

**TOWNSHIP OF SCHUYLKILL,
SCHUYLKILL COUNTY, PENNSYLVANIA
ORDINANCE NO. 2-2005**

AN ORDINANCE TO PROTECT THE HEALTH OF THE CITIZENS AND THE ENVIRONMENT OF SCHUYLKILL TOWNSHIP BY ADOPTING AND ENFORCING UNIFORM STANDARDS CONCERNING THE LAND APPLICATION OF SEWAGE SLUDGE; ESTABLISHING MAXIMUM LIMITS FOR CONCENTRATIONS OF POLLUTANTS AND THE RATES OF APPLICATION PER ACRE OF LAND; REQUIRING TESTING OF SEWAGE SLUDGE FOR METALS, CHEMICALS, PATHOGENS, RADIOACTIVITY, pH, VECTOR ATTRACTION, AND OTHER POLLUTANTS; REQUIRING SITE AND APPLICANT REGISTRATION FOR THE LAND APPLICATION OF SEWAGE SLUDGE WITHIN THE TOWNSHIP; AUTHORIZING THE INSPECTION OF LAND APPLICATION OF SEWAGE SLUDGE; AND SETTING FORTH PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF SCHUYLKILL, SCHUYLKILL COUNTY, PENNSYLVANIA, AS FOLLOWS:

SECTION 1-NAME

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

SECTION 2-AUTHORITY

This Ordinance is enacted pursuant to the authority granted to Schuylkill 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, Article VII, as codified in 53 P.S. § 65101 et seq., which authorizes Schuylkill 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 VII, as codified in 53 P.S. § 66501 et seq., which authorizes Schuylkill Township to enact ordinances concerning the protection of the Township residents' health, the regulation of refuse material and nuisances, and the promotion of public safety;

The provisions of The Second Class Township Code, Article VII, as codified in 53 P.S. § 67101, which empowers Schuylkill Township to prohibit the accumulation of ashes, garbage, solid waste, and other refuse materials within the Township;

Pennsylvania Constitution, Article I, Section 27;

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

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

Pennsylvania Air Pollution Control Act, 35 P.S. § 4001 et seq.;

Clean Air Act, 42 U.S.C. §§ 7416 and 7431;

Safe Drinking Water Act, 35 P.S. § 7211 et seq.;

Right-to-Know Act, 42 U.S.C. § 11001 et seq., 35 P.S. § 7301 et seq.;

Nutrient Management Act, 3 P.S. § 1701 et seq.;

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

General Pretreatment Regulations for Existing and New Sources of Pollution, 40 C.F.R. Part 403.

SECTION 3-FINDINGS AND PURPOSE

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

That the land application of sewage sludge in Schuylkill Township poses a significant threat to the health, safety, and welfare of the citizens and the environment of Schuylkill Township if the levels of heavy metals, pathogens, chemicals, radioactive material, vector attractants, or other pollutants in the sewage sludge exceed the levels determined to be safe by the Pennsylvania Department of Environmental Protection ("DEP");

That under current law, Schuylkill Township is powerless to prohibit the land application of sewage sludge that complies with all applicable laws and regulations;

That in order to protect the health, safety, and welfare of the residents of Schuylkill Township, the soil, groundwater, and surface water, the environment and its flora and fauna, and the practice of sustainable agriculture, it is necessary to register each sewage sludge site and land applicant operating in Schuylkill Township and to test each truckload of sewage sludge that is applied within the Township to determine if certain specified metals, chemicals, pathogens, radioactive material, vector attractants, and other pollutants are present, to determine the levels of said pollutants, and to determine whether those levels exceed the levels allowed under applicable laws and regulations;

That DEP does not possess sufficient personnel to ensure that persons land applying sewage sludge in Schuylkill Township are doing so in compliance with Federal and State laws and regulations, and so Schuylkill Township must enforce such compliance by methods consistent with Federal and State laws and regulations concerning land application of sewage sludge, including requiring site registration, land applicant registration, and sewage sludge testing prior to land application of sewage sludge in Schuylkill Township;

