

ORDINANCE NO. 40

HOLDING TANK ORDINANCE OF WASHINGTON TOWNSHIP,
SCHUYLKILL COUNTY, PENNSYLVANIA

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Washington Township, Schuylkill County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, as follows:

Section 1. Purpose. The purpose of this Ordinance is to establish procedures for the use and maintenance of existing and new holding tanks designed to receive and retain sewage, whether from residential or commercial uses, and it is hereby declared that the enactment of this Ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this municipality.

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

A. "Governing Body" shall mean the Board of Supervisors of Washington Township, Schuylkill County, Pennsylvania.

B. "Holding Tank" means a watertight receptacle 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.

C. "Improved Property" shall mean any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings and from which structure sewage shall or may be discharged.

D. "Owner" shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

E. "Person" shall mean any individual, partnership, company, association, corporation or other group or entity.

F. "Sewage" shall mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings and any noxious or deleterious substance which is harmful or inimical to the public health, or to animal or aquatic life or to the use of water for domestic water supply or for recreation.

G. "Municipality" or "Township" shall mean Washington Township, Schuylkill County, Pennsylvania.

Section 3. Rights and Privileges Granted. The Governing Body is hereby authorized and empowered to undertake within the Township the control and methods of holding tank use, sewage disposal and sewage collection and transportation thereof.

Section 4. Rules and Regulations. The Governing Body is hereby authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effect the purposes of this Ordinance.

Section 5. Rules and Regulations to Be in Conformity with Applicable Law. All rules and regulations adopted by the Governing Body pursuant to this Ordinance shall be in conformity with the provisions hereof, all other Ordinances of the Township, all applicable laws and all applicable rules and regulations of the Commonwealth of Pennsylvania and its departments and agencies.

Section 6. Rates and Charges. The Governing Body shall have the right and power to fix, alter, charge and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable laws and regulations.

Section 7. Exclusiveness of Rights and Privileges.

A. The collection and transportation of all sewage from any improved property utilizing a holding tank shall be done solely by or under the direction and control of the Governing Body, in compliance with the regulations of the Pennsylvania Department of Environmental Resources ("DER") set forth in 25 Pa. Code, Section 71.63, a copy of which is attached hereto as Appendix "A".

B. The disposal of sewage from holding tanks shall be made only at sites which have been approved by the Department of Environmental Resources for that purpose.

C. All permits for the utilization of holding tanks within the Township for the collection of sewage issued after the effective date hereof shall expire one (1) year from the date of issuance and shall not be renewable except at the discretion of the Governing Body, upon their review, for such additional period of time as shall be deemed appropriate by the Governing Body.

D. The Sewage Enforcement Officer of the Governing Body will receive, review and retain pumping receipts for each permitted holding tank.

E. The Governing Body directly and through its Sewage Enforcement Officer will complete and retain annual inspection reports for each permitted tank.

Section 8. Duties of Improved Property Owner. The owner of an improved property that utilizes a holding tank shall:

A. Maintain the holding tank in conformance with this and all other applicable ordinances of the Township, the provisions of any applicable law, and the rules and regulations of the Governing Body, of DER and of any other administrative agency of the Commonwealth of Pennsylvania.

B. Permit only the Governing Body or its agent to inspect the holding tank on an annual basis.

C. Permit only a licensed hauler to collect, transport, and dispose of the contents of the holding tank at a licensed permanent dumping site.

D. Provide proof to the governing body that the hauler and dumping site are both licensed by DER or other appropriate governmental agency.

E. Provide the Governing Body through its Sewage Enforcement Officer with receipts indicating that the holding tank has been pumped on a regular basis.

F. Discontinue the use of such holding tank, if a permit for its use has been issued pursuant to this Ordinance and rules and regulations adopted hereunder, within one (1) year from the date of issuance of the permit, and begin using a sewage collection and disposal system which has been approved for permanent use in place of such holding tank, unless the permit has been renewed by the Governing Body pursuant to Section 7.C. above.

G. Fill any holding tank which has remained unused for a period of four (4) consecutive years, with dirt or similar material.

H. Deposit the sum of Five Hundred Dollars (\$500.00) for each 1,000 gallons of holding tank capacity, or part thereof, with the Governing Body, to be held by the Governing Body in a separate Township account, to assure reimbursement to the Governing Body of the costs of collecting, transporting and disposing of the contents of the holding tank or repairing or correcting malfunctions of the holding tank or ameliorating health hazards caused by the utilization of the holding tank and the Governing Body shall have the right to withdraw funds from the account for such purposes without any specific consent of the Owner. If the cost of collecting, transporting and disposing of the contents of the holding tank four (4) times exceeds Five Hundred Dollars (\$500.00), then the owner shall deposit such additional sum in said account. In the event it becomes necessary for the Governing Body to draw on the account for the purposes set forth herein, the owner shall replenish the account immediately upon request of the Township so that the balance required herein is maintained at all

times. Failure of the owner to comply with the requirements of this paragraph shall be grounds for immediate revocation of the holding tank permit.

