

ACT 537: SALES CONTRACT DISCLOSURE REQUIREMENTS

The Pennsylvania Sewage Facilities Act (Act 537) requires every contract for the sale of a lot where there is not an existing community sewage system available, to contain language notifying the buyer of this fact. Other language indicating what actions are necessary to obtain a sewage disposal permit for the lot, or notifying the buyer of unusual circumstances surrounding sewage disposal on the lot, may also be required. This fact sheet answers frequently asked questions about required sales contract language.

When does Act 537 require sales contract language?

Act 537 requires the inclusion of advisory language in the sales contract for a building lot whenever certain specified situations occur. These include:

- The sale of a lot that does not have access to a community sewage system, and therefore must be served by an individual sewage system;
- The sale of a lot that is served by an individual sewage system installed under the 10-acre permit exemption provisions of Act 537;
- The sale of a lot served by a holding tank, whether permanent or temporary;
- The sale of a lot where the required horizontal isolation distance between the well and sewage system is not met;
- The sale of a lot located within an area where limitations on permit issuance are in effect; or
- The sale of a lot where a required revision for new land development, exception to the requirement to revise or supplement has not been approved by the Department of Environmental Protection (DEP) or a delegated local agency.

Why does Act 537 require sales contract language in these situations?

The intent of the sales contract language is to ensure that the buyer of the lot is aware of any unusual circumstances surrounding sewage disposal on the lot. However, it does not substitute for careful investigation on the buyer's part.

If a lot does not have access to a currently existing community sewage system, what language must appear in the sales contract?

Language similar to the following must be included in the sales contract:

"This lot does not have access to a currently existing community sewage system. A permit for an individual sewage system must be obtained from the local agency in accordance with Section 7 of the Pennsylvania Sewage Facilities Act. The buyer should contact the local agency charged with administering the act before signing this contract, to determine the procedure and requirements for obtaining a permit for an individual sewage system if one has not already been obtained."

What language is required if the lot in question was created under the 10-acre permit exemption provision of Act 537?

Language similar to the following is required:

"Soils and site testing relating to the suitability of this lot for the installation of a sewage disposal system have not been conducted. The owner of the property served by the sewage disposal system installed on this lot at the time of a malfunction may be liable for any contamination, pollution, public health hazard or nuisance which may occur as a result of the malfunction."

What language must be included in sales contracts for lots served by holding tanks?

The sales contract for a lot served by a holding tank must contain language similar to the following:

"With respect to sewage disposal, this property is served by a holding tank instead of a conventional sewage disposal system. The holding tank is designed and constructed for the temporary storage of sewage and to facilitate ultimate disposal of the sewage at another site approved by the Department of Environmental Protection. It has cost \$ _____ per year to maintain the holding tank since the date of its installation."

If a lot received a waiver of the isolation distance between the well and onlot sewage disposal system components, what advisory language must appear on the sales contract?

Sales contract language similar to the following is required:

“With respect to a well located on this property (or at a designated location on this property), the onlot sewage disposal system components were not installed in conformance with the minimum isolation distances between onlot sewage systems and wells specified in regulations of the Department of Environmental Protection at Title 25 Pennsylvania Code Chapter 73.”

If a lot was created in an area subject to the limitations on permit issuance contained in Act 537, what language must appear in the sales contract?

The contract of sale must include a statement similar to:

“Sewage facilities are not available for Lot # ___ in the _____ Subdivision, and sewage facilities will not be available and construction of any structure requiring sewage facilities may not begin until _____ Township has completed, and DEP has approved, a major planning requirement in accordance with the provisions of Section 7(b)(4.1)(ii) of the Pennsylvania Sewage Facilities Act (35 P.S. Sec. 750.7(b)(4.1)(ii)).”

If sewage facilities planning (a revision, exception or supplement to the municipal Official Sewage Facilities Plan) has not been approved by DEP or a delegated local agency for a lot, what language must appear in the lot’s sales contract?

“Sewage facilities are not available to serve this lot. Sewage facilities will not be available, nor may construction begin on this lot, until sewage facilities planning has been approved by DEP or a delegated local agency serving this area, as appropriate.”

Must the sales contract language be included only in the sales contracts for new lots, or must it be included for every sale of a lot affected by one of the specified conditions?

The sales contract language must be included in the contract for each sale of the affected lot for as long as the condition remains. If the condition triggering the sales contract language requirement is removed, the language is no longer required.

What happens if the required language is not in the contract?

If the required sales contract language does not appear in the sales contract, the contract is not enforceable by the seller against the buyer. Further, should the contract contain language that attempts to waive the buyer’s rights to any of the required disclosures, the contract is void.

For more information, visit www.dep.state.pa.us, keyword: Sewage or click on “Regional Resources.”