That a testing fee of \$38.00 per ton of sewage sludge is necessary to cover the cost of testing each truckload of sewage sludge to be land applied in Schuylkill Township, which fee has been determined as follows: Schuylkill Township provided four laboratories with a list of the tests required and received price quotations from each laboratory. The average of the four quotations was \$653.00 per truckload. None of the laboratories could provide radiological analysis, which can be provided by DEP at a cost of approximately \$130.00 per truckload. The total cost of testing thus is \$783 per truckload. In addition, Schuylkill Township will have to provide an employee or agent to take samples for each truckload. The Township has thus concluded that the sum of \$863.00 per test is a reasonable estimate of the Township's cost to test each truckload. The trucks delivering sewage sludge carry an average of twenty-three (23) tons of sludge, which results in a total cost of \$37.52 per ton, which, together with administrative costs, justifies a total testing fee of \$38.00 per ton of sewage sludge; and

That Schuylkill Township's cost of testing sewage sludge should be borne by those persons land applying sewage sludge in Schuylkill 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.

Administrative Completeness: An application is administratively complete if it contains the necessary analyses, fees, documents, and information, regardless of whether the analyses, fees, documents, and information would be sufficient for the issuance of the permit or the determination of applicability. 25 Pa. Code Chapter 271, Subchapter I, § 271.822.

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

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. 25 Pa. Code Chapter 271, Subchapter A, § 271.1.

DEP: Pennsylvania Department of Environmental Protection.

EPA: Environmental Protection Agency

Final Action: The granting, denial, suspension, revocation, or reissuance of a site registration or land application registration, any truckload acceptance or rejection, and the issuance, failure to issue, or revocation of a notice of violation, compliance order, injunction, cease and desist order, or any other order.

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. 25 Pa. Code Chapter 271, Subchapter J, § 271.907.

Laboratory or Qualified Laboratory: A facility that is certified by DEP to test sewage sludge samples for metals, chemicals, pathogens, radioactivity, vector attractants, and other pollutants for compliance with all applicable laws and regulations prior to the land application of the sewage sludge.

Ordinance: The Schuylkill Township Sewage Sludge Safety Ordinance, as amended.

Pathogens: Organisms that cause disease, including, without limitation, certain bacteria, protozoa, viruses, and viable helminth ova.

Permit Area: The area of land and water within the boundaries of any DEP permit that is designated on the permit application maps as approved by DEP.

Person: Any natural person, company, corporation, business, contractor, joint venture, trust, trustee, court appointed representative, syndicate, association, partnership, firm, club, institution, cooperative enterprise, or agency; any government corporation, municipal corporation, city, county, municipality, district, or other political subdivision, department, bureau, agency, or instrumentality of federal, state, or local government; any other entity recognized by law as the subject of rights and duties; and any officer, agent, employee, independent contractor, or representative of any kind of any of the aforementioned persons.

Pretreatment User: A person subject to the National Pretreatment Standards under 40 C.F.R. Chapter 1, Part 403, as amended.

Pollutant: An organic substance, inorganic substance, a combination of organic substances, a pathogenic organism, or an other substance identified by DEP that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly from ingestion through the food chain, could, on the basis of

information available to DEP, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformation in either organisms or offspring of organisms. 25 Pa. Code Chapter 271, Subchapter J, § 271.907.

Pollutant Limit: A numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (for example, milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (for example, pounds per acre or kilogram per hectare); or the volume of a material that can be applied to a unit area of land (for example, gallons per acre or liters per hectare). 25 PA Code Chapter 271, Subchapter J, Sec. 271.907.

Sewage 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 pumpings 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. 25 Pa. Code Chapter 271, Subchapter A, § 271.1

Site or Sewage Sludge Site: A surveyed area of land used or to be used for the land application of sewage sludge.

