

TOWNSHIP OF MARTIC

Lancaster County, Pennsylvania

ORDINANCE NO. 04-06-15

AN ORDINANCE RESTATING AND ESTABLISHING PROCEDURES FOR THE USE AND MAINTENANCE OF HOLDING TANKS DESIGNED TO RECEIVE AND RETAIN SEWAGE WITHIN THE TOWNSHIP OF MARTIC, LANCASTER COUNTY, PENNSYLVANIA; GRANTING THE BOARD OF SUPERVISORS OF MARTIC TOWNSHIP THE POWER TO UNDERTAKE THE CONTROL OF METHODS OF HOLDING TANK SEWAGE DISPOSAL AND THE COLLECTION AND TRANSPORTATION THEREOF; IMPOSING CERTAIN DUTIES UPON THE OWNER OF AN IMPROVED PROPERTY WHICH UTILIZES A HOLDING TANK; ADOPTING THE REGULATIONS OF THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE MAINTENANCE OF HOLDING TANKS AS THE REGULATIONS OF THE TOWNSHIP; AND PROVIDING METHODS OF ENFORCEMENT AND PENALTIES FOR THE VIOLATION THEREOF.

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Martic, Lancaster County, Pennsylvania, as follows:

Section 1. Title. This Ordinance shall be known as the Martic Township Holding Tank Ordinance.

Section 2. Purposes. 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 the Township of Martic.

Section 3. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

APPLICANT - any person who filed an application with the Township for approval to install a holding tank.

BOARD OF SUPERVISORS - the Board of Supervisors of the Township of Martic, Lancaster County, Pennsylvania, or any person designated by the Board of Supervisors to perform such duties.

DEPARTMENT - the Department of Environmental Protection of the Commonwealth of Pennsylvania or any agency successor thereto.

HOLDING TANK - a tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system.

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, trust, 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 or any substance which constitutes pollution under The Clean Streams Law, 35 P.S. §691.1 et seq.

SEWAGE ENFORCEMENT OFFICER - the Sewage Enforcement Officer of the Township.

TOWNSHIP - the Township of Martic, Lancaster County, Pennsylvania. The term Township shall be interpreted to include a contractor or other designee of the Township.

WATER UNDER PRESSURE - water service provided to an improved property by means of a system of plumbing or piping with the water being supplied by a public water system, private well, or private spring.

Section 4. Rights and Privileges Granted. The Board of Supervisors 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 5. Rules, Regulations and Agreements. The Board of Supervisors is hereby authorized and empowered to adopt by resolution such rules and regulations concerning sewage and to enter into such agreements as it may deem necessary from time to time to effect the purposes herein.

Section 6. Rules, Regulations to be in Conformity with Applicable Law. All such rules and regulations adopted by the Board of Supervisors shall be in conformity with the provisions herein, all other Ordinances of the Township, all other applicable laws, and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania. The Board of Supervisors hereby adopts the regulations of the Department found in Title 25, Chapters 71 and 73, of the Pennsylvania Code governing retaining tanks as the regulations governing the design, installation, and use of holding tanks within the Township.

Section 7. Rates and Charges. The Board of Supervisors shall have the right and power to fix, alter, charge and collect rates, assessments, and other charges relating to the use and maintenance of holding tanks at reasonable and uniform rates as authorized by applicable law.

Section 8. Exclusiveness of Rights and Privileges. The collection and transportation of all sewage from any holding tank shall be done solely by or under the direction and control of the Board of Supervisors, and the disposal thereof shall be made only at such site or sites as may be approved by the Department.

Section 9. Conditions of Holding Tank Use. All applicants who desire to install a holding tank shall meet all of the following requirements:

A. The record owner of the lot on which the holding tank is to be installed and, if different, the applicant, shall enter into an agreement with the Township, in recordable form, providing for the long-term maintenance of the holding tank which grants the Township the right to enter upon the property; to inspect such holding tank not less than once each year and, in addition, whenever the Township receives a complaint or otherwise has reason to believe that such holding tank is not functioning properly; to maintain the holding tank if the landowner fails to do so; and to recover the cost of any maintenance performed plus a penalty of twenty-five (25%) percent of such cost from the landowner. The agreement shall specifically authorize the Township to file a municipal claim against the property to recover costs, penalties and fees and shall specifically state that its provisions are binding upon the landowner executing the agreement and upon all successive owners of the property until the holding tank is removed and the improved property is either connected to a public sewer system owned and operated by a governmental entity if water under pressure currently exists on the improved property or connected to an on-lot sewage disposal system if water under pressure is not currently available on the improved property.

