterns in the structure served.

6. In the event that the rehabilitation measures in Subsection 1 through Subsection 5 are not feasible or do not prove effective, the municipality may require the owner to apply to the DEP for a permit to install a single residence treatment and discharge system or some other acceptable system. Upon receipt of said permit the owner shall complete construction of the system within 60 days.

7. Should no remedies prove totally effective in eliminating the malfunction of an existing disposal system, the property owner is not absolved of responsibility for that malfunction. The municipality may require whatever action is necessary to lessen or mitigate the malfunction to the extent that it feels necessary.

§ 18-410. Liens. [Ord. No. 62, 9/1/2020]

1. The municipality, upon written notice from the municipal SEO that an imminent health hazard exists due to failure of a property owner to maintain, repair or replace an on lot sewage disposal system as provided under the terms of this Part, shall have the authority to perform or contract to have performed, the work required by the certified SEO.

2. Should a property owner fail to comply with the provisions of § 18-408 of this Part, the municipality shall have the authority to perform or contract to have performed the work required by the said § 18-408.

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3. The Municipality shall send a written notice to the property owner advising the property owner that if the property owner does not, within 15 days of the date of the notice, perform the work provided in this § 18-410, the Municipality shall perform the said work or contract to have said work performed. The said notice shall be sent by first class mail to the address to which the real estate property taxes for the property are sent.

4. The property owner shall be charged for the work performed together with an administrative fee of $100 and if not paid within 10 days of the mailing of the invoice for the same, a lien shall be entered in accordance with the law.

§ 18-411. Disposal of Septage. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; Ord. No. 43, 5/6/2014; and by A.O.]

1. All septage originating within the municipality shall be disposed of at sites or facilities approved by the DEP. Approved sites or facilities shall include but not be limited to the following: Septage treatment facilities, wastewater treatment plants, composting sites, and approved farm lands.

2. All septage pumpers/haulers operating within the municipality shall be licensed by the DEP or its authorized agent and shall, upon request, exhibit proof of the same to the municipality.

3. All septage pumpers/haulers shall also be registered annually with the municipality or its authorized agent for the performance of basic inspections and completion of basic inspection/pumping reports.

4. All septage pumper/haulers operating within the municipality 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 through 6018.1003. Any septage pumper/hauler who violates any of the provisions of this Part or regulations of the municipality, the conditions of its state permit, or any state or local law governing its operation shall, upon conviction thereof, be subject to the criminal penalties of 35 P.S. § 6018.606 and, in addition thereto, may be subject to the civil penalties of 35 P.S. § 6018.605. If any pumper/hauler shall have been convicted on two occasions of any violation of this Part, or for violating the conditions of its state permit, or of any state or local law governing its operation, the municipal board shall have the power to suspend said pumper/hauler from operating within the municipality for a period of not less than six months or more than two years for each violation, as determined by the municipality. Each day the violation continues shall constitute a separate offense.

§ 18-412. Administration. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

1. The municipality shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this Part.

2. The municipality shall employ qualified individuals to carry out the provisions of this Part. Those employees shall include a certified SEO and may include a codes enforcement officer, secretary, administrator and other persons as required. The municipality may also contract with qualified persons or firms as necessary to carry out the provisions of this Part.

3. All permits, records, reports, files and other written material relating to the installation, operation and maintenance and malfunction of on lot sewage disposal systems in the municipality shall become the property of the municipality. Existing and future records shall be available for the public inspection during required business hours at the official municipal office. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the municipality's sewage management program shall be made available, upon request, for inspection by representatives of the

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DEP.

4. The municipal board may establish by resolution a fee schedule to cover the cost of administering this program. Fees shall be collected by the municipality or its authorized agent.

5. The municipal board shall establish all administrative procedures necessary to properly carry out the provisions of this Part.

§ 18-413. Appeals. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; and by Ord. No. 43, 5/6/2014]

1. Appeals from decisions of the municipality or its authorized agents under this Part shall be made to the municipal board in writing within 30 days from the date of the decision in question.

2. The appellant shall be entitled to a hearing before the municipal board at its next regularly scheduled meeting, if the appeal is received at least 14 days prior to that meeting. If the appeal is received within 14 days of the next regularly scheduled meeting, the appeal shall be heard at the subsequent 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 municipality. Evidence may be introduced at the hearing.

3. A decision shall be rendered in writing within 30 days of the date of the hearing. If a decision is not rendered within 30 days, the release sought by the appellant shall be deemed granted.

4. Appeals from the Board's decision may be taken in accordance with the law.

§ 18-414. Violations and Penalties. [Ord. No. 33, 12/6/2011; as amended by Ord. No. 35; 4/3/2012; Ord. No. 40, 8/13/2013; Ord. No. 43, 5/6/2014; and by A.O.]

1. Violations of this Part shall be enforced by an action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required by Pennsylvania Rule of Criminal Procedure. Unless another penalty is provided for elsewhere in this Part, any person, firm or corporation violating any provision of this Part, or who fails to act in compliance with this Part, shall be subject to the summary offense penalties of 35 P.S. § 750.13 and, in addition thereto, may be subject to the civil penalties of 35 P.S. § 750.13a.

2. Failure to comply with the provisions of this part within 30 days after the owner or occupier of said real estate has been convicted of or pleaded guilty to a violation shall constitute a violation and be prosecuted as herein provided.

3. Nothing herein shall prevent Kelly Township from bringing an action in equity to enforce the provisions of this part. In such event the person or persons violating this part shall pay to the Township all costs of the said action, including Township's Attorney's fees and the costs.

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