Site Registration Applicant: Any person responsible for registering or obtaining a permit for a sewage sludge site under applicable Federal, State, and local laws and regulations.

Source or Sewage Sludge Source: The wastewater treatment facility or other facility that produces the sewage sludge to be land applied.

Substantially Owned or Controlled: A person substantially owns or controls another person if he has the ability to evade the intent of Section 11.6 of this Ordinance by using that person to land apply sewage sludge, operate a sewage sludge site, or prepare sewage sludge for disposal in Schuylkill Township.

Township: Schuylkill Township in Schuylkill County, Pennsylvania, its Board of Supervisors, or its representatives or agents.

Transportation: The conveyance of sewage sludge from one point to another.

Treatment Works: Either a Federally owned, publicly owned or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste liquid nature. 25 PA Code Chapter 291, Subchapter J, § 291.907.

Vector Attraction: The characteristic of sewage sludge that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

Water Source: Groundwater, spring or surface water which is used for human use or consumption.

SECTION 6-REQUIREMENTS AND STANDARDS

It shall be unlawful for any person to land apply sewage sludge in Schuylkill Township unless:

Section 6.1: The sewage sludge site has a valid permit as may be required by DEP or any agency under the laws of the Commonwealth of Pennsylvania and the United States of America; and

Section 6.2: The sewage sludge site has a valid site registration issued by Schuylkill Township under Section 7 of this Ordinance; and

Section 6.3: The sewage sludge applicant holds a valid permit as may be required by DEP or any other agency under the laws of the Commonwealth of Pennsylvania and the United States of America; and

Section 6.4: The sewage sludge applicant holds a valid land application registration issued by Schuylkill Township under Section 8 of this Ordinance; and

Section 6.5: The site registration applicant and sewage sludge applicant comply with all applicable Federal, State, and local laws and regulations concerning the land application of sewage sludge, including, without limitation, 40 C.F.R. Chapter 503, 25 Pa. Code Chapters 271, 275, 287, and 291, and this and other Township ordinances, all as amended.

Section 6.6: All analyses required by this Ordinance shall be performed by a laboratory whose work is approved and accepted by DEP.

Section 6.7: Any vehicle hauling sewage sludge, in any form shall be of such construction so as to prevent any part of the load from spilling or leaking at all times. The operator of each vehicle must have current vehicle registration, vehicle safety inspection, YCSWA license and a copy of the LAR and vehicle manifest for the contents of that vehicle.

(1) Vehicle manifest must show the GVW of the vehicle and the source of the sludge.

(2) The transporting (note-this is transportation only) of sewage sludge within Schuylkill Township will be restricted to Monday through Friday between 6 a.m. and Dusk.

Section 6.8: The Township may enforce the PA DEP regulations, as amended, regarding the land application of sewage sludge consistent with requirements of those regulations.

Section 6.9: Sewage sludge containing radioactive waste from any source is prohibited in Schuylkill Township. Beta and Gamma Radiation emanating from sewage sludge shall not exceed the natural background radiation levels of Schuylkill Township as determined by current standardized radiometric procedures carried out by a laboratory whose work is accepted by DEP.

Section 6.10: The Federal and State Government have established regulations for the land application of sewage sludge. These regulations have been incorporated into this Ordinance. The following regulations apply to the Land Application of sewage sludge as of the date of this Ordinance.

Section 6.11: A person may not apply sewage sludge in a way that will cause surface or groundwater pollution, cause or allow the attraction, harborage or breeding of vectors, cause or allow emissions of any malodorous air contaminants under Section 123.31 (b), adversely affect private or public water supplies, or cause any public nuisance. 25 PA Code Chapter 271, Subchapter J, Sec. 271.902 (g).

Section 6.12: No sewage sludge shall be applied to the land where such application shall have a direct adverse effect on the public health and safety, constitute an environmental or health hazard or otherwise cause a nuisance.

