

**PENN TOWNSHIP  
CUMBERLAND COUNTY, PENNSYLVANIA  
ORDINANCE NUMBER 2001-2**

**HOLDING TANKS**

SECTION 1. The purpose of this Ordinance is to provide for and regulate the use, maintenance and removal of new and existing holding tanks in Penn Township so as to protect the health, safety and welfare of the residents of the Township. The Ordinance is also intended to regulate the use and maintenance of holding tanks in conformity with the law, statutes and regulations of the Commonwealth of Pennsylvania, as administered by the Department of Environmental Protection, or its successor agency, and the Federal Government; and to protect against the harm due to inadequate or malfunctioning on-site septic systems.

SECTION 2. Definitions: Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows.

- A. Act – the Pennsylvania Sewage Facilities Act, 35 P. S. 750, et seq., as from time to time amended.
- B. Agent – an employee of the Township empowered by the Board of Supervisors and/or by the Commonwealth of Pennsylvania to enforce the provisions of this Ordinance. The term “agent” shall include, but not be limited to, the Sewage Enforcement Officer and/or his assistants and substitutes, duly appointed by the Board of Supervisors.
- C. Board – The Board of Supervisors of Penn Township
- D. Department – the Pennsylvania Department of Environmental Protection or its successor agency
- E. Disposal Site – a suitable facility for the final disposition of human and animal sewage and wastes, which facility shall be approved for such purpose by the Department of Environmental Protection
- F. Holding Tank – a watertight receptacle, whether permanent or temporary, which receives and retains sewage conveyed by a water carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site
- G. Holding Tank Cleaner – a county, municipality, municipal authority, corporation, partnership, individual or other legal entity, which removes the contents as a holding tank for purposes of disposing sewage at another site

- H. Improved Property – any property within the 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 sewage shall or may be discharged
- I. Landowner – the natural person or persons, partnership, corporation, or other legal entity who has legal and/or equitable title to a parcel of land
- J. Lot – a parcel of land regardless of size
- K. Person – an individual or individuals, corporation, partnership, association or other legal entity
- L. Sewage – any substance that contains any of the waste products, excrement, or other discharge from the bodies of human beings or animals or any other noxious or deleterious substances which are harmful or inimical to the public health, safety or welfare or to animal, plant or aquatic life or to the use of water for domestic water supply or recreation purposes or which otherwise constitute pollution under the Clean Streams Law
- M. Township – Penn Township, Cumberland County, Pennsylvania

SECTION 3 Use of Holding Tanks

- A. Holding tanks may be used in the Township only for the following purposes or in the following situations:
  - 1. By landowners where a significant portion of the property is used for commercial purposes
  - 2. Where a malfunction in an existing system cannot be repaired or replaced based on an on-site investigation by the Sewage Enforcement Officer which reveals that the site is not suitable for the use of an on-site disposal system pursuant to the Pennsylvania Sewage Facilities Act (Act 537), as from time to time amended, and the regulations adopted pursuant thereto
  - 3. When the Township or the Department of Environmental Protection determine the use is necessary to abate a nuisance or a public health hazard
- B. When the use of a holding tank is approved as permitted in Sections A.2 or A.3 above, a holding tank may be used only for so long as is necessary to explore all alternative means of sewage disposal and to employ such alternative means to correct the malfunction and/or eliminate the nuisance or health hazard and eliminate the need to use a holding tank. A person using a holding tank under Section A.2 or A.3 above shall use good faith efforts to

minimize the time period during which it is necessary to use a holding tank by taking corrective measures on the property; exploring the possibilities of connecting to an existing or to be constructed public or approved private system and then doing so if and when same is possible; or otherwise taking steps to avoid the prolonged use of a holding tank to dispose of sewage. At all times, a person using a holding tank shall comply with the directives of the Township Sewage Enforcement Officer regarding the use of a holding tank and the measures to be taken to minimize or eliminate the use.

#### SECTION 4 Application for Permit

- A. Any person seeking to use a holding tank for sewage disposal on any lot situated in the Township shall secure a permit therefore from the Sewage Enforcement Officer
- B. Permit applications shall be submitted on a form to be provided by the Township to the applicant at the applicant's request
- C. The applicant for a holding tank permit shall submit the completed application to the Township, together with the non-refundable fee as established from time to time by resolution of the Board
- D. The applicant shall cooperate with the Sewage Enforcement Officer at all times during the application process. Failure of an applicant to cooperate may, at the discretion of the Sewage Enforcement Officer, result in a delay in the issuance of a permit or a complete denial of a permit until such time as full compliance with all requirements of the application process
- E. The following shall be submitted with the completed application:
  - 1. A copy of a written contract between the applicant and a holding tank cleaner providing for the timely and regular removal of the contents of the holding tank
  - 2. A copy of a written contract between a holding tank cleaner and the operator of a disposal site providing for the disposal of the holding tank contents at a site approved therefore by the Department
  - 3. An agreement prepared by the Township in which the applicant agrees to indemnify and hold harmless the Township for any liability, costs, and expenses (including attorney's fees) incurred by the Township in any action by or against the Township to enforce compliance with the terms hereof; to remove the contents of the holding tank or the holding tank itself; or to abate any nuisance, public health hazard or any violation of this Ordinance or any state or federal statutes or regulations
  - 4. The non-refundable fee is established from time to time by resolution of the Board

