

TOWNSHIP OF PERRY

ORDINANCE NO. 2007-02

HOLDING/RETAINING TANK ORDINANCE

AN ORDINANCE OF THE TOWNSHIP OF PERRY, FAYETTE COUNTY, PENNSYLVANIA, ESTABLISHING PROCEDURES FOR THE USE AND MAINTENANCE OF EXISTING AND NEW HOLDING/RETAINING TANKS DESIGNED TO RECEIVE AND RETAIN SEWAGE AND PROVIDING PENALTIES FOR NONCOMPLIANCE.

**WHEREAS**, the Township of Perry contains areas which have not been provided with sanitary sewer lines; and

**WHEREAS**, for development and use of said areas, holding/retaining tanks designed to receive and retain sewage are necessary until the construction of sanitary sewers; and

**WHEREAS**, the regulation of said holding/retaining tanks is necessary for the general health, safety, welfare and protection of the public.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Township Supervisors of Perry Township as follows:

**SECTION 1. Purposes.** The purpose of this Ordinance is to establish procedures for the use and maintenance of existing and new holding/retaining tanks designed to receive and retain sewage whether from residential, commercial, or other uses, and it is hereby declared that the enactment of this Ordinance is necessary for the health, benefit, protection, safety and welfare of the inhabitants of Perry Township.

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

A. "**Authority**" shall mean the Township Supervisors of the Perry Township, Fayette County, Pennsylvania.

B. "**Enforcement Officer**" shall mean the Enforcement Officer or Officers appointed by the Supervisors of Perry Township or the Board of Directors of Perry Township Municipal Authority or its successors.

C. "Holding/Retaining Tank" shall mean a watertight receptacle which meets the design criteria of the Department of Environmental Protection to receive and retain sewage and is designated and constructed to facilitate ultimate disposal of the sewage at another site. Holding/retaining tanks include, but are not limited to, the following:

1. Chemical Toilet which is a toilet using chemicals that discharges to a holding/retaining tank.
2. Retention Tank which is a holding/retaining tank system where sewage is conveyed to said tank by a water carrying system.
3. Vault Pit Privy which is a holding/retaining tank system designed to receive sewage where water under pressure is not available.
4. Incinerating Toilet which is a device capable of reducing waste materials to ashes.

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

E. "Municipality" shall mean Perry Township, Fayette County, Pennsylvania.

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

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

H. "Privy" shall mean a tank designed to receive sewage where water under pressure is not available.

I. "Recycling Toilet" shall mean a device for which the flushing medium is restored to a condition suitable for reuse in flushing.

J. "Retaining Tank" shall mean a watertight receptacle in accordance with the Department of Environmental Protection specifications which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes, but is not limited to, chemical toilets, holding/retaining tanks, privies, incinerating toilets, composting toilets, and recycling toilets.

K. "Lessee" shall mean any person who has a leasehold interest in any realty within Perry Township, whether the original lessee or a subtenant.

L. "Sewage" shall mean any substance that contains any of the waste products or 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, welfare or safety or to animal or aquatic life or to the streams and rivers or to the use of water whether for domestic consumption, supply or recreation or any substance which constitutes pollution under the Clean Stream Law, 35 PS §§ 691.1-691.1001.

**SECTION 3. Right and Privileges Granted.** That the Supervisors of Perry Township and/or the Board of Directors of Perry Township Municipal Authority may adopt such rules and regulations concerning sewage which it may deem necessary from time to time to control the methods of holding/retaining tank sewage collection, transportation and disposal thereof; and the Supervisors of Perry Township and/or the Board of Directors of Perry Township Municipal Authority may adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effect the purposes herein. Such rules and regulations shall be adopted by the Supervisors of Perry Township or the Board of Directors of Perry Township Municipal Authority by Resolution at a regular meeting.

**SECTION 4. Rules and Regulations.** That all such rules and regulations adopted by the Supervisors of Perry Township and/or the Board of Directors of Perry Township Municipal Authority shall be in conformity with all applicable laws and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania.