Section 6.13: Sewage sludge shall not be deposited on any land in Schuylkill Township if the sewage sludge exceeds State and Federal standards for land application of sewage sludge.

Section 6.14: Soil pH shall be 6.0 or greater prior to the land application and shall be maintained at 6.0 or greater for the life of land application operations and for two additional years following the last application of sludge to the site.

Section 6.15: All sewage sludge applied to land in Schuylkill Township shall not be applied to the land at a rate that is greater than the agronomic rate. 25 PA Code Sec. 271.915 (f).

Section 6.16: Current regulations require that the following site restrictions for crops grown on sewage sludge sites be followed.

- (i) Food crops with harvested parts that touch the sewage sludge soil mixture and are totally above the land surface may not be harvested for 14 months after application of sewage sludge.
- (ii) Food crops with harvested parts below the surface of the land may not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer period to incorporation into the soil.
- (iii) Food crops with harvested parts below the surface of the land may not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.
- (iv) Food crops, feed crops and fiber crops may not be harvested for 30 days after application of sewage sludge.
- (v) Animals may not be allowed to graze on the land for 30 days after application of sewage sludge.

(vi) Turf grown on land where sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the Department.

(vii) Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.

(viii) Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge. 25 PA Code § 271.932 (b)(5).

Section 6.17: No sewage sludge shall be applied to land where such application would adversely affect air quality of the Schuylkill Township residents, evidenced by the emission of regulated compounds in amounts exceeding federal or state occupational, health and safety standards.

Section 6.18: Sewage sludge may not be applied to land where:

(1) Root vegetables or vegetables which are eaten raw are grown or will be grown within 2 years.

(2) Tobacco is grown or will be grown.

(3) Sewage sludge shall be applied to the soil surface or incorporated in a manner that prevents ponding or standing accumulations of liquid or sludge.

(4) No person or municipality may use spray irrigation equipment to apply sewage sludge unless the person has demonstrated to the Department in the permit application that the equipment will not cause aerosol transport offsite, and the Department has approved the equipment as part of the permit.

(5) Livestock may not be allowed to graze for at least 2 months after the application of sludge. 25 PA Code Sec. 275.203 (d).

SECTION 7-SITE REGISTRATION

Before any person may land apply sewage sludge on a site in Schuylkill Township, the site must receive a site registration from Schuylkill Township. Site registrations issued by Schuylkill Township shall be valid for a period concurrent with the analogous DEP permit. Schuylkill Township shall issue or deny the site registration within the later of : (a) twenty-four (24) hours after receiving the results of any background tests conducted pursuant to Section 10.1; or (b) thirty (30) days after the site registration applicant complies with this section, under which the site registration applicant must do the following:

Section 7.1: A copy of the DEP application and any and all amendments thereto approved by DEP for the land application of sewage sludge on the site including proof of consent of the landowner of the property to be used as the sewage sludge site with tax map and parcel number shall be submitted to Schuylkill Township.

Section 7.2: Application shall be in writing in such form and number as required and shall be submitted to the Township. Application shall be accompanied by an application map as required by DEP, on a scale in which 1 inch equals no more than 400 feet, on paper sized no greater than 22 x 36 inches showing the location and necessary narrative descriptions for lands and data, including:

(1) Boundaries and names of present owners of record of land, both surface and subsurface, including easements, rights-of-way and any other property interests, for the PADEP Permit area.

(2) Boundaries of the land where sewage sludge will be applied, including all setbacks as required by Federal and DEP regulations as amended. 25 PA Code Subchapter C, 275.202.

