

ORDINANCE NO. 04-15

HARMONY TOWNSHIP, FOREST COUNTY, PENNSYLVANIA

HOLDING TANK ORDINANCE

AN ORDINANCE REQUIRING ALL PERSONS TO OBTAIN A PERMIT FOR ANY EXISTING OR NEW HOLDING TANK INSTALLATION; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR THE USE OF HOLDING TANKS AS A MEANS OF SEWAGE DISPOSAL; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL OR REFUSE TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

IT IS HEREBY ORDAINED AND ENACTED by the Township of Harmony, Forest County, Pennsylvania:

ARTICLE I. PURPOSE AND POLICY

The purpose of this Ordinance is to establish and encourage appropriate procedures for the design, installation, operation and maintenance of existing and new holding tanks designed to receive and retain sewage whether from residential or commercial uses in the Municipality. The major goals of this Ordinance are to promote the general health, safety and welfare of the Municipality, to provide protection for the water resources of the Commonwealth of Pennsylvania, and the preservation of a healthy environment. This Ordinance is intended to assure compliance with Pennsylvania Department of Environmental Protection regulations, the Clean Streams Law, and the regulations promulgated thereunder.

It is further ordained to be the policy of the Municipality that holding tanks be implemented on as temporary a basis as possible. It is the declared policy of the Municipality that the installation of holding tanks be on an interim basis on those premises which are ultimately to be served by other sewage systems and that said holding tanks be removed upon the installation of the alternative sewage system.

This Ordinance shall allow the Supervisors of the Municipality to maintain an up-to-date and thorough inventory of holding tanks installed throughout the Municipality, including information such as which properties contain a holding tank, the date of installation, permitting, and maintenance and inspection records of said holding tank.

ARTICLE II. DEFINITIONS

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

Application for a Permit for an existing or new holding tank shall be made, in writing, on forms supplied by the Municipality or the Sewage Enforcement Officer. Such application shall contain the following:

- A. Name and address of applicant.
- B. Name and address of the Owner of the land on which the existing or proposed holding tank installation is located.
- C. Site location including address.
- D. If new, the timeline for the holding tank installation. If existing, the timeline set to bring the holding tank into conformance with the provisions of this Ordinance.

ARTICLE V. PLANS

The Permit application shall be accompanied by a plan setting forth the existing or proposed holding tank design meeting the holding tank requirements included in the Harmony Township Sewage Management Program guidelines, or the latest revision thereof, including the exact size and location of the existing or proposed installation, as well as the location and exact dimensions of any existing buildings or structures on the premises. The plan shall display the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to fifty (50) feet or less, showing the following:

- A. North arrow, scale, and date;
- B. Topographic contour lines;
- C. The location of any existing bodies of water or watercourses, wetland areas, and floodplain areas.
- D. The location of all existing buildings and structures;
- E. The location of all existing streets, drives, and other access ways; and
- F. The location of the existing or proposed holding tank.

Specifications required to be set forth in said plan shall be issued by the Municipality's Sewage Enforcement Officer or by another person designated by the Municipality. Failure to construct or modify in accordance with any plan approved by the Municipality or its agent shall be deemed a violation of this Ordinance.

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ARTICLE II. DEFINITIONS

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

- A. "Holding Tank" shall mean a receptacle intended to be watertight, whether permanent or temporary, which receives and retains sewage conveyed by a water conveying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.
- B. "Municipality" shall mean Harmony Township, Forest County, Pennsylvania.
- C. "Owner" shall mean any person vested with ownership, legal or equitable, sole or partial, or possession of any real property located in the Municipality.
- D. "Person" shall mean any individual, partnership, company, association, corporation or other group or entity.
- E. "Sewage" shall mean any substance that contains any of the waste products, excrement or other discharge from the bodies of human beings or animals, and any noxious or deleterious substance being harmful or inimical to the public health, to animal or aquatic life, or to the use of water for domestic water supply or recreation. Piped discharges from sinks, showers, toilets, washing machines, water softeners and other related fixtures constitutes sewage.
- F. "Violation" shall mean the failure of a holding tank to be fully compliant with the Municipality's Holding Tank Ordinance. A holding tank without the required Permit is presumed to be in violation until such time as that documentation is acquired or presented.