Section 9. Any permit for the use of a holding tank in the Township issued by authority of the Governing Body pursuant to this Ordinance or any rules and regulations adopted hereunder, shall be valid for only one (1) year and shall not be renewable, except as set forth above in Section 7.C. Any person who sells, transfers or conveys an improved property in the Township which utilizes a permitted holding tank for collection and disposal of sewage shall give written notice to the purchaser or transferee thereof that the permit for the holding tank shall expire one (1) year from the date of issuance thereof and shall not be renewable and shall furnish a true and accurate copy of the holding tank permit to the new owner.

Section 10. No permit for the use of a holding tank in Washington Township shall be issued, whether pursuant to this Ordinance, any rules and regulations adopted hereunder, or otherwise, unless all other possible means of collecting and disposing of sewage at the property in question have been considered and found to be unusable.

Section 11. Violations. Any person who violates any provisions of this Ordinance shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than Three Hundred Dollars (\$300.00) and not more than Five Hundred Dollars (\$500.00), and in default of said fine and costs to undergo imprisonment in the County Prison for a period not to exceed thirty (30) days.

Section 12. Abatement of Nuisances. In addition to any other remedies provided in this Ordinance, any violation of Section 8 above shall constitute a nuisance and shall be abated by the Municipality by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction.

Section 13. Repeal. All ordinances or resolutions or parts of ordinances or resolutions which are inconsistent herewith are hereby repealed.

Section 14. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Washington Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

Section 15. Effective Date. This Ordinance shall become effective five (5) days after its adoption, as provided by law.

ENACTED AND ORDAINED this 15th day of April, 1991.

ATTEST:

BOARD OF SUPERVISORS OF WASHINGTON
TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA

Secretary

By: _____

CERTIFICATE OF ADOPTION

I hereby certify the foregoing to be a true and accurate copy of Ordinance No. 40, adopted by the Board of Supervisors of Washington township, Schuylkill County, Pennsylvania, at a regular meeting of the Board on April 15, 1991.

Secretary

APPENDIX "A"

Regulations of the Pennsylvania Department of
Environmental Affairs Regarding Holding Tanks
(25 Pa. Code Section 71.63)

Section 71.63 Retaining tanks.

(a) Retaining tanks are designed and constructed to facilitate ultimate disposal of the sewage at another site. This requires the control of retaining tanks through specific restrictions on their use.

(b) General requirements for retaining tank use are as follows:

(1) The official plan or revision shall meet the requirements of Subchapters B and C (relating to official plan requirements; and new land development plan revisions).

(2) Proposed disposal sites, the method of disposal and the retaining tank cleaner for retaining tank waste shall be approved by the Department in a manner consistent with the Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003) prior to approval of the official plan or revision allowing the use of retaining tanks.

(3) A municipality, sewer authority or sewage management agency may delegate or contract for the collection and disposal of the retaining tanks' contents except that the ultimate responsibility for the proper collection and disposal of the contents shall remain with the municipality, authority or agency.

(4) Whenever the local agency issues permits for retaining tanks, the municipality or local agency may impose other conditions it deems necessary for operation and maintenance of the tanks to prevent a nuisance or a public health hazard.

(c) Holding tanks require regular service and maintenance to prevent their malfunction and overflow and shall be used in lieu of other methods of sewage disposal only when the following additional conditions are met:

(1) The applicable official plan or revision thereto indicates the use of holding tanks for that lot and provides for replacement by adequate sewage services in accordance with a schedule approved by the Department.

(2) The applicable official plan or revision includes municipal financial assurances of the replacement

project's implementations, such as public financing, bonding or other security of sufficient present value to assure completion or other assurances either singularly or in combination that the Department deems necessary.

(3) The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by suitable ordinance, regulation or restriction assumed full responsibility for maintaining existing and new holding tanks. The ordinances shall, as a minimum, include:

(i) Identification of the administrative entity to receive, review and retain pumping receipts from permitted holding tanks.

(ii) An annual inspection of holding tanks within the municipality with completion and retention of a written inspection report.

(iii) Procedures and penalties for correction of malfunctions or public health hazards from holding tanks.

(d) The restrictions in subsections (c)(1)-(3) do not apply to holding tanks when the local agency, municipality or the Department determines that the use is necessary to abate a nuisance or public health hazard.

(e) The restrictions in subsections (c)(1) and (2) do not apply to holding tanks when the use is for an institutional, recreational or commercial establishment with a sewage flow of 400 gallons per day or less.

(f) A privy or chemical toilet is designed to receive sewage where there is no water under pressure and no piped wastewater. Privies shall be used in lieu of other methods of sewage disposal only when the following conditions are met:

(1) The applicable official plan or the revision thereto indicates the use of privies for that lot and documents that soil and site suitability testing of that lot under §§ 73.11 - 73.16 has been conducted, and the site meets the requirements for the ultimate sewage disposal by one of the systems described under §§ 73.51 - 73.55 (relating to construction of absorption areas) to assure that adequate sewage facilities will be available if water under pressure or piped water becomes available to that lot in the future.

(2) The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by suitable ordinance, regulation or restriction

assumed responsibility for the removal of a privy and the installation of an approved onlot sewage disposal system when water under pressure or piped water is provided to the lot.

(g) The restrictions in subsection (f) do not apply:

(1) To a privy or chemical toilet when proposed for use on an isolated lot which is 1 acre or larger not served now and will not be served in the future by water under pressure or piped water.

(2) To temporary use of portable retention tanks or portable chemical toilets when their use is proposed at construction sites or at the site of public gathering and entertainment.