Except for areas permitted by the Department prior to April 9, 1988, the land application of sewage sludge may not be conducted:

1. Within 100 feet of an intermittent or perennial stream
2. Within 300 feet of a water source, unless otherwise approved by the Department in writing
3. Within 1,000 feet upgradient of a surface water source unless otherwise approved by the Department, in writing
4. Within 25 feet of a bedrock outcrop
5. Within 50 feet of a property line within which the sludge is applied, unless otherwise approved by the Department, in writing
6. Within 100 feet of a sinkhole or area draining into a sinkhole
7. Within 25 feet of the perimeter of an undrained depression
8. In or within 100 feet of an exceptional value wetland as defined in 25 PA Code Chapter 271, Section 105.17 (relating to wetlands)
9. Within 300 feet from an occupied dwelling unless the current owner there has provided a written waiver consenting to activities closer than 300 feet
10. In an area without an implemented erosion and sedimentation control plan or a farm conversation plan
11. Within 11 inches of the seasonal high water table, nor within 4 feet of the regional groundwater table

12. Where land application of sewage sludge is to be applied for agricultural utilization on slopes that exceed 25%, unless otherwise approved in writing by the Department
13. Where land application of sewage sludge is to be applied for land reclamation on slopes that exceed 35%, unless otherwise approved in writing by the Department
14. Where an adverse effect occurs to the food chain, causes odors or allows vectors
15. Where nitrogen from manure disposed of at the site satisfies the nutrient needs of the farm
16. When the ground is saturated, frozen, covered with snow or during periods of rain
17. Where no sludge storage capacity or other means of storage or disposal exists at the generating facility

Section 7.3: Soil Analysis: The applicant for a Site Registration shall obtain an analysis of soil taken from the site where sewage sludge is to be spread detailing organic and inorganic chemicals and pH. Soil concentrations of all chemicals shall be expressed in mg/kg on a dry weight basis. Sample points must be indicated on the soils map. Soil samples shall be expected to meet all Federal and State regulations applicable to sewage sludge. Soil sample results that indicate a concentration in excess of the cumulative loading limits of the Federal and State regulations shall be forwarded to PA DEP by Schuylkill Township. Soil samples shall be collected according to PA DEP approved methods and analyzed by a laboratory whose work is approved by PA DEP. Soil analysis shall be conducted in accordance with PA DEP regulations and those results shall be submitted to the Township with the application. Soil analysis shall be submitted with each site registration and site registration renewal.

Prior to approval of the Site Registration, the Township may request the opportunity to collect and analyze representative soil samples, at Township expense. Schuylkill Township may also analyze soil for pathogens, including but not necessarily limited to: fecal coliform, salmonella sp., clostridium, cryptosporidium and enteric viruses.

Section 7.4: Groundwater: Sewage sludge shall not contaminate a water source. Groundwater quality tests shall be used to establish a baseline for potential pollutant concentrations. A Site Registration application shall be accompanied by a Background Groundwater Analysis Report reviewed by a qualified hydrologist chosen by the applicant. The intent of the Background Groundwater Analysis Report is to provide a description of the background groundwater quality of the proposed site prior to the issuance of the Site Registration. The Background Groundwater Analysis Report shall consist of the following:

1. The depth to regional groundwater table;
2. The depth to seasonal high water table as indicated by the presence of soil mottling or as altered by drainage devices installed under an approved soil conservation plan;

3. A description of the use or uses of the groundwater from the aquifer underlying the proposed site registration area; and
4. Two analyses, provided existing groundwater sources are available, one of which shall be downgradient, if possible, from the sludge application area, of groundwater from sources located within the boundaries of a proposed site registration area. In the event that existing groundwater sources are not available on the proposed site registration area, the applicant shall make a reasonable effort to obtain groundwater analysis of existing wells, springs, etc. including household wells, from adjacent properties within 75 feet of the property boundary. The Township shall assist the applicant in this regard. A map showing the location of the test sites shall be included. The applicant shall only be required to use existing wells, springs, etc. including household wells, as water sources.

Groundwater samples from these water sources shall be obtained and analyzed, detailing the inorganic and organic chemicals contained in the samples. The analysis of the test sites shall also include testing for fecal coliform.

