

ORDINANCE NO. 99-2

AN ORDINANCE ENABLING THE PERMITTING OF HOLDING TANKS, REQUIRING REGULAR MAINTENANCE FOR ALL EXISTING AND FUTURE HOLDING TANKS, ESTABLISHING FEES AND MANDATORY ESCROW ACCOUNTS, AND PROVIDING PENALTIES FOR VIOLATIONS.

Pursuant to statutory authority granted to municipalities by the Pennsylvania Sewage Facilities Act, 35 P.S. 750.1, et seq., (“the Act”), as implemented by and through the regulations issued by the Pennsylvania Department of Environmental Protection, Title 25, Chapters 71, 72 and 73, the Clean Streams Law and regulations promulgated thereunder, and the Second Class Township Code, the Act of May 1, 1933 (P. L. 103, No 60) as amended, and to implement portions of the the Conewago Township Official Sewage Facilities Plan, the Supervisors of Conewago Township, Dauphin County, Pennsylvania do hereby ordain as follows:

SECTION 1.

This ordinance shall be known as the “Conewago Township Holding Tank Ordinance”.

SECTION 2.

A. It shall be unlawful for any individual, firm, association, or corporation to erect, construct, or install any holding tank of any kind within the limits of Conewago Township unless a Sewage Disposal System Permit for the holding tank is issued by the Township Sewage Enforcement Officer under the authority of the PA Sewage Facilities Act.

B. It shall be unlawful for any individual, firm, association, or corporation to use, operate or maintain any holding tank of any kind within the limits of Conewago Township unless a Holding Tank Operating Permit for the holding tank is issued by the Township Sewage Enforcement Officer under the authority of this Ordinance.

SECTION 3.

For purposes of this Ordinance, holding tank shall be construed to mean a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate treatment or disposal of the sewage at another site. Holding tanks include, but are not limited to,

the following:

- A. Chemical toilet - a toilet using chemicals that discharge to a holding tank.
- B. Retention tank - a holding tank to which sewage is conveyed by a water carrying system.
- C. Privy - a holding tank designed to retain sewage where water under pressure is not available.
- D. Portable toilets, also generally known as “job johnnies, porta potties” or by similar names are deemed to be holding tanks for the purposes of this Ordinance.

SECTION 4.

- A. Permits for holding tanks may only be issued when proper application is made meeting the requirements of the various sections of this Ordinance and the specific criteria of either subsection (B) or subsection (C) of this Section.
- B. For other than temporary use under subsection (C) of this section, and when subsections 1, 2, and 3 of this subsection apply, a permit may be issued. Permits issued under Section 5(b) shall remain in effect until they are revoked or use of the holding tank associated therewith is subsequently discontinued and the tank is removed.
 - (1) The permit application is for use in connection with an existing dwelling or place of business which the Sewage Enforcement Officer finds cannot be properly served by an on-lot sewage disposal system meeting the requirements of the Pennsylvania Sewage Facilities Act and the regulations issued pursuant thereto.
 - (2) The proposed holding tank will be located at such a place where there will be suitable access for the vehicle necessary to remove the contents of the holding tank when required.
 - (3) For new structures or land uses, the property where the proposed holding tank will be installed must be located in an area of the Township for which a “notice to proceed” has been issued by the Township for construction of a sewage collection system.
- C. A permit pursuant to this ordinance is NOT required for temporary use at a construction site.
- D. A permit pursuant to this ordinance is NOT required for temporary use at a public gathering or entertainment which occurs for fewer than 40 event days per calendar year.
- E. The absence of a permit does not relieve the landowner of the provisions of this

ordinance relating to periodic pumping of the holding tank's contents and disposal at DEP permitted or approved sites.

F. The penalty provisions of this Ordinance regarding discharges of holding tank contents to the surface of the ground or waters of the Commonwealth shall apply even for holding tanks exempted from the permitting provisions of this subsection.

SECTION 5.

