

**TOWNSHIP OF UPPER SALFORD  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2022-1**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF UPPER SALFORD, SPECIFICALLY, CHAPTER 26 WATER, ESTABLISHING A PUBLIC WATER SERVICE DISTRICT WITHIN THE TOWNSHIP, AUTHORIZING THE EXTENSION OF PUBLIC WATER SERVICE TO BE PROVIDED BY SCHWENKSVILLE BOROUGH AUTHORITY, REQUIRING THE CONNECTION OF SPECIFIC PROPERTIES TO THE PUBLIC WATER SYSTEM, REQUIRING THE ABANDONMENT OF PRIVATE WATER WELLS FOR PROPERTIES CONNECTED TO THE PUBLIC WATER SYSTEM, AND ESTABLISHING ENFORCEMENT PROCEDURES AND PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THIS CHAPTER.**

**WHEREAS**, within the Township, a groundwater contamination site has been determined to be present, identified as the Baghurst Drive Superfund Site which consists of certain properties affected by a plume of groundwater contamination. These properties are located on or adjacent to Hendricks Road, Baghurst Drive and Old Church Road in Upper Salford Township, Montgomery County, PA (“the Site”); and

**WHEREAS**, testing of private groundwater wells within the Site have confirmed the presence of hazardous substances, including 1,1,1-TCA; 1,1,2-TCA; 1,1-DCA; 1,1-DCE; 1,2-DCA; 1,4 dioxane; chloroform; TCE; and vinyl chloride. in the groundwater in the Site Area; and

**WHEREAS**, the US Environmental Protection Agency (EPA) has placed the site on the National Priorities List (NPL) pursuant to the Comprehensive

Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and, as a means of providing clean water service within the Site Area, contracted with the Schwenksville Borough Authority to extend its water service into Upper Salford Township; and

**WHEREAS**, the Board of Supervisors after due consideration of the proposed extension of public water service to the Site Area, concluded that the health, safety, and general welfare of the residents of Upper Salford Township will be served by the extension of public water service by the Schwenksville Borough Authority to the Site Area, and has entered into an Intermunicipal Agreement with the Schwenksville Borough Authority by which the Township granted the Authority to extend its water system into Upper Salford Township on a limited basis; and

**WHEREAS**, the Board of Supervisors of Upper Salford Township is empowered by Section 2601 of the Second Class Township Code, 53 P.S. §67601 to contract with a municipal authority owning a waterworks system to provide water for public and private uses to be delivered through lines owned by that authority, and has entered into an Intermunicipal Agreement with the Schwenksville Borough Authority by which the Township granted the Authority to extend its water system into Upper Salford Township on a limited basis;; and

**WHEREAS**, the Board is authorized by Section 2603 of the Second Class Township Code, 53 P.S. §67603 to compel connection to the public water system and to compel the disconnection and abandonment of any private water well serving properties connected to the public water system.

**NOW, THEREFORE**, the Board of Supervisors of Upper Salford Township, Montgomery County, Commonwealth of Pennsylvania, hereby enacts and ordains as follows:

**SECTION 1.** The Upper Salford Township Code, Chapter 26, Water, is hereby established, to provide as follows:

**§26-101. BACKGROUND; LEGISLATIVE INTENT; CONNECTION REQUIRED.**

- A. It has been determined that groundwater and private water wells drawing water from that groundwater is contaminated with hazardous substances, including 1,1,1-TCA; 1,1,2-TCA; 1,1-DCA; 1,1-DCE; 1,2-DCA; 1,4 dioxane; chloroform; TCE; and vinyl chloride. The EPA has placed the contamination site on the National Priorities List under CERCLA, and determined that connection of properties to proposed water lines of Schwenksville Borough Authority is the most viable and cost-effective solution to the groundwater contamination which will best address the health, safety, and welfare of the residents and business owners in the impacted area.
- B. Once a connection to the public water system has occurred, no property owner shall disconnect a property from the public water system.
- C. All connections to the public water system shall be subject to the specifications of the water authority.
- D. In the event that a property owner shall neglect or refuse to connect a property to the public water system in violation of this Chapter, for a period of 60 days following a notice to connect from the Township, the Township, or its agents, may enter upon the property owner's property and complete the connection to the public water system. In that event, the costs of such connection shall be upon the property owner and a lien to cover the cost in that amount may be recorded against the property benefitted by the improvement. The Township may also take such other action to recover the cost of such connection.