The Township may request the opportunity to collect and analyze representative water samples at sample points delineated on the map, at the Township expense. The Township may analyze the inorganic and organic chemicals contained in the sample. The Township may also analyze, but not necessarily be limited to, water samples for the concentrations of the following pathogens: total coliform, salmonella sp., clostridium, cryptosporidium and enteric viruses.

5. All data on groundwater sampling performed within the previous 12 month period from wells associated with the proposed Site Registration area shall be included in the Background Groundwater Analysis Report.

Section 7.5: Surface Water: Surface water map: An application shall contain a description and map of the surface waters in the proposed site registration area and adjacent area including the following:

1. The location of the watershed which will receive water discharge.
2. The location of surface water bodies such as streams, lakes, ponds, springs and seeps.
3. The location of water discharge into surface bodies of water.
4. Descriptions of surface drainage systems within the proposed permit area and adjacent areas.

Section 7.6: Erosion Control: A plan approved by the Schuylkill County Conservation District to manage surface water and control erosion that will contain the sewage sludge within the site registration area.

Section 7.7: Pretreatment: Applicant shall provide "the list of Significant Users that have received written notices of violation and the number of written notices issued to each user during the reporting period", from the EPA Pretreatment Annual Report of the Wastewater Treatment Facility signed and certified by an authorized representative of the Wastewater Treatment Facility. The applicant shall also provide a list of Significant Industrial Users required to be permitted by EPA. An applicant shall be required to have instituted an enforcement procedure for pre-treatment violations.

Section 7.8: Pay Schuylkill Township a non-refundable administrative fee sufficient to cover all Township expenses reasonably incurred to process the site registration application. Schuylkill Township shall set this fee by resolution and may adjust it by resolution as necessary.

Section 7.9: Certify by letter that it has complied with all applicable Federal, State, and local laws and regulations concerning the land application of sewage sludge, including, without limitation, 40 C.F.R. Chapter 503, 25 Pa. Code Chapters 271, 275, 287, and 291, and this and other Township ordinances, all as amended.

SECTION 8-LAND APPLICATION REGISTRATION

Before any person may land apply sewage sludge on a site in Schuylkill Township, the sewage sludge applicant must receive a land application registration from Schuylkill Township. Land application registrations issued by Schuylkill Township shall be valid for a period concurrent with the analogous DEP permit. Schuylkill Township shall issue or deny the land application registration within the later of: (a) twenty-four (24) hours after receiving the results of a sewage sludge test conducted pursuant to Section 10; or (b) thirty (30) days after the land application registration is administratively complete. To apply for a land application registration, the sewage sludge applicant must do the following:

Section 8.1: Complete and submit a written application to Schuylkill Township in such form and number as reasonably required by Schuylkill Township. The submitted application must be administratively complete not less than forty-five (45) days prior to the date on which the land application of sewage sludge is to begin. The application shall inform Schuylkill Township of: (a) the name and address of the person applying for the land application registration; (b) the source of the sewage sludge to be applied to the site, with each land application registration restricted to sewage sludge from a single source; (c) a current, certified list of the names and addresses of all pretreatment users of the sewage sludge source; (d) a copy of the required priority pollutant scan, if any; (e) the name and address of the person holding the current, valid Schuylkill Township site registration for the land application; (f) a description of the route to be used by vehicles hauling sewage sludge from the source to the site; (g) a schedule of the date(s) and time (s) when the land application of sewage sludge will occur; (h) copies of all laboratory analyses conducted on the sewage sludge from the source within the prior twelve (12) months; (i) an application map showing the area in which sewage sludge will be land applied and the location of markers that will be posted to warn passers-by of the land application of sewage sludge; (j) a letter from the sewage sludge applicant certifying that it has complied with all applicable Federal, State, and local laws and regulations concerning the land application of sewage sludge, including, without limitation, 40 C.F.R. Chapter 503, 25 Pa. Code Chapters 271,

275, 287, and 291, and this and other Township ordinances, all as amended; and (k) a copy of the requisite DEP permit for land application of sewage sludge.