**SECTION 5. Exclusiveness of Rights and Privileges.**

A. That the collection and transportation of sewage from any improved property utilizing a holding/retaining tank shall be done

solely by or under the direction and control of the Enforcement Officer, and the disposal thereof shall be made only in accordance and only at such site or sites as may be approved and regulated by the Department of Environmental Protection of the Commonwealth of Pennsylvania, and any other rules and regulations applicable by any administrative agency authorized by applicable law to enact said rules and regulations.

B. The Supervisors of Perry Township and/or the Board of Directors of Perry Township Municipal Authority shall receive, review and retain pumping receipts from permitted holding/retaining tanks.

C. The Supervisors of Perry Township and/or the Board of Directors of Perry Township Municipal Authority shall receive, review and retain annual inspection reports for each permitted holding/retaining tank.

**SECTION 6. Rates and Charges.** The Supervisors of Perry Township and/or the Board of Directors of Perry Township Municipal Authority shall have the right and power to fix, alter, charge and collect rates, assessments, fees, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by Pennsylvania law.

**SECTION 7. Duties of Improved Property Owner or Lessee.** The owner and the lessee, severally and jointly, of an improved property that utilizes a holding/retaining tank shall:

A. Maintain the holding/retaining tank in compliance with this and any other Ordinance of the Township of Perry, and the provisions of any applicable law, and the rules and regulations of the Township of Perry and any administrative agency of the Commonwealth of Pennsylvania or Fayette County.

B. That any owner or lessee, prior to the collection, transportation and disposal of the contents of any holding/retaining tank, shall make application to the appropriate Enforcement Officer of the Township of Perry and/or the Perry Township Municipal Authority setting forth the following:

1. The name of the person making such a collection;
2. The method of collection and transportation; and
3. The name and location of disposal site.

C. Upon receipt of the application, the Enforcement Officer shall review the application for compliance with the rules and regulations of the Township and the Authority, and provisions of any applicable state law or regulation.

D. If the Enforcement Officer disapproves the application for collection and disposal, the Enforcement Officer shall by written statement, specify the objections of the Township or the Authority and what provisions are necessary to correct said application. The owner and lessee shall immediately take steps to correct the deficiencies of the application and resubmit a new application for collection, transportation and disposal of the contents of the holding/retaining tank.

E. The collection, transportation and disposal of the contents of any holding/retaining tank shall be done at the cost of the owner and/or lessee, severally or jointly, PROVIDED, that however, if, in the opinion of the Enforcement Officer, that the owner and/or lessee has neglected or failed to collect, transport and dispose of the contents of any holding/retaining tank as may be necessary, the Enforcement Officer is authorized to engage a qualified person to collect, transport and dispose of the contents of said holding/retaining tank. All costs of such collection, transportation and disposal, shall be billed to the owner and/or lessee, jointly and severally, and paid within ten (10) days.

F. That prior to the construction of any holding/retaining tank authorized by the Enforcement Officer pursuant to this Ordinance, and/or any other applicable written law, rule and regulation, the owner and/or lessee shall make application for a holding/retaining tank permit together with payment of a Five Hundred and 00/100 (\$500.00) Dollar license fee. In addition to the fee required, the owner and/or lessee shall be required to place with Perry Township a performance bond with approved security conditioned upon the faithful performance of collection, transportation, and disposal of the contents of the holding/retaining tank and removal of said tank in such amounts as determined by the Enforcement Officer. In setting the amount of the Bond, the Enforcement Officer shall determine the size of the holding/retaining tank in relation to the anticipated use as indicated by the structure or dwelling being serviced by the holding/retaining tank, and shall make a calculation as to the number of times the contents of said holding/retaining tank shall need collected, transported and disposed within a calendar year,

and the cost of properly removing said holding/retaining tank when same is no longer needed or required, at the time public sewage becomes available. The Enforcement Officer shall further estimate the cost of the collection, transportation and disposal of the contents therein for each year which shall be the principal amount of the Bond required. All said Bonds with approved surety shall be reviewed periodically and shall be required during the use of said tank. The principal amount of said Bond may be increased or decreased periodically by the Enforcement Officer in accordance with the anticipated cost as determined by the calculations aforesaid.