§ 26-102. **COSTS.**

- A. The cost of physically connecting the properties whose addresses are listed in Exhibit A1 to the public water system shall be paid by the EPA. The foregoing notwithstanding, where the owner of a property listed in Exhibit A2 refuses to allow connection of a property listed in Exhibit A to the public water system for a period of 90 days from the date of the Township notice to connect. In addition, if the Township is required to enter the property under §26-101.D. and connect the property to the public water system, the cost of such connection shall be the responsibility of the property owner and shall be imposed as a lien on the property as provided in § 26-101D.
- B. Except as otherwise provided in §26-102.A, the cost of physically connecting a property in the impacted area to the public water system shall be paid by the property owner. In the event the Township is required to enter a property under §26-101.D. and connect a property to the water system under §26-101.D. above, a lien in the amount of the cost of the connection may be recorded against the property that is benefited by the connection.

§26-103. **ABANDONMENT OF WELLS.**

- A. Within 60 days after notice from the Township to connect to the public water system, and in conjunction with such connection, a property's connection to a private well shall be disconnected and abandoned. The disconnection shall include, without limitation, the disconnection of any internal water and plumbing system and any external water and plumbing system from the private well, and the sealing of the private well to prevent the further potential contamination of groundwater
- B. In addition to the well disconnection, the well shall be closed and the method of closure shall comply with any applicable regulations or requirements of the Montgomery County Health Department and DEP.
- C. The cost of closure, abandonment, and sealing of the private wells shall be the responsibility of the EPA under Section V.A.7 of the 2014 Action Memorandum, as amended.
- D. No new private groundwater wells shall be constructed within the Site Area as defined in this Chapter 26.

**§26-104. PROTECTION OF THE PUBLIC WATER SYSTEM.**

No person shall maliciously, willfully, or negligently damage, destroy, deface, block, or otherwise tamper with any water line or other structure or equipment which is part of the public water system or a component of EPA's remedial action addressing the contaminated groundwater plume at the site. Any person violating this section shall be in violation of this article.

**§26-105. ADOPTION OF ADDITIONAL RULES AND REGULATIONS.**

The Township reserves the right to adopt from time to time additional rules and regulations as it deems necessary and proper relating to connections to and use of the public water system, which rules and regulations shall be construed as part of this article.

**§26-106. NOTICE.**

Any notice required by this article shall be given to the property owner either by personal service or by certified mail, return receipt requested, concurrently with first class mail. The mailing date of the notice shall be considered the date of service and service shall be presumed to duly given if the notice is not returned "undeliverable" by the post office.

**§26-107. ENFORCEMENT; VIOLATIONS AND PENALTIES.**

In addition to any other remedy available under law or equity any person convicted of a violation of this article shall be subject to a criminal fine in an amount not to exceed \$1,000 per day per violation together with costs of prosecution including, without limitation, attorney fees. Each twenty-four-hour period during which failure to comply continues shall constitute a separate offense. Enforcement of this article shall be brought by a civil action filed with a magisterial district justice.

**SECTION 2. SEVERABILITY**

The provisions of this Ordinance shall be construed as severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance or of the Code of Ordinances. It is hereby declared to be

the specific intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

**SECTION 3. REPEALER**

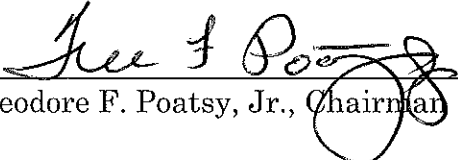
This Ordinance shall repeal all ordinances or code provisions of the Upper Salford Township Code of Ordinances which may be inconsistent herewith.

**SECTION 4. EFFECTIVE DATE**

This Ordinance shall be effective as provided by law.

**ENACTED and ORDAINED** this 13<sup>th</sup> day of September, 2022.

BOARD OF SUPERVISORS  
TOWNSHIP OF UPPER SALFORD

  
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Theodore F. Poatsy, Jr., Chairman

  
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Kevin C. O'Donnell, Member

  
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Richard Sacks, Member