

ORDINANCE NO. 2-00

AN ORDINANCE PROVIDING FOR AND REGULATING THE USE OF HOLDING TANKS IN THE TOWNSHIP; PROVIDING FOR THE SECURING OF A PERMIT THEREFOR AND THE SETTING OF FEES FOR SAID PERMIT; PROVIDING FOR THE INSPECTION AND MAINTENANCE OF HOLDING TANKS; AND PROVIDING FOR THE REMOVAL OF TANKS AND PROVIDING FOR PENALTIES FOR ANY VIOLATION THEREOF.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Cross Creek Township, Washington County, Pennsylvania, as follows:

SECTION I: PURPOSE

The purpose of this Ordinance is to provide for and regulate the use, maintenance and removal of new and existing holding tanks in Cross Creek Township so as to protect the health, safety and welfare of the residents of the Township. The Ordinance is also intended to permit the development of lands with the use of holding tanks under carefully controlled and regulated circumstances; to regulate the use and maintenance of holding tanks in conformity with the law, statutes and regulations of the Commonwealth of Pennsylvania, as administered by the Department of Environmental Protection, or its successor agency, and the federal government; to provide a temporary alternative to discontinuing otherwise lawful land use in the Township; and to protect against the harm due to inadequate or malfunctioning on-site septic systems.

SECTION II: DEFINITIONS

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

A. Act - the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1, et seq., as from time to time amended.

B. Agent - any employee of the Township empowered by the Board of Supervisors and/or by the Commonwealth of Pennsylvania to enforce the provisions of this Ordinance. The term “agent” shall include, but not be limited to, the Sewage Enforcement Officer and/or his assistants and substitutes, duly appointed by the Board of Supervisors.

C. Board - the Board of Supervisors of Cross Creek Township.

D. Department - the Pennsylvania Department of Environmental Protection or its successor agency.

E. Disposal Sight - a suitable facility for the final disposition of human and animal sewage and wastes, which facility shall be approved for such purpose by the Department of Environmental Protection.

F. Holding Tank - a watertight receptacle, whether permanent or temporary, 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.

G. Holding Tank Cleaner - a county, municipality, municipal authority, corporation, partnership, individual or other legal entity, which removes the contents of a holding tank for purposes of disposing of sewage at another site.

H. 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.

I. Landowner - the natural person or persons, partnership, corporation, or other legal entity who has legal and/or equitable title to a parcel of land.

J. Lot - a parcel of land regardless of acreage.

K. Person - an individual or individuals, corporation, partnership, association or other legal entity.

L. Sewage - any substance that contains any of the waste products, excrement or other discharge from the bodies of human beings or animals or any other noxious or deleterious substances which are harmful or inimical to the public health, safety or welfare or to animal, plant or aquatic life or to the use of water for domestic water supply or recreation purposes or which otherwise constitute pollution under the Clean Streams Law.

M. Township - Cross Creek Township, Washington County, Pennsylvania.

SECTION III: USE OF HOLDING TANKS

A. Holding tanks may be used in the Township only for the following purposes or in the following situations:

1. Temporary use for new construction in any area of the Township for which a revision to the Township's Official Sewage Facilities Plan has been approved by the Department for both a public sewage treatment system and the temporary use of holding tanks and financial security in the form of a bond, letter of credit or similar acceptable security has been provided the Township that such public sewage treatment system will be installed within two (2) years of the application for a holding tank permit; provided, however, that said temporary use for new construction shall be limited to use for single family residences or for multi-family residential use and non-residential use with sewage flows no greater than four hundred (400) gallons per day.

2. Use where a malfunction in an existing system cannot be repaired or replaced based on an on-site investigation by the Sewage Enforcement Officer which reveals that the site is not suitable for the use of an on-site sewage disposal system pursuant to the Pennsylvania Sewage Facilities Act (Act 537), as from time to time amended, and the regulations adopted pursuant thereto.

3. When the Township or the Department of Environmental Protection determine the use is necessary to abate or avoid a nuisance or a public health hazard.

4. When the Sewage Enforcement Officer determines that one of the preferred systems cannot be installed on the site.

B. A person using a holding tank under Section A.2 or A.3 above shall use good faith efforts to minimize the time period during which it is necessary to use a holding tank by taking corrective measures on the property; exploring the possibilities or connecting to an existing or to be constructed public or approved private system and then doing so if and when same is possible; or otherwise taking steps to avoid the prolonged use of a holding tank to dispose of sewage. At all times, a person using a holding tank shall comply with the directives of the Township Sewage Enforcement Officer regarding the use of a holding tank and the measures to be taken to minimize or eliminate such use.

SECTION IV: APPLICATION FOR PERMIT

A. Any person seeking to use a holding tank for sewage disposal on any lot situated in the Township shall secure a permit therefore from the Sewage Enforcement Officer.

B. Permit applications shall be submitted on a form to be provided by the Township or its designated agency to the applicant at the applicant's request.

