

**REVISION TO ORDINANCE NO. 9**  
**SEWERS AND SEWAGE DISPOSAL**

**Holding Tanks – Part 2**

**§18-201. Purposes.**

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

**§18-202. Definitions.**

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

*Authority* – the Board of Supervisors of the Township, or their duly appointed officers and representatives.

*Holding tank* – a watertight receptacle which receives and retains 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:

- (1) *Chemical toilet* – a toilet using chemicals that discharge to a holding tank.
- (2) *Retention tank* – a holding tank where sewage is conveyed to it by a water currying system.
- (3) *Vault pit privy* – a holding tank designed to receive sewage where water under pressure is not available.

*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 or animals and from which structure sewage shall or may be discharged.

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

*Person* – any individual, partnership, company, association, corporation or other group or entity.

*Sewage* – 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, or to animal or aquatic life or to the use of water for domestic water supply or for recreation.

*Township* – the Township of Thornhurst, Lackawanna County, Pennsylvania.

### **§18-203. Rights and Privileges Granted.**

1. The Authority is hereby authorized and empowered to undertake within the Township the control and methods of holding tank sewage disposal and the collection and transportation thereof.
2. Any holding tank installed under permit issued under this Part shall be designed, installed and maintained in accordance with all applicable laws, statutes, rules and regulations, including, but not limited to, the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 et seq., rules and regulations of the Pennsylvania Department of Environmental Protection, 25 Pa.Code §73.61 et seq., and as may be amended.

### **§18.204. Rules and Regulations.**

The Authority is hereby authorized and empowered by resolution, to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to affect the purposes herein including a limitation on approval to a period of one year, and to improved property where installation of permanent facilities will be available within that period.

### **§18-205. Rules and Regulations to be in Conformity with Applicable Law.**

All such rules and regulations adopted by the Authority shall be in conformity with the provisions of this Part, all other ordinances of the Township, and all applicable laws, rules and regulations of the Commonwealth of Pennsylvania and its administrative agencies.

### **§18-206. Rates and Charges.**

The Authority 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 law. All rates, assessments and charges shall be paid within 30 days from the date billed to the owner, and if unpaid after such period, shall be collectible by the Township in the same manner as other municipal rates, assessments and charges, with interest at six percent per annum from the billing date.

### **§18-207. Permit Required.**

No person shall install or utilize or cause to be installed or utilized any holding tank within the Township until and unless such person has obtained from the Sewage Enforcement Officer a permit evidencing the posting of bond or other security as required herein and the compliance with all other conditions precedent to the installation and utilization of a holding tank as set forth herein.

### **§18-208. Permitted uses; application for permit, with fees; daily log; inspection of tanks and other requirements.**

- A. No holding tanks shall be placed into operation or utilized prior to the issuance of a holding tank permit by the Township Sewage Enforcement Officer. Such holding tank permits shall expire one year from the date of issuance. The Sewage Enforcement Officer may, for good cause, issue a one-time permit extension for not more than six months.
- B. All applications for a holding tank permit shall be in accordance with the applicable Township ordinances, rules and regulations existing as hereinafter amended from time to time by the Township Supervisors. All applications for a holding tank permit shall be made in accordance with the application provided by the Township, which application must be signed by the applicant permittee.
- C. All applications for a holding tank permit shall contain or have attached thereto a fully executed, signed and notarized maintenance contract relating to the periodic pumping of said holding tank. The holding tank cleaner and his proposed disposal site operator shall have had prior approval by the Department of Environmental Protection.
- D. The application shall also provide the precise date when the holding tank authorized by the permit issued by the Township will be abandoned.
- E. Prior to the issuance of a holding tank permit by the Sewage Enforcement Officer all application fees and escrow fees as hereinafter provided shall be paid by the applicant to the Township of Thornhurst. All owners of holding tank permits shall install, at the time that said holding tank permit is issued, a potable water meter connected to the water supply source servicing the property or premises for which the holding tank permit was issued.
- F. All holding tank permittees shall be required to maintain a daily log setting forth the recorded information taken from the source of the water supply, which data or information shall reflect the pumping intervals, the gallons of water pumped and the gallons of water used. These records are to be submitted to the Sewage Enforcement Officer within 24 hours of the pumping operation.
- G. The Sewage Enforcement Officer shall inspect said permitted holding tanks annually from the date of issue, and as a condition of the use of the holding tank, the permittee must produce for inspection, the daily log, which log must, at the time of inspection, contain all current data as set forth herein above. An inspection report must be completed by the Sewage Enforcement Officer and retained as township record.
- H. Failure on the part of any holding tank permittee to comply with the provisions of this article, the rules and regulations as may hereinafter be promulgated or currently in existence or failure to comply with the applicable statutes of the Commonwealth of Pennsylvania and the rules and regulations of the Department of Environmental Protection relating to the use and maintenance of holding tanks shall result in the immediate revocation of the said permit and, upon written notice of the revocation of said holding tank permit, it shall thereafter be unlawful for the owner of said premises or property to thereafter utilize the same for any use whatsoever.

