

**ORDINANCE NO. 2011-04**

**AN ORDINANCE OF HERFORD TOWNSHIP,  
BERKS COUNTY, PA, AUTHORIZING THE  
USE OF HOLDING (RETAINING) TANKS IN  
CERTAIN LIMITED CIRCUMSTANCES**

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

Section 1. Intent and Short title. It is the policy of the Township to protect the public interest by ensuring the proper collection and disposal of Sewage. The Township has determined that, although not a preferred method, Holding Tanks can under certain circumstances play a role in the collection and disposal of Sewage and therefore enacts this Ordinance. This Ordinance shall be known and may be cited as the Hereford Township Holding Tank Ordinance.

Section 2. Purpose. The purpose of this Ordinance is to establish procedures for the use and maintenance of Holding Tanks designed to receive and retain Sewage, whether from residential or non-residential 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 3. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

A. DEP – Pennsylvania Department of Environment Protection, or any other Commonwealth agency authorized and empowered to enforce the Pennsylvania Sewage Facilities Act and Regulations promulgated thereunder.

B. Holding Tank - a watertight system or receptacle which receives Sewage and is designed and constructed to facilitate ultimate disposal of the Sewage at another site. Holding Tanks include but are not limited to the following:

i. Chemical Toilet – a non-flushing toilet using chemicals for treatment in the retaining tank for odor control;

ii. Retaining Tank – a tank to which Sewage is conveyed by a water carrying system; and

iii. Privy – a Holding Tank designed to receive Sewage where water under pressure is not available.

C. 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 and from which structure Sewage shall or may be discharged.

D. Municipality - Hereford Township, Berks County, Pennsylvania.

E. Owner - any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

F. Person - any individual, partnership, company, association, corporation or other group or entity.

G. Retaining Tank – a Holding Tank.

H. Sewage - 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 for recreation.

I. Township – Board of Supervisors of Hereford Township, Berks County, Pennsylvania.

Section 4. Rights and Privileges Granted. The Township is hereby authorized and empowered to permit, regulate and control the use of Holding Tanks within the Township and the collection and disposal of all Sewage deposited or removal from Holdings Tanks.

Section 5. Rules and Regulations. The Township is hereby authorized and empowered to adopt such rules and regulations by Resolution concerning the operation and administration of this Ordinance which it may deem necessary from time to time to effect the purposes of this Ordinance.

Section 6. Rules and Regulations to be in Conformity with Applicable Law. All rules and regulations adopted by the Township 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 7. Rates and Charges. The Township shall have the right and power to fix, alter, charge and collect fees, rates, assessments, and other charges relating to Holdings Tanks and all related activities at reasonable and uniform rates as authorized by applicable laws and regulations.

Section 8. 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 in accordance with the terms of this

Ordinance and rules and regulations promulgated hereunder and in compliance with the regulations of the Pennsylvania Department of Environmental Protection (“DEP”) set forth in 25 Pa. Code, Chapter 71 as amended from time to time.

B. Transportation of Sewage shall be done only by a Certified Sewage Hauler and disposal of Sewage from Holding Tanks shall be made only at sites which have been approved by DEP for that purpose.

C. All permits authorizing Holding Tanks within the Township shall remain valid for one (1) year and shall thereafter expire. If an Owner desires to continue to use a Holding Tank, a new application shall be required and a new permit shall be issued if the applicant meets the then current requirements. No permits shall automatically renew. Owners who desire to continue to maintain a Holding Tank after the expiration of the permit period may make application no earlier than sixty (60) days before the expiration date. Any permit approved upon application may commence at the expiration of the immediately preceding permit for a period of no longer than one (1) year.

D. The owner shall provide to the Sewage Enforcement Officer of the Township true and correct copies of all pumping and disposal receipts each time a Holding Tank is serviced for each permitted Holding Tank.

E. The Township directly and through its Sewage Enforcement Officer will complete and retain annual inspection reports for each permitted Holding Tank.

Section 9. Duties of Improved Property Owner. The owner of an improved property that utilizes a Holding Tank shall at the owners sole cost or expense and at no cost or expense to the Township:

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 Township, of DEP and of any other administrative agency of the Commonwealth of Pennsylvania.

B. Permit only the Township or its agent to inspect the Holding Tank on an annual basis.

C. Permit only a certified sewage hauler to collect, transport and dispose of the contents of the Holding Tank at a licensed permanent dumping site.

D. Provide proof to the Township that the hauler and disposal site are both licensed by DEP or other appropriate governmental agency.

E. Provide the Township through its Sewage Enforcement Officer with receipts indicating that the Holding Tank has been pumped at such intervals as determined by the Sewage Enforcement Officer at the time of permit or more frequently to guaranty that the

Holding Tank does not overflow and that Sewage does not remain on the subject property for such periods as to create a health hazard.

F. Promptly cease using the Holding Tank upon the expiration of any permit previously issued, or where a Sewage collection and disposal system approved for permanent use in place of a Holding Tank has been approved and unless the permit has been renewed by the Township pursuant to Section 8.C above.

G. Remove 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 Township, to be held by the Township in a separate Township account, to assure reimbursement to the Township 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 in the event of any such issues. In addition, the Township may draw against the account to cover attorney's fees and administrative costs directly related to the foregoing and to enforcement of the Ordinance and regulations. The Township shall have the right to withdraw funds from the account for these purposes without any specific consent of the Owner. If the cost of collecting, transporting and disposing of the contents of the Holding Tank four successive (4) times exceeds Five Hundred Dollars (\$500.00) for each 1,000 gallons of capacity, then the Owner shall deposit such additional sums into said account, upon twenty (20) days notice from the Township. In the event it becomes necessary for the Township 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 10. Permits. Any permit for the use of a Holding Tank in the Township issued by authority of the Township 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 8.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 11. Permit Limitation. No permit for the use of a Holding Tank in Hereford 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 12. Violations. Any person who violates any provisions of this Ordinance and/or any rules or regulations promulgated hereunder shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than One Thousand Dollars (\$1,000.00). Each

day that a violation of this Ordinance continues shall be deemed a separate offense. In addition and notwithstanding any prosecution, the Township may also and simultaneously with the prosecution of any summary proceedings, proceed to file a complaint for special relief including an injunction and damages for actual costs including court costs and attorneys fees incurred by the Township in the enforcement of the provisions of this Ordinance.

Section 13. Nuisances. In addition to any other remedies provided in this Ordinance, any violation of Sections 8 or 9 above shall constitute a nuisance and the Township may may but shall not be required to take direct action and enter unto the property and abate the nuisance in any appropriate way.

Section 14. Repeal. All ordinances or resolutions or parts of ordinances or resolutions which are inconsistent herewith are hereby repealed. The provisions of the Hereford Township Sewage Facilities Ordinance of 1993 shall be construed and administered together with this Ordinance, but in the event of any conflict or inconsistency, the provisions of this Ordinance shall control.

Section 15. 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 Hereford Township that this Ordinance would have been adopted without containing such unconstitutional, illegal or invalid sentence, clause, section or part thereof.

Section 16. Effective Date. This Ordinance shall become effective five (5) days after its adoption, as provided by law.

ENACTED AND ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

BOARD OF SUPERVISORS OF  
HEREFORD TOWNSHIP

\_\_\_\_\_  
John G. Membrino, Chairman

\_\_\_\_\_  
Karla T. Dexter, Vice Chairman

\_\_\_\_\_  
Jeffrey A. Sell, Supervisor

ATTEST:

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Norann Warmkessel, Secretary