C. The applicant for a holding tank permit shall submit the completed application to the Township or its designated agency, together with the non-refundable fee as established from time to time by resolution of the Board.

D. The applicant shall cooperate with the Sewage Enforcement Officer at all times during the application process. Failure of an applicant to cooperate may, at the discretion of the Sewage Enforcement Officer, result in a delay in the issuance of a permit or a complete denial of a permit until such time as all requirements of the application process have been complied with.

E. The following shall be submitted with the completed application:

1. A copy of a written contract between the applicant and a holding tank cleaner providing for the timely and regular removal of the contents of the holding tank during the entire term of the permit.

2. A copy of the written contract between a holding tank cleaner and the operator of a disposal site providing for the disposal of the holding tank contents at a site approved therefore by the Department.

3. An agreement prepared by the Township in which the applicant agrees to indemnify and hold harmless the Township for any liability, costs, and expenses (including attorney's fees) incurred by the Township in any action by or against the Township to enforce compliance with the terms hereof; to remove the contents of a holding tank or the holding tank itself; or to abate any nuisance, public health hazard or any violation of this Ordinance or any state or federal statutes or regulations. Security in a form and an amount to be determined appropriate by the Township shall be posted with the Township at such time as an Agreement is executed.

4. The non-refundable fee as established from time to time by resolution of the Board.

5. Evidence of financial security if required under the terms of Section III.A.1.

F. Upon receipt of a completed application and the supporting materials and fee as required hereby, the Township Sewage Enforcement Officer shall conduct an investigation to determine compliance with the terms hereof, as well as any applicable state and/or federal regulations. If the applicant complies with the terms hereof and the terms of any applicable state and/or federal regulation and the lot in question qualifies as a site for a holding tank, a permit shall be issued therefore.

G. All permits shall be valid for a period of one (1) year from the date of issuance, with each application for renewal subject to the relevant provisions hereof. All requests for renewals shall be submitted on an application form made available by the Township or its designated agency and shall be accompanied by supporting materials as required thereby and a non-refundable renewal fee as established from time to time by resolution of the Board.

Upon receipt of a completed renewal application, any supporting material to be submitted therewith and the renewal fee required hereby, the Township Sewage Officer shall conduct an investigation to determine compliance with the terms hereof, as well as any applicable state and/or federal regulations. If the applicant complies with the terms hereof and the terms of any applicable state and/or federal regulations and the lot in question continues to qualify as a site for a holding tank, the permit shall be renewed therefore for an additional one (1) year period.

SECTION V: INSTALLATION OF HOLDING TANK

A. All holding tanks shall be installed within six (6) months of the issuance of a permit therefore. Should a holding tank not be installed within said time period, the permit therefore shall be automatically revoked and the applicant shall be required to submit a new application, together with supporting materials and a new application fee, prior to the installation of a holding tank.

B. All holding tanks shall have a minimum of 2,000 gallons capacity and must be installed in accordance with the permit issued hereunder. All installations shall comply with the specifications set forth in applicable state and federal regulations, including, but not limited to, 25 Pa. Code 73, as amended.

C. All holding tanks shall be installed in accordance with this and all other applicable Township ordinances and regulations.

D. All holding tanks shall be installed on a firm and stable soil or subsoil and in such manner as to prevent settlement or movement.

E. All holding tanks shall be installed at least fifty (50) feet from any water supply source.

F. No holding tanks or lines shall be covered until the Township's Sewage Enforcement Officer shall have first inspected same in accordance with subparagraph G below.

G. Upon the completion of installation of the holding tank (except for the covering of the lines and tank) and prior to the use thereof, the permittee shall notify the Sewage Enforcement Officer that the installation has been completed and shall request an inspection thereof. The Sewage Enforcement Officer shall inspect the holding tank within twenty (20) days of being requested to do so to determine that same complies with all of the terms of this Ordinance and other applicable federal, state and Township statutes, regulations and ordinances.

SECTION VI: MAINTENANCE OF HOLDING TANKS

A. All holding tanks installed in the Township shall be used and maintained in accordance with the terms of this Ordinance, and all federal, state and municipal statutes, regulations and ordinances applicable thereto, including, but not limited to, 25 Pa. Code 73, inclusive.

B. The permittee shall cause the contents of the holding tank to be collected and disposed of as frequently as may be necessary to maintain the contents thereof at a level no greater than 75% of tank capacity. The holding tank shall be equipped with a warning device to indicate when the tank is filled to within 75% of its capacity. The warning device shall create an audible and visual signal at a location frequented by the owner or occupant of the property or other responsible individual charged with the proper maintenance of the tank.

C. The contents of holding tanks shall be disposed of only at such sites as may be approved by the Department.

D. The permittee shall provide the Township's Sewage Enforcement Officer with copies of receipts from a holding tank cleaner which verify the collection and disposal of the contents of a permitted holding tank. Said receipts shall be provided to the Sewage Enforcement Officer or other designated agent or employee of the Township immediately following the cleaning of said tank and the disposal of the contents. Said receipts shall also be retained by the permittee for a period of five (5) years.