No application shall be approved unless the ultimate disposal site for the contents of the holding tank shall be approved or permitted by the Department of Environmental Protection to receive such materials. The Township may reject the individual, firm or corporation designated as being responsible for the removal of the contents of the holding tank and/or the individual, firm, or corporation designated as being the ultimate recipient of such contents for any reasonable cause including, but not limited to, the following:

- A. The proposed ultimate disposal site has not been approved or permitted by the Department of Environmental Protection or its approval or permit has been suspended or revoked.
- B. Such individual, firm or corporation has, on at least three occasions, failed to remove the contents from a holding tank on a timely basis, after being notified to do so. Township will give ten (10) days written notice of its intent to reject and the Board of Supervisors will hear a written appeal if requested to do so within ten (10) days after notice of intent to reject is mailed to the provider's last known address obtained from the Township's records.
- C. Such individual, firm, or corporation has, in the past, been convicted of depositing septage or holding tank contents in locations other than those approved by the Pennsylvania Department of Environmental Protection.

SECTION 6.

A. All applications for a permit under this Ordinance shall be made to the Conewago Township Sewage Enforcement Officer on forms provided by the Township. The application for a permit shall be signed by the owner or owners of the property on which the holding tank is to be located.

B. The application shall be accompanied by an agreement executed on forms supplied by the Township and signed by the individual, firm, or corporation which is to be responsible for the removal of the contents of the holding tank and by the individual, firm, or corporation which is to be the ultimate point of disposition of the contents of the holding tank, agreeing that they will respectively remove and accept the contents of the holding tank described in the permit application.

C. The applicant shall submit with the permit application an application fee in an amount which is, from time to time, established by the Board of Supervisors, by resolution.

D. To establish a relationship with a different holding tank pumping contractor than that identified in the then current permit, the landowner must reapply for a permit by complying with Section 6 B of this this Ordinance. There shall be no filing fee when the sole purpose of reapplication is to change pumping contractors.

E. All applications and changes in pumping contractors shall include an agreement in recordable form referencing the use of a Holding Tank on the property the existence of a Holding Tank permit for the property and the existence of the Holding Tank Ordinance.

SECTION 7.

A. The applicant shall submit with the permit application an escrow payment in an amount which is, from time to time, established by the Board of Supervisors, by resolution. Said amount shall be held in escrow by the Township to be used by the Township to pump, repair or restore the system or its components to normal working order in the event that:

- (1) the contracted pumper fails to pump the system in a timely manner and when such failure results in a discharge of sewage to the surface of the ground or the waters of the Commonwealth;
- (2) the system or any of its components is discovered, upon inspection, to be defective, unsafe or unsatisfactory

B. In the event that the Township uses all or part of the escrow funds, the landowner shall, upon written notice from the Township, make such additional deposit as to restore the escrow account to full value and, if necessary, repay any amount expended by the Township in excess of the escrow amount.

C. Any sums remaining in the escrow shall be returned to the applicant upon the removal of

the holding tank.

D. No interest shall be paid on escrow funds. All interest that may be earned shall be applied to offset the administrative costs of this ordinance and its related activities.

SECTION 8.

All holding tank systems shall have a minimum total liquid capacity of 2,000 gallons, and meet all requirements of PA Code, Title 25, Chapter 73 regarding construction, and must be installed in a manner which insures that they will not float when empty.

SECTION 9.

A. Every holding tank shall be equipped with an audible alarm system which will give warning when the tank is filled to seventy-five (75%) per cent capacity.

B. Every holding tank shall be equipped with a visible alarm system which will give warning when the tank is filled to seventy-five (75%) per cent capacity.

C. It shall be a violation of this Ordinance to shut off, tamper with or render an audible or visible alarm inoperative.

D. In the event the Sewage Enforcement Officer finds that either alarm system on any holding tank has been tampered with or rendered inoperative, within three (3) days of the notice of discovery he shall notify the land owner, in writing, of the need to restore the system to proper working condition.

E. If the repairs are not completed within three days of receipt of said notice, the Sewage Enforcement Officer shall use the escrow funds to cause the system to be restored.

SECTION 10.

The holder of a permit issued pursuant to this Ordinance shall:

A. Notify the designated individual, firm or corporation responsible for the removal of holding tank contents at such time that the tank is filled to within seventy-five (75%) per cent of capacity.

B. Permit only the individual, firm, or corporation designated in the application to remove holding tank contents.

C. Cause the individual, firm, or corporation designated in the application to remove holding tank contents to report to the Township, on Township supplied forms, a record of each pumping activity.