G. Should any owner and/or lessee neglect or fail to make collection, transportation and disposal of the contents as required; or fail to do so within five (5) days of notification by the Enforcement Officer, the Enforcement Officer shall take one or more of the following steps:

1. Arrange and contract for the collection, transportation and disposal of the contents of said holding/retaining tank.

2. Issue a Cease and Desist Order for use of the toilet and sewage facilities which void into the said holding/retaining tank.

3. Suspend and/or revoke the occupancy permit of the buildings or structures said holding/retaining tank or tanks service.

H. Prevent any leakage of the contents of said holding/retaining tank into or onto the ground, onto any watershed or any watercourse. Upon the discovery of any leakage by any person or the Enforcement Officer, the owner and/or lessee shall immediately cease using all toilet and sewage facilities voiding into said holding/retaining tank until said tank has been repaired or replaced and shall within one (1) day, collect, transport and dispose of the contents of the holding/retaining tank.

I. Upon construction of sanitary sewers serving the Improved Property, the owner shall, within thirty (30) days after notice by the Township and/or Municipal Authority, connect all sewage facilities servicing the site into the sanitary sewer line and pay any and all fees, costs or assessments associated with said connection. Prior service of the realty by a holding/retaining

tank shall not be construed to relieve the realty, or the owner or lessee from payment of all assessed benefits to the realty benefitted by the construction of sanitary sewers.

J. Upon completion of the tap-in of any holding/retaining tank site into the sanitary sewer system or upon the expiration of thirty (30) days from the notice to tap into the sewer system, whichever is sooner, the owner and/or the lessee shall collect, transport and dispose of the contents of any holding/retaining tank, and shall remove the holding/retaining tank from the site. In the proper case or circumstance, the Enforcement Officer may give written consent to the owner and/or lessee to fill the holding/retaining tank with sand in lieu of removal.

K. Permit only the Supervisors of Perry Township, an agent of Perry Township, or the Board of Directors of Perry Township Municipal Authority as approved said organizations, to conduct an annual inspection of the holding/retaining tank or tanks. The annual inspection of the holding/retaining tank or tanks shall be done at the cost of the owner and/or the lessee, PROVIDED, however, if, in the opinion of the Enforcement Officer, that the owner and/or lessee has neglected or failed to inspect the holding/retaining tank on an annual basis, the Enforcement Officer is authorized to engage a qualified person to inspect the holding/retaining tank. The cost of such inspection shall be billed to the owner and/or lessee, jointly or severally. The Enforcement Officer must be present during the annual inspection and a written report of the inspection results must be submitted to the Supervisors of Perry Township and/or the Board of Directors of Perry Township Municipal Authority within ten (10) days of the date of the inspection.

**SECTION 8. Installation Procedure.** That prior to any installation of any holding/retaining tank or issuance of a holding/retaining tank permit by the Enforcement Officer, the owner, lessee or person making actual installation of the holding/retaining tank, shall submit in writing to the Enforcement Officer at least two (2) weeks prior to the intended installation, the following data:

A. The type of holding/retaining tank intending to be installed together with the size, manufacturer and capacity of said tank.

B. The estimated useful life of said tank.

C. A certification from the manufacturer or some other qualified person that said tank shall not leak its contents during the anticipated useful life of said tank.

D. The method of installation and the person hired to do said installation. However, upon review of the application by the Enforcement Officer, after consultation with the Township Engineer, the Enforcement Officer shall make a determination that the proposed tank, quality and size, and installation methods are consistent with the rules and regulations of the Township, the Municipal Authority and the rules and regulations of the Commonwealth of Pennsylvania, the County of Fayette and any other governmental agency regulating these matters. If the Enforcement Officer approves the application for installation, upon payment of the required fee, the Enforcement Officer shall issue the holding/retaining tank permit. If the Enforcement Officer disapproves of the tank, he shall set forth, in writing, the causes and basis for his disapproval.