E. The Sewage Enforcement Officer shall receive, review and retain copies of said receipts for a period of five (5) years and shall advise the permittee of any problems therewith or corrections that need to be made thereto. The permittee shall insure that the holding tank and all lines, pipes and/or conduits to and from the tank are maintained in a watertight condition at all times.

F. No increase in the size or a building and no change in the use of a building, which will increase sewage flows shall be permitted while the property is being serviced by a holding tank unless a new application is submitted therefore.

SECTION VII: INSPECTION OF HOLDING TANKS

A. The Sewage Enforcement Officer shall inspect each holding tank in the Township at least annually.

B. Any person who applies for an receives a permit for the installation of a holding tank shall be deemed to have consented to an annual inspection of said tank and related facilities by the Township Sewage Enforcement Officer or his designee at reasonable times with forty-eight (48) hours notice. In addition, the permittee shall also be deemed to have consented to inspections of the tank and related facilities by the Sewage Enforcement Officer as determined to be necessary by said officer between the hours of 8:00 a.m. and 8:0 p.m.

C. The permittee shall grant access to the Township Sewage Enforcement Officer or his designee to the property upon which the tank is located for the purpose of making inspections upon the verbal request of said officer.

D. At the time that the Sewage Enforcement Officer inspects the holding tank, he shall also have access, upon request, to documentation that the tank has been cleaned in accordance with the terms hereof and the contents thereof disposed of at a disposal site approved by the Department.

E. Failure of the permittee to allow access or inspection of the premises or to have access to pumping receipts or disposal documentation shall be grounds for the immediate revocation of the permit by the Sewage Enforcement Officer.

F. The permittee shall be responsible for the cost of inspections by the Township Sewage Enforcement Officer, or his designee, at a cost to be established from time to time by the Board of Supervisors.

G. The Sewage Enforcement Officer shall prepare an inspection report each time he shall inspect a holding tank and shall note therein any violations or deficiencies discovered. The Sewage Enforcement Officer shall retain copies of said reports for a period of five (5) years from the date of the inspections to which they refer.

SECTION VIII: REMOVAL OF HOLDING TANK

A. Upon a holding tank no longer being used for waste disposal purposes for any reason, same shall be removed or secured in a manner approved by the Township by the permittee within thirty (30) days of the termination of use.

B. Should a permittee fail to remove or secure a holding tank once it is no longer being used for waste disposal purposes, the Township shall, at its discretion, have the right to enter upon the premises for purposes of removing or securing said tank. The Township may retain the services of a contractor to physically remove or secure the tank and said contractor shall have the right to enter the property at the direction of the Township to perform said services. All costs resulting from the Township or its agent removing or securing a holding tank shall be borne by the permittee and the Township shall have the right to recover such costs from the security posted with the Township, file a municipal lien against the property, or take such other action as is required at law or in equity so as to recover any costs expended by the Township for remedial action.

C. In addition to the above, the Township shall be authorized to take whatever legal action it deems necessary and appropriate to correct a malfunction, avoid a health hazard, avert a nuisance or insure compliance herewith.

D. Failure of a permittee to comply with the terms of this Ordinance, including, but not limited to, the failure to permit inspection of a holding tank; the failure to properly maintain and pump out a tank; and the failure to furnish pumping receipts to the Township upon request, shall be grounds for revocation of a permit by the Sewage Enforcement Officer.

SECTION X: APPEALS

A. Any applicant aggrieved by the denial of a permit application or by any other decision of the Township Sewage Enforcement Officer shall be entitled to appeal to the Board of Supervisors.

B. Any such appeal shall be processed as a local agency hearing in a fashion similar to appeals from the denial of a sewage permit by the Sewage Enforcement Officer.

C. All such appeals shall be governed by the provisions of the Local Agency Law.

SECTION XI: MISCELLANEOUS

A. The standards set forth herein shall be deemed the minimum standards for the installation, use and removal of holding tanks in the Township. Such installation, use and removal of holding tanks shall also comply with the requirements of the Pennsylvania Sewage Facilities Act and the regulations adopted pursuant thereto and in those cases in which said requirements are more stringent than the standards set forth in this Ordinance, the permittee shall comply with the more stringent requirement.

B. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of any such inconsistency.

C. If any section, provision or clause of this Ordinance is determined to be invalid, unconstitutional or inoperative by any court, such adjudication shall not affect the validity of the remaining provisions of this Ordinance, which shall be deemed severable therefrom.

D. This Ordinance shall become effective five (5) days following the date of adoption by the Board of Supervisors as set forth below.

ENACTED AND ADOPTED the 19th day of September, 2000, by the Board of Supervisors of Cross Creek Township, Washington County, Pennsylvania.

ATTEST:

CROSS CREEK TOWNSHIP

Secretary

By
Gary A. Stokum, Chairman

By
Dean Casciola, Supervisor

By
Tim Paris, Supervisor