B. The applicant shall post financial security with the Township to secure the future maintenance of the holding tank and payment of costs of annual inspection of such system. The amount of the financial security shall be based upon the estimated cost to maintain the particular holding tank chosen by the applicant. The financial security shall be posted through an irrevocable letter of credit in a form acceptable to the Township Solicitor or in a cash escrow which the Township shall maintain in a non-interest bearing account. The Township shall not release such financial security until one or more of the following conditions occur:

1. The owner provides the Township with acceptable alternative financial security.

2. If the holding tank serves an improved property which was provided with water under pressure at the time of holding tank installation, the owner removes the holding tank, and the improved property is connected to a public sewer system owned and operated by a governmental entity.

3. If the holding tank serves an improved property which did not have water under pressure at the time of holding tank installation, the owner installs water under pressure, removes the holding tank, and connects the improved property to an approved on-lot sewage disposal system.

4. If the owner removes a holding tank from land which is not an improved property (i.e. removes a holding tank installed on a temporary basis to serve a public gathering, construction site, etc.).

C. The applicant shall demonstrate to the Township that the proposed holding tank meets all applicable Department regulations and that the applicant has obtained all necessary approvals and permits.

D. If water under pressure is not presently available on the improved property, the applicant shall show that site and soil suitability testing of the lot has been conducted by the Sewage Enforcement Officer and that the site meets the requirements of Title 25, Chapter 73, Standards for Onlot Sewage Treatment Facilities, of the Pennsylvania Code, for the ultimate sewage disposal by an approved on-lot system if water under pressure or piped waste water becomes available to the improved property. At such time that water under pressure becomes available, the owner shall remove the holding tank and replace the holding tank with an approved on-lot system.

E. The conditions described in D above do not apply:

1. To a holding tank to be used on an isolated lot which is one acre or larger and is not nor will not be served by water under pressure in the future.

2. To temporary use of portable retention tanks where their use is proposed at construction sites or at the site of public gatherings and entertainment.

3. To such other temporary or permanent uses of holding tanks as may be authorized by the Department.

F. Special conditions for holding tanks shall be incorporated in the permit application and permit for the proposed use of a holding tank.

G. The applicant shall reimburse the Township for all costs incurred in the preparation of the agreement and its recording.

H. The applicant shall pay all costs associated with the yearly inspection of the holding tank.

Section 10. 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 provisions of any applicable law, and the rules and regulations of the Township and any administrative agency of the Commonwealth of Pennsylvania, including but not limited to Section 71.63 and Section 73.61 et seq. of the Department's regulations.

1 Proof of Maintenance. Each time that a holding tank is pumped out or emptied, the private sewage waste hauler who performs the service shall provide to the owner a signed receipt and shall retain a signed receipt containing the following information:

- a. Date of pumping out.
- b. Name and address of owner.
- c. Description and diagram of location of holding tank, including location of any markers and/or access hatches (if known).
- d. Size of holding tank.
- e. Age of the holding tank (if known).
- f. Last date of pump out (if known).
- g. Any maintenance performed in connection with pumping out of the holding tank.
- h. Any indication of system malfunction observed.
- i. Amount of sewage, septage or other solid or semi-solid material removed.
- j. Cost of service.

- k. Waste hauler's state license number permitting him to collect and haul septage in this Commonwealth.

The owner and the waste hauler shall provide the receipt to authorized officials of the Township. The receipt shall serve as proof of compliance with the maintenance requirements of this Ordinance. Failure to provide a copy of the receipt within 30 days after the holding tank is pumped out or emptied shall constitute a violation of this Ordinance. The Township is designated in accordance with the Department's regulations as the administrative agency to receive, review and retain pumping receipts from permitted holding tanks.

2. Inspections. Annually or where any agreement entered into between the Township and the owner or a predecessor in title of the landowner requires more frequent inspections of a holding tank, the owner shall permit the Township Sewage Enforcement Officer to enter upon the improved property to conduct the required inspection. The Township Sewage Enforcement Officer shall conduct inspections of all permitted holding tanks at least annually and complete a written inspection report which shall be submitted to and be retained by the Township. The owner shall pay all fees associated with all required inspections.