ARTICLE III. RULES AND REGULATIONS

The installation and operation of holding tanks within the Municipality shall hereinafter be governed by the terms of this Ordinance together with the rules and regulations, which may be adopted, from time to time, by resolution of the Municipality. This Ordinance supersedes any other conflicting provisions which may be in effect in regards to holding tanks. However, any other Ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

ARTICLE IV. PERMITS

Upon and after the enactment of this Ordinance, no holding tank shall be installed nor shall any existing holding tank which has not been permitted be utilized or otherwise placed in service by any Owner of the premises upon which said holding tank is or is to be located until said Owner has obtained a Permit from the Municipality. Application for the Permit shall be made upon a form obtained from the Municipality or provided by the Sewage Enforcement Officer and shall be accompanied by a fee, as designated by the Sewage Enforcement Officer's fee schedule.

Application for a Permit for an existing or new holding tank shall be made, in writing, on forms supplied by the Municipality or the Sewage Enforcement Officer. Such application shall contain the following:

- A. Name and address of applicant.
- B. Name and address of the Owner of the land on which the existing or proposed holding tank installation is located.
- C. Site location including address.
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- A. North arrow, scale, and date;
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- D. The location of all existing buildings and structures;
- E. The location of all existing streets, drives, and other access ways; and
- F. The location of the existing or proposed holding tank.

Specifications required to be set forth in said plan shall be issued by the Municipality's Sewage Enforcement Officer or by another person designated by the Municipality. Failure to construct or modify in accordance with any plan approved by the Municipality or its agent shall be deemed a violation of this Ordinance.

A Permit will not be granted for any holding tank installation which is or is to be located in a floodplain or wetland area. The applicant shall consult the Municipality's Sewage Enforcement Officer and/or the Municipality's Floodplain Administrator in determining the presence of said areas.

ARTICLE VI. APPROVAL OR DENIAL OF PERMIT APPLICATION

In determining the adequacy of a Permit application, a copy of all plans and applications for any existing or proposed holding tank installation, to be considered for approval, may be submitted by the Municipality to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment. If an official or agent of the Municipality disapproves an application, said official or agent shall notify the applicant, in writing, of the reasons for disapproval.

ARTICLE VII. CHANGES

After the approval and issuance of a Permit by the Municipality or its agent, no changes of any kind shall be made to the application, Permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Municipality or its agent. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Municipality for consideration.

ARTICLE VIII. DUTIES OF THE OWNER

Owners of property upon which there is or is to be installed a holding tank shall:

- A. Permit the Municipality or its agent to inspect the holding tank as required by the Municipality. Application for a holding tank Permit shall be deemed consent by the Owner and all subsequent Owners of said holding tank for the Municipality, its agents or employees to go upon the premises upon which the holding tank is or is to be located and to make as many inspections as are necessary to assure compliance with the regulations established herein.
- B. Operate and maintain the holding tank in conformance with the guidelines published in the Harmony Township Sewage Management Program, or the latest revision thereof, the provisions of any applicable law, rule or regulation of the Commonwealth of Pennsylvania, its subdivisions and administrative agencies.
- C. Deliver to the Municipality a copy of the pumping receipt or a pumping report, within thirty (30) days of any pumping of the holding tank. At a minimum, said receipt shall set forth the following:
 1. Date of pumping.
 2. Identity of pumper.

3. Gallons pumped.
 4. Destination of contents' disposal, if known.
- D. Maintain copies of all pumping receipts and pumping records for a period of five (5) years from the date of pumping.
- E. Not permit the discharge of sewage onto the surface, into the ground, or into the waters of the Commonwealth of Pennsylvania.

ARTICLE IX. CHARGES

The Owner shall pay to the Municipality all amounts which shall be assessed or charged to the Owner and incurred by the Municipality in association with the enforcement of this Ordinance. It is intended that said charges will include, but not necessarily be limited to, the hourly or other fees as charged by the Municipality's Sewage Enforcement Officer for inspection or other tasks necessary for the maintenance of the holding tank pursuant to this Ordinance. In addition, the Municipality shall have the right and power to fix, alter, charge and collect rates, assessments and other charges as it shall, from time to time, adopt by Resolution or Ordinance or as the same may be authorized by the other applicable law. Payment of all of said charges shall be required within thirty (30) days of the mailing of said charges to the Owner or the posting of notice of said charges upon the premises upon which the holding tank is located and may be collected from one or more of all of the Owners of said premises. Any charges imposed hereunder may also be charged and collected as municipal liens in accordance with the law.