Section 8.2: Pay Schuylkill Township a non-refundable administrative fee sufficient to cover all Township expenses reasonably incurred to process the land application registration. Schuylkill Township shall set this fee by resolution and may adjust it by resolution as necessary.

SECTION 9-LAND APPLICATION OPERATION

Any person land applying sewage sludge in Schuylkill Township shall do the following:

Section 9.1: Comply with all applicable Federal, State, and local laws and regulations concerning the land application of sewage sludge, including, without limitation, 40 C.F.R. Chapter 503, 25 Pa. Code Chapters 271, 275, 287, and 291, and this and other Township ordinances, all as amended;

Section 9.2: Pay Schuylkill Township a testing fee of \$38 per ton of sewage sludge to be land applied. Prior to land application of each truckload of sewage sludge, Schuylkill Township shall test the sewage sludge pursuant to its authority under Section 10 of this Ordinance. No person shall land apply sludge from any truckload until Schuylkill Township approves the land application after it receives the results of such tests, which tests Schuylkill Township will process through a qualified laboratory as expeditiously as possible. Schuylkill Township may reject land application of any truckload when test results of the sewage sludge indicate that the land application will violate Section 6.4 of this Ordinance.

Section 9.3: Inform Schuylkill Township of any discharges, upsets, spills, slug loadings, or any other violations of which the sewage sludge source is aware by operation of 40 C.F.R. §§ 403.8, 403.12, and 403.16, as amended.

Section 9.4: Upon changing the scheduled date(s) and time(s) for land application, notify Schuylkill Township of the changes at least twelve (12) hours prior to the new date(s) and time(s).

Section 9.5: On the day land application begins, notify Schuylkill Township by telephone (570-668-1039) and fax (570-668-0908) prior to commencing land application and give the Township the opportunity to attend the land application to monitor compliance with this Ordinance.

SECTION 10-INSPECTION AND INVESTIGATION

Section 10.1: After receiving an administratively complete site registration application or land application registration, Schuylkill Township may: (a) inspect the site to determine whether the site registration applicant has complied with this Ordinance; (b) test the background or accumulated levels of chemicals, metals, pathogens, radioactive material, and other pollutants in the soil, groundwater, or surface water at the sewage sludge site, and/or (c) test the sewage sludge to be applied by collecting and sending samples to a qualified laboratory to ensure that the land application will comply with Federal and State pollutant, pathogen, pH, vector attraction

reduction, and other applicable regulations. The person who inspects the site on behalf of Schuylkill Township may be accompanied by representatives of the site registration applicant, sewage sludge applicant, and DEP. Schuylkill Township shall deny a site registration or land application registration if the results of any test or inspection reveal that the land application will violate any Federal, State, or local laws or regulations concerning the land application of sewage sludge.

Section 10.2: Schuylkill Township may inspect the land application of sewage sludge without notice or a search warrant to monitor compliance with this Ordinance. Schuylkill Township will contact DEP in advance of any inspection so that DEP may accompany the Township at the inspection. At an inspection, Schuylkill Township may collect samples of sewage sludge to be tested by a qualified laboratory to monitor compliance with Federal and State pollutant, pathogen, pH, vector attraction reduction, and other applicable regulations. If Schuylkill Township determines that this Ordinance is being violated and is unable to secure compliance on site, the land application of sewage sludge shall be enjoined and the land application registration shall be suspended until violations are corrected.

Section 10.3: After the land application of sewage sludge, Schuylkill Township may inspect the site to monitor compliance with this Ordinance, including, without limitation, to determine whether the sewage sludge was properly applied, whether all DEP permit requirements have been achieved, and whether there is compliance with food and feed crop restrictions under all applicable laws.