**SECTION 9. Appeals.** Any applicant or affected person may, within ten (10) days of a decision of the Enforcement Officer, appeal such decision to the Supervisors of Perry Township for review. The Township Supervisors may affirm, reverse or modify the findings of the Enforcement Officer. Any person adversely affected by a decision of the Township Supervisors may appeal to a Court of competent jurisdiction within thirty (30) days of the date of the decision, PROVIDED, however, no such appeal from the decision of the Enforcement Officer or Township Supervisors shall act as a stay to any decision rendered by the Enforcement Officer of Perry Township or the Supervisors of Perry Township.

**SECTION 10. Interpretation and Severability.** In applying the provisions of this Ordinance, they shall be interpreted to be the minimum requirements for the promotion of the public health, safety and general welfare. It is not intended to interfere with, abrogate or annul any other Ordinance, rules, regulations or permits previously adopted or issued, except as amended hereby, or with any other rules or regulations of any other administrative agency having jurisdiction of this matter. Where this Ordinance imposes greater restrictions upon the use of holding/retaining tanks, this Ordinance shall control. It is the intent of the Supervisors of Perry Township and the Board of Directors of Perry Township Municipal Authority that the provisions of this Ordinance



are severable. Should any section or provisions of this Ordinance or subsequent amendments thereto be declared by the Courts to be unconstitutional or invalid for any reason, such decision shall not affect the validity of this Ordinance as a whole or the validity of any other section or provision of this Ordinance other than the one so declared to be invalid.

**SECTION 11. Penalties.** Any person violating any of the provisions of this Ordinance or aiding, abetting or assisting the violation thereof, shall, upon conviction by summary judgment, be sentenced to pay a fine of not less than Six Hundred and 00/100 (\$600.00) Dollars or more than One Thousand and 00/100 (\$1,000.00) Dollars, and pay the costs of prosecution of each offense, together with the attorneys fees and all costs incurred by the Township or Municipal Authority in enforcing the Ordinance in this particular instance or in default of payment of such fine, costs, fees and expenses shall be liable for imprisonment for a period of time to be decided by the Magisterial District Judge, however, not exceeding thirty (30) days. A separate offense shall arise for each day or portion thereof in which the violation is found to exist for each section of the Ordinance found to have been violated providing that notice, in writing, was given to the owner or lessee by the Enforcement Officer, the Township or the Municipal Authority. The penalty provision of this Ordinance shall be consistent with 53 P.S. §66601 as the same may be amended and/or revised.

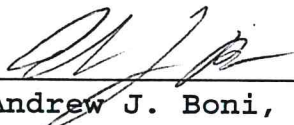
**SECTION 12. Abatement of Nuisances.** In addition to any other remedies provided in this Ordinance, each violation of this Ordinance shall constitute a nuisance and may be abated by either seeking appropriate equitable legal relief from a Court of competent jurisdiction or, when the Enforcement Officer as authorized by this Ordinance, requiring that affirmative steps be taken to correct the condition by hiring contractors for the collection, transportation and disposal of the contents of said holding/retaining tank and/or conducting an annual inspection, all costs incurred shall be imposed upon the owner of the property and the Solicitor for the Perry Township or the Perry Township Municipal Authority is hereby authorized to file a municipal lien against the property owner for recovery of the costs and/or file an action in the Court of Common Pleas to recover said costs from the bonding company of said owner or lessee. In addition, the Solicitor is hereby authorized to file a civil action in a court of

competent jurisdiction to recover costs, fees and expenses incurred with the said costs, fees and expenses continuing until the same have been paid in full.

This Ordinance shall become effective five (5) days after it has been enacted and advertised as provided by Pennsylvania law.


ENACTED AND ORDAINED the 3<sup>rd</sup> day of April, 2007,  
by the Perry Township Supervisors.

TOWNSHIP OF PERRY

By:   
Andrew J. Boni, Chairman

By:   
Janet L. Galla, Vice Chairman

ATTEST:

  
Janet L. Galla, Secretary

(SEAL)

I do hereby certify the foregoing Ordinance was advertised in the Herald Standard on the 2<sup>nd</sup> day of March, 2007, a newspaper of general circulation in the municipality, and was duly enacted and approved as set forth at a regular meeting of the Perry Township Supervisors held on the 3<sup>rd</sup> day of April, 2007.

  
Janet L. Galla, Secretary