### **§18-209. Fees.**

At the time an application is made for a holding tank permit, the applicant shall pay to the Township an application fee, as set from time to time by resolution of the Board of Supervisors, and may require also a sum, as set from time to time by resolution of the Board of Supervisors with the Township of Thornhurst as and for an escrow fund to be utilized for the purpose of assuring compliance with this part. Said escrow fund shall be used by the Township to defray any expenses that it may incur as a result of any violations, terms and conditions relating to the issuance of the holding tank permit. Said escrow fund shall be held in an interest-bearing account, and all accrued interest shall be paid to the individual depositing the escrow fund. At the termination of the period for which the permit was issued, the fund, or any remaining balance not used for the purpose as herein set forth, shall be returned to the individual depositing the funds at the time the application was filed.

### **§18-210. Exclusiveness of rights and privileges.**

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 Supervisors, provided that:

- A. The Supervisors may delegate or contract for the collection and disposal of the holding tank's contents, except that the ultimate responsibility for the proper collection and disposal of such contents shall remain with the Supervisors.
- B. In the event of contract disposal, both the holding tank cleaner and his proposed disposal site shall obtain DEP approval prior to the Supervisors allowing the holding tank cleaner to conduct operations within the Township.

### **§18-211. 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 or any ordinance of this Township, the provision of any applicable law, and the rules and regulations of the Authority and any administrative agency of the Commonwealth of Pennsylvania.
- B. Permit only the Authority or anyone acting under the direction of the Authority to collect, transport and dispose of the contents therein.

### **§18-212. Notice to correct; failure by owner; violation**

In the event that an owner shall fail to perform any of his duties or responsibilities hereunder, the Sewage Enforcement Officer shall cause to be served notice by certified mail upon the owner or such other person responsible under the law for the maintenance of the offending property to correct the offending condition. In the event that the owner or such other person is not a resident within the Township, the notice

shall be given by registered mail to their last known address, or in the event that the owner or such other person is unknown or cannot be located, then notice shall be given by posting the offending property.

In the event that the violation is not corrected within 10 days after serving, mailing or posting notice, or such longer period as the Sewage Enforcement Officer shall grant, depending upon the reasonable necessities of the case, then the Sewage Enforcement Officer may, through employees of the Township or by private contract, enter upon the offending property and correct the violation complained of. In the event of the correction by the Township, the actual cost of such action including but not limited to attorney fees and accosts, filing fees and any other expenses related to the costs of enforcing this Ordinance, shall be assessed and collected in the manner provided by law for the collection of municipal claims or by action of assumpsit, whichever method the Sewage Enforcement Officer may deem expedient.

This remedy shall be in addition to and not instead of any other remedy, penalty or fine provided by this article or otherwise available by law or equity.

#### **§18-213. Penalties.**

Any person who violates any provision of this part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$5,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

#### **§18-214. Abatement of Nuisances.**

In addition to any other remedies provided in this article, any violation shall constitute a nuisance and may be abated by the Township or Supervisors by seeking appropriate equitable or legal relief from a court of competent jurisdiction, and the Supervisors are specifically authorized as a part of said equitable or legal relief to seek injunctions against the use of the holding tank and the property and buildings serviced thereby until the nuisance shall be abated and compliance had with the provisions of this article.

This Revision to Ordinance shall become effective immediately upon enactment.  
ENACTED AND ORDAINED into law this 8<sup>th</sup> day of August, 2019

ATTEST:

THORNHURST TOWNSHIP BOARD OF  
SUPERVISORS:



Kim O'Grady

Edmund F. Evans

Clark Stutz

Walt Z/