B. If public sewer service becomes available to the improved property, abandon the holding tank consistent with applicable public health and environmental standards.

C. Permit the Township to enter upon lands to inspect the holding tank for proper operation, maintenance and contents disposal.

Section 11. Malfunctioning Holding Tank. The owner of a lot upon which a holding tank is installed, any person who occupies a lot upon which a holding tank is installed, any person who owns a holding tank, and any waste hauler pumping out or otherwise maintaining a holding tank shall report any malfunctioning of a holding tank to the Township. Such report shall be made as soon as possible but in no case later than three days after discovery of the malfunction.

Section 12. Violations and Penalties.

A. It shall be a violation of this Ordinance to commit or permit any other person to commit any of the following acts:

1. To install, repair, modify or alter a holding tank prior to obtaining a permit or in a manner which violates the terms and conditions of any permit.

2. To misuse or to fail to maintain a holding tank or to fail to provide reports of maintenance as required by this Ordinance.

3. To fail to have the holding tank inspected as required by this Ordinance or to fail to permit the Township Sewage Enforcement Officer to inspect the holding tank.

4. To fail to report a malfunctioning holding tank.

5. To fail to remedy a malfunctioning holding tank.

6. To place false information on or omit relevant information from an application for a permit or from a report of inspection or maintenance of a holding tank.

7. To occupy or permit the occupancy of any structure served by a holding tank for which a valid permit has not been obtained as required by this Ordinance.

8. To fail to comply with any other provision of this Ordinance.

9. To fail to comply with any duly adopted regulation of the Township.

B. Any person who shall violate a provision of this Ordinance or who shall fail to comply with any of the requirements thereof or who shall permit the violation of this Ordinance or who shall use or occupy or permit the use or occupancy of any building or structure which is served by a holding tank which has not been installed or maintained in accordance with the requirements of this Ordinance, shall, upon being found guilty in an enforcement proceeding commenced by the Township, pay a fine of not less than two hundred (\$200.00) dollars and not more than one thousand (\$1,000.00) dollars for each violation plus all costs of prosecution, which fines and costs may be collected as provided by law. Each day that a violation continues shall be deemed a separate offense, and each Section of this Ordinance which is violated shall be deemed a separate offense.

Section 13. Abatement of Nuisances. In addition to any other remedies provided in this Ordinance, any violation of this Ordinance shall constitute a nuisance and may be abated by the Township by either seeking appropriate equitable or legal relief from a court of competent jurisdiction.

Section 14. Repeals. All Ordinances or Resolution or parts of Ordinances or Resolutions, insofar as they are inconsistent herewith, shall be and the same are hereby repealed.

Section 15. Severability. The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 16. Effective Date. This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the Township of Martic as provided by law.

DULY ORDAINED AND ENACTED the 6th day of April, 2015, by the Board of Supervisors of the Township of Martic, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF MARTIC
Lancaster County, Pennsylvania

Attest: Karen D. Sellers
(Assistant) Secretary

By: Ann Sell
(Vice) Chairman
Board of Supervisors

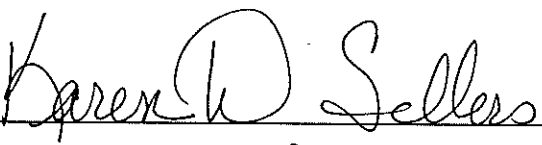
[TOWNSHIP SEAL]

CERTIFICATE

I, the undersigned, Manager of the Township of Martic (the "Township"), certify that the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township, which was duly enacted by affirmative vote of a majority of the members of the Board of Supervisors of the Township of Martic at a meeting dully held on the 6th day of April, 2015; such Ordinance has been duly recorded in the Ordinance Book of the Township; such Ordinance has been duly published as required by law; and such Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the Board of Supervisors of the Township of Martic met the advanced notice and public comment requirements of the Sunshine Act, 65 Pa. C.S. § 701 et seq., as amended, by advertising the date of said meeting, by posting prominently a notice of said meeting at the principal office of the Township or at the public building in which said meeting was held and by providing a reasonable opportunity for public comment at said meeting prior to enacting such Ordinance.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 6th day of April, 2015.


Secretary

[TOWNSHIP SEAL]