Section 10.4: Prior to conducting any inspection under this Ordinance, the person conducting the inspection on behalf of Schuylkill Township shall present his Township credentials to the owner or occupier of the site unless this requirement would wholly or partially frustrate the inspection.

SECTION 11-ENFORCEMENT AND REVOCATION

Section 11.1: Whenever Schuylkill Township determines that there has been a violation of this Ordinance, the Township shall give notice to the person alleged to have violated the Ordinance. Such notice shall: (a) be in writing; (b) include a statement of the alleged violation(s); (c) be served upon the person alleged to be in violation of the Ordinance or his agent as required by the laws of the Commonwealth of Pennsylvania; (d) contain a compliance order that explains the remedial action that, if taken, will effect compliance with the Ordinance; and (e) provide the alleged violator with five (5) days to take the prescribed remedial action to cure his violation(s).

Section 11.2: Upon failure of any person to comply with a notice of violation and compliance order, Schuylkill Township may suspend the applicable site registration and/or land application registration with a cease and desist order that terminates land application of sewage sludge at the site at which the alleged violation(s) occurred.

Section 11.3: Any person adversely affected by final action by Schuylkill Township under this Ordinance may appeal such action only by filing such appeal in the Court of Common Pleas of Schuylkill County within thirty (30) days after the date of the action being appealed.

Section 11.4: In addition to the enforcement mechanisms available in sections 10.1 through 10.3 of this Ordinance, Schuylkill Township shall, as provided by The Second Class Township Code, 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. 53 P.S. § 66601(c.1)(2). Any person who violates any provision of this Ordinance shall be guilty of a summary offense and, upon conviction thereof by a district justice, shall be sentenced to pay a fine of \$1,000.00 per violation, no more and no less, and shall be imprisoned to the extent allowed by law for the punishment of summary offenses. 53 P.S. § 66601(c.1)(2). A separate offense shall arise for each day or portion thereof in which a violation is found to exist and for each section of this Ordinance that is founded to be violated. 53 P.S. § 66601(c.1)(5). The Township may also enforce this Ordinance through an action in equity brought in the Court of Common Pleas of Schuylkill County. 53 P.S. § 66601 ©.1)(4).

Section 11.5: All fines collected for violation of this Ordinance shall be paid to Schuylkill Township.

Section 11.6: Any person who violates and/or is convicted of violating this Ordinance two or more times shall be permanently prohibited from land applying sewage sludge, operating a sewage sludge site, or preparing sewage sludge to be land applied in Schuylkill Township. This prohibition applies to that person's parent, sister, and successor companies, subsidiaries, and alter egos, and to any person substantially owned or controlled by the person (including its officers, directors, or owners) that twice violates this Ordinance.

SECTION 12-ADMINISTRATION

This Ordinance shall be administered by Schuylkill Township. In its administration, Schuylkill Township shall review and process all site registration applications and land application registrations, set and collect all fees for said registrations, indefinitely keep records of its discussions, findings, recommendations and actions taken in administering this Ordinance, and enforce all provisions of this ordinance.

SECTION 13-EFFECTIVE DATE AND EXISTING DEP PERMITHOLDERS

This Ordinance shall be effective five (5) days after the date of its enactment. Any land application of sewage sludge that has begun before the date this Ordinance is effective shall be completed in thirty (30) days. All land applications that begin on or after the date this Ordinance is effective shall comply with this Ordinance.

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 this Ordinance. The Board of Supervisors of Schuylkill 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


Schuylkill 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 by the Board of Supervisors of Schuylkill Township, Schuylkill County, Pennsylvania, this 6th day of April, 2005.


**BOARD OF SUPERVISORS
SCHUYLKILL TOWNSHIP**



JOSEPH BORAN, Chairman



MARY RUBEL, Secretary



MAUREEN VANEK, Vice-Chairman



LINDA DECINDIO SUPERVISOR