ARTICLE X. LIMITATIONS UPON USE AND REMOVAL OF HOLDING TANK

The holding tank Permit will be granted and use of said holding tank allowed only when one of the following three (3) conditions prevail:

- A. When the use of the holding tank is necessary to abate a nuisance or public health hazard; or
- B. When the premises for which the Permit is sought are utilized or intended to be utilized for commercial purposes and such commercial usage will not result in sewage flow in excess of four hundred (400) gallons per day; or
- C. Where there exists an Official Sewage Facilities Plan which provides for municipal sewage collection or an approved on-lot sewage disposal system for the premises and where the holding tank is intended to serve as an interim solution until the premises become served by the municipal sewage collection system or approved on-lot system.

However, in all events when the premises served by a holding tank shall become served by a municipal sewage system or an on-lot system, or when the Owner is otherwise required to discontinue use or does discontinue use of said holding tank, the Owner of said premises shall:

- A. Within sixty (60) days of said event, remove all contents from the holding tank vault and discontinue use of the same; and
- B. Within one hundred eighty (180) days unearth, disconnect and remove all plumbing and piping attached to said holding tank and remove, fill or otherwise render said holding tank unusable for the purpose of the storage of sewage; or
- C. As an alternative to the requirements of subparagraph "B" above, the Owner may convert said holding tank to another useful purpose upon the written consent of the Municipality.

ARTICLE XI. ABATEMENT OF NUISANCE

Whenever the Municipality or an authorized representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Municipality shall give written notice of such alleged violation as hereinafter provided. Such written notice shall:

- A. Include a statement of the reason(s) for its issuance;
- B. Allow a reasonable time not to exceed a period of sixty (60) days for the performance of any act it requires;
- C. Be served upon the Owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such Owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
- D. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.

In addition to any other remedy provided in this Ordinance or available under law, any violation of this Ordinance shall be reviewed by the Municipality and if said review shall warrant, be deemed a nuisance to be abated by the Municipality by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a Court of competent jurisdiction. The Municipality may assess to the Owner any and all charges or other costs incurred in the abatement of said nuisance.

In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any holding tank

constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Municipality to be a public nuisance and abatable as such.

ARTICLE XII. PENALTY

Any person who violates any or all of the provisions of this Ordinance or who fails or refuses to comply with any notice, order or direction of the Municipality or its agents shall, upon conviction thereof be subject to fines or imprisonment as established by the local judicial system and in accordance with the Pennsylvania Sewage Facilities Act.

ARTICLE XIII. NOTICE TO SUBSEQUENT PURCHASERS OR TENANTS

Any Owner of premises, upon which there is installed a holding tank, who intends to grant, sell, convey, lease, sublease, or otherwise assign or transfer an interest in the premises or another party shall be required to provide the other party thirty (30) days advance notice, in writing, of the fact that the premises is served by a holding tank, the condition of said holding tank, and whether said holding tank complies with the provisions of this Ordinance.

ARTICLE XIV. REPEAL

All ordinances or resolutions or parts of Ordinances or resolutions, insofar as they are inconsistent herewith, be the same are hereby repealed.

ARTICLE XV. SEVERABILITY

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such provisions, sentences, clauses, sections, or parts of this Ordinance, it is hereby declared as the intent of the Supervisors of the Municipality, that this Ordinance would have been adopted had such constitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ARTICLE XVI. VARIANCES

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective Owner, the Municipality may, upon request, grant relief from the strict application of the requirements. Requests for variances shall be considered by the Municipality in accordance with the following procedures:

- A. No variance shall be granted for any holding tank installation which may degrade the environment of the Municipality or cause harm to the residents thereof.
- B. If granted, a variance shall involve only the least modification necessary to provide relief.

- C. In granting any variance, the Municipality shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare, and to achieve the objectives of this Ordinance.
- D. Whenever a variance is granted, the Municipality shall notify the applicant in writing that:
 - 1. The granting of the variance may result in increased fees for permitting.
 - 2. Such variances may increase the risks to life and property.
- E. In reviewing any request for a variance, the Municipality shall consider, at a minimum, the following:
 - 1. That there is good and sufficient cause.
 - 2. That failure to grant the variance would result in exceptional hardship to the applicant.
 - 3. That granting of the variance will neither result in additional threats to public safety or extraordinary public expense nor create nuisances to the public or conflict with any other applicable state or local ordinances and regulations.

A complete record of all variance requests and related actions shall be maintained by the Municipality.

ARTICLE XVII. ENACTMENT

IN WITNESS WHEREOF, the Supervisors of Harmony Township have caused this Ordinance to be adopted this 8th day of June, 2015

ATTEST:

HARMONY TOWNSHIP SUPERVISORS

Karla Beach
Harmony Township Secretary

By: [Signature]

By: [Signature]

By: [Signature]