- F. Upon receipt of a completed application and the supporting materials and fee as required hereby, the Township Sewage Enforcement Officer shall conduct an investigation to determine compliance with the terms hereof, as well as any applicable state and/or federal regulations. If the applicant complies with the terms hereof and the terms of any applicable state and/or federal regulation and the lot in question qualifies as a site for a holding tank, a permit shall be issued therefore.

SECTION 5 Installation of a holding tank

- A. All holding tanks shall be installed within six (6) months of the issuance of a permit therefore. Should a holding tank not be installed within said time period, the permit shall therefore be automatically revoked and the applicant shall be required to submit a new application, together with supporting materials and a new application fee, prior to the installation of a holding tank.
- B. All holding tanks shall have a minimum of 1,500 gallons capacity and must be installed in accordance with the permit issued hereunder. All installations shall comply with the specifications set forth in applicable state and federal regulations, including, but not limited to, 25 Pa.Code 73, as amended.
- C. All holding tanks shall be installed in accordance with this and all other applicable Township ordinances and regulations.
- D. All holding tanks shall be installed on a firm and stable soil or subsoil and in such a manner as to prevent settlement or movement.
- E. All holding tanks shall be installed at least fifty (50) feet from any water supply source.
- F. Upon the completion of the installation of a holding tank (except for the covering of the lines and tank) and prior to the use thereof, the permittee shall notify the Sewage Enforcement Officer that the installation has been completed and shall request an inspection thereof. The Sewage Enforcement Officer shall inspect the holding tank within twenty (20) days of being requested to do so to determine that same complies with all the terms of this Ordinance and other federal, state and Township statutes, regulations and ordinances.

Upon the applicant complying with the terms hereof and satisfactory inspection by the Sewage Enforcement Officer, the Sewage Enforcement Officer shall issue a certificate, which authorizes the use of the holding tank for sewage disposal.

## SECTION 6 Maintenance of Holding Tanks

- A. All holding tanks installed in the Township shall be used and maintained in accordance with the terms of this ordinance, and all federal, state and municipal statutes, regulations and ordinances applicable thereto, including, but not limited to 25 Pa. Code 73, inclusive.
- B. The permittee shall cause the contents of the holding tank to be collected and disposed of as frequently as may be necessary to maintain the contents thereof at a level no greater than 75% of tank capacity.
- C. The contents of holding tanks shall be disposed of only at such sites as may be approved by the Department.
- D. The permittee shall provide the Township's Sewage Enforcement Officer or other designated agent or employee of the Township with the holding tank cleaner's receipt immediately following the cleaning of said tank and disposal of the contents. Said receipts shall also be retained by the permittee for a period of five (5) years.
- E. The Sewage Enforcement Officer shall receive, review and retain copies of said receipts for a period of five (5) years and shall insure that the holding tank and all lines, pipes and/or conduits to and from the tank are maintained in watertight condition at all times.
- F. No increase in the size of a building and no change in the use of a building which will increase sewage flows shall be permitted while the property is being serviced by a holding tank unless a new application is submitted therefore.

## SECTION 7 Inspection of Holding Tanks

- A. The Sewage Enforcement Officer shall inspect each holding tank in the Township at least annually.
- B. Any person who applies for and receives a permit for the installation of a holding tank shall be deemed to have consented to an annual inspection of the said tank and related facilities by the Township Sewage Enforcement Officer or his designee at reasonable times with forty-eight (48) hours notice. In addition, the permittee shall also be deemed to have consented to inspections of the tank and related facilities by the Sewage Enforcement Officer as determined to be necessary by said officer between the hours of 8 a.m. and 8 p.m.

- C. The permittee shall grant access to the Township Sewage Enforcement Officer or his designee to the property on which the tank is located for the purpose of making inspections upon the oral request of said officer.
- D. At the time that the Township Sewage Enforcement Officer inspects the holding tank, he shall also have access, upon request, to documentation that the tank has been cleaned in accordance with the terms hereof and the contents thereof disposed at a disposal site approved by the Department.
- E. Failure of the permittee to allow access or inspection of the premises or to have access to pumping receipts or disposal documentation shall be grounds for the immediate revocation of the permit by the Sewage Enforcement Officer.
- F. The permittee shall be responsible for the cost of inspections by the Township Sewage Enforcement Officer, or his designee, at a cost to be established from time to time by the Board of Supervisors.
- G. The Sewage Enforcement Officer shall prepare an inspection report each time he shall inspect a holding tank and shall note therein any violations or deficiencies discovered. The Sewage Enforcement Officer shall retain copies of said reports for a period of five ( 5 ) years from the date of the inspection to which they refer.