SECTION 11.

A. Following the issuance of a permit pursuant to this ordinance, the Sewage Enforcement Officer shall, from time to time, inspect the holding tank but not less frequently than once a year.

B. In the event the Sewage Enforcement Officer finds the holding tank to be filled in excess of seventy-five (75%) per cent of capacity, the permittee shall within ten (10) days after being billed therefore, pay to the Township an inspection fee in an amount periodically set by the Board of Supervisors, by resolution.

C. In the event the Sewage Enforcement Officer finds that the holding tank is filled to more than eighty-five (85%) per cent of capacity, he shall promptly make arrangements to have the holding tank pumped, and the cost of such removal shall be paid from the fund held in escrow. In the event the permit holder fails to pay the above referred to inspection fee Within the ten-day period, the Sewage Enforcement Officer may, in addition, revoke the permit issued pursuant to this ordinance, and all amounts remaining in the escrow fund after payment of the inspection fee and payment of the cost of removal of the contents of the holding tank shall be forfeited to the Township.

D. In the event that the permit issued pursuant to this Ordinance is revoked, the holding tank shall be removed within ten (10) days from the date of revocation notice of the permit.

SECTION 12.

A. Holding tanks shall be pumped to the standards incorporated in the Conewago Township Sewage System Management Ordinance.

B. Whenever a holding tank's contents are pumped out, it shall be the responsibility of the individual, firm, or corporation designated in the application to remove holding tank contents to report such pumping activity to the Township, on forms provided by the Township, supplying all information required thereon.

SECTION 13.

- A. Permits issued under this Ordinance are not transferable.
- B. All holding tanks in Conewago Township, whether or not they were installed pursuant to a permit from the sewage enforcement officer are subject to the operating permit provisions of this Ordinance.
- C. Within thirty (30) days of the enactment of this Ordinance, the owner of every property served by a holding tank shall apply for a holding tank operating permit as required by this Ordinance.

SECTION 14.

- A. It shall be the responsibility of the owner of real property served by a holding tank which was installed, permitted or operated pursuant to this ordinance to disclose that fact to all prospective buyers.
- B. When the ownership of a property served by a holding tank is transferred, the subsequent (new) owner shall obtain a permit under this ordinance prior to the transfer of title.
 - (1) Until such time as a permit is issued in the name of the new owner, the previous owner shall be responsible and liable for the operation and maintenance of the holding tank on the property in question.
 - (2) When the new owner makes the necessary application and escrow payments, and after transfer of title, any positive escrow account balance shall be refunded to the previous owner.
 - (3) Until any negative escrow account balance is paid, no new permit shall be issued and the previous owner shall be responsible and liable for the operation and maintenance of the holding tank.
 - (4) Prior to issuing a permit under this ordinance to a new owner, the Sewage Enforcement Officer shall inspect the holding tank in the usual and customary manner, and any deficiencies found shall be corrected before the structure can be occupied or a new permit issued.

SECTION 15.

- A. Any individual, firm, association, or corporation violating any of the provisions of this ordinance shall upon conviction thereof be subject to a penalty in the amount of not less than one

thousand dollars (\$1,000.00) for each, and every offense. Each and every day that a violation of any of the provisions of this Ordinance occurs and each and every day that a holding tank remains erected, constructed, or installed without a permit having been issued pursuant to this ordinance or after a permit has been revoked, shall be considered a separate and distinct offense and shall be subject to separate and distinct penalties hereunder.

B. In addition to any other actions to obtain compliance, the Township may assess civil penalties as described in the PA Sewage Facilities Act.

SECTION 16.

No individual, firm, association, or corporation which owns property which is in violation of any of the provisions of this ordinance shall be issued a permit to erect, construct, install or maintain a holding tank on a different property until the current violation has been cured.

SECTION 17.

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect; and, to this end, the provisions of this ordinance are hereby declared to be severable.

SECTION 18.

All other ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any inconsistency.

ADOPTED THIS 15th day of September, 1999, to be effective September 22, 1999.

BOARD OF SUPERVISORS
TOWNSHIP OF CONEWAGO
DAUPHIN COUNTY, PA

ATTEST:
Donna K. Spittle, Secretary

By: Jerry Kling, Jr., Chairman

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