#### SECTION 8 Removal of Holding Tanks

- A. Upon a holding tank no longer being used for waste disposal purposes for any reason, same shall be removed by permittee within thirty (30) days of the termination of use.
- B. Should a permittee fail to remove a holding tank once it is no longer being used for waste disposal purposes, the Township shall, at its discretion, have the right to enter upon the premises for purposes of removing or causing the removal of said tank. The Township may retain the services of a contractor to physically remove the tank and said contractor shall have the right to enter the property at the discretion of the Township to perform said services. All costs resulting from the Township or its agent removing a holding tank shall be borne by the permittee and the Township shall have the right to file a municipal lien against the property on which the holding tank is located in an amount equal to the amount expended by the Township.

## SECTION 9 Violations

- A. Any person who violates the provisions of this Ordinance shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine not exceeding One Thousand (\$1,000) Dollars plus costs for each violation. Each day in which the violation occurs shall be deemed a separate offense. Upon judgment being entered against any person by summary conviction, or by proceedings by summons by default of the payment of the fine imposed and the costs, the defendant may be sentenced and committed to the county jail for a period not exceeding ninety (90) days.
- B. Should a permittee fail to properly clean a holding tank and remove the contents thereof or should a permittee fail to properly maintain, repair, remove or replace a tank, the Township or its designated agent shall be authorized to enter the premises and clean, empty, maintain, repair, remove or replace said tanks as necessary to avert a nuisance, correct a malfunction or insure the compliance with the terms hereof. In such event, the permittee shall reimburse the Township for any costs and expenses incurred to perform said work and the Township shall be entitled to file a municipal lien against the property on which the holding tank is located in an amount expended by the Township pursuant hereto.
- C. In addition to the above, The Township shall be authorized to take whatever legal action it deems necessary and appropriate to correct a malfunction, avoid a health hazard, avert a nuisance or insure compliance herewith.
- D. Failure of a permittee to comply with the terms of this Ordinance, including, but not limited to, the failure to permit inspection of a holding tank; the failure to properly maintain and pump out a tank; and the failure to furnish pumping receipts to the Township upon request shall be grounds for revocation of a permit by the Sewage Enforcement Officer.

## SECTION 10 Appeals

- A. Any applicant aggrieved by the denial of a permit application or by any other decision of the Township Sewage Enforcement Officer shall be entitled to appeal to the Board of Supervisors.
- B. Any such appeal shall be processed as a local agency hearing in a fashion similar to appeals from the denial of a sewage permit by the Sewage Enforcement Officer.
- C. All such appeals shall be governed by the provisions of the Local Agency Law.

## SECTION 11 Financial Security

- A. Prior to the issuance of any permit authorizing the use of a holding tank pursuant to this Ordinance, the applicant/landowner must deposit financial security as determined by the Township in an amount sufficient to cover costs of removal, plumbing, cleaning, remediation, inspections, etc. This security shall be held by the Township and utilized in the event the applicant/landowner would default on any requirements of this Ordinance and will be returned, less any cost utilized, after the final removal and satisfactory inspection of the site.

## SECTION 12 Miscellaneous

- A. The standards set forth herein shall be deemed the minimum standards for the installation, use and removal of holding tanks in the Township. Such installation, use and removal of holding tanks shall also comply with the requirements of the Pennsylvania Sewage Facilities Act and the regulations adopted pursuant thereto and in those cases in which said requirements are more stringent than the standards set forth in this Ordinance, the permittee shall comply with the more stringent requirement.
- B. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of any such inconsistency.
- C. If any section, provision or clause of this Ordinance is determined to be invalid, unconstitutional or inoperative by any court, such adjudication shall not affect the validity of the remaining provisions of this Ordinance, which shall be deemed severable therefrom.
- D. All provisions of this Ordinance apply to the original landowner/permittee and to any heirs, assigns or successors in title of such landlord/ permittee.
- E. This Ordinance shall apply to all current holding tanks being utilized in the Township whether such holding tanks have been previously authorized by the Township or not. The Sewage Enforcement Officer shall notify all current owners of holding tanks that they shall comply with all requirements of this Ordinance within thirty (30) days after notification or be subject to the penalties as set forth above.
- F. This Ordinance shall become effective immediately upon adoption by the Board of Supervisors as set forth below.

ENACTED AND ORDAINED the 13<sup>th</sup> day of March, 2001 by the Board of Supervisors of Penn Township, Cumberland County, Pennsylvania.