

AN ORDINANCE REGULATING THE INSTALLATION, MAINTENANCE AND USE OF HOLDING TANKS WITHIN THE LIMITS OF FAWN GROVE BOROUGH, AUTHORIZING THE ISSUANCE OF PERMITS; PROVIDING FOR FEES; AND PROVIDING PENALTIES FOR VIOLATION THEREOF

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of Fawn Grove Borough, York County, Pennsylvania, this *28* day of *FEBRUARY* 1987, as follows:

SECTION 1. This ordinance shall be known as the "Fawn Grove Borough Holding Tank Ordinance".

SECTION 2. It shall be unlawful for any person, firm association or corporation to erect, construct, or install any holding tank of any kind within the limits of Fawn Grove Borough or to permit to be erected, constructed or installed on property owned by him any holding tank within the limits of Fawn Grove Borough unless such person, firm, association or corporation has a permit for such holding tank issued pursuant to this ordinance and unless all provisions of such permit, all the requirements of this ordinance and all the requirements of the Pennsylvania Sewage Facilities Act, and the regulations issued pursuant thereto respecting the erection, construction, installation and use of the holding tank have been complied with.

SECTION 3. For purposes of this ordinance, holding tank shall be construed to mean 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:

- (a) Chemical toilet - a toilet using chemicals that discharge to a holding tank.
- (b) Retention tank - a holding tank to which sewage is conveyed by a water carrying system.
- (c) Privy - a holding tank designed to retain sewage where water under pressure is not available.

SECTION 4. All applications for a "permit" under this ordinance shall be made to the Fawn Grove Borough Sewage Enforcement Officer. The application for a permit for a holding tank shall be signed by the owner or owners of the property on which the holding tank is to be located and shall include a statement as to who has been contracted to be responsible for the removal of the material to be placed in the holding tank and the place where such material is to be ultimately deposited. The applicant shall submit with the

application an agreement executed on forms supplied by the Sewage Enforcement Officer signed by the individual , firm or corporation which is to be responsible for the removal of the contents of the holding tank and by the individual firm or corporation which is to be the ultimate point of disposition of the contents of the holding tank agreeing that they will remove and accept such materials as may be deposited in the holding tank during such period as the holding tank continues to be located on the premises of the applicant.

SECTION 5. Permits pursuant to this ordinance may be issued by the Sewage Enforcement Officer only when proper application is made meeting the requirements of Section 4 hereof, the fees required pursuant to Section 8 are paid and the amounts required by Section 9 to be paid into the escrow fund are paid and the application meets the criteria of either subsection (a) or subsection (b) of this section.

(a) The permit is for temporary use at a construction site or a place of public gathering or entertainment and will be for a period of not more than ninety (90) consecutive days. A permit issued pursuant to this subsection may not be renewed, nor may a new permit be issued to locate a holding tank on the same tract of land for which a permit was previously issued without at least six (6) months having expired between the date of removal of the previously permitted holding tank and the date of application for another holding tank.

(b) For other than temporary use under subsection (a) of this section, when all three of the following circumstances are present:

(1) The permit is for use in connection with an existing dwelling or place of business which the Sewage Enforcement Officer finds cannot be properly served by an on-site sewage disposal system within the requirements of the Pennsylvania Sewage Facilities Act and the regulations issued pursuant thereto.

(2) The dwelling or place of business was not originally constructed or placed in violation of the "Building Permit Code" or other borough ordinance.

(3) The proposed holding tank will be located at such a place where there will be suitable access for the vehicle necessary to remove the contents of the holding tank when required.

SECTION 6. No application shall be approved unless both the individual, firm, or corporation designated as being responsible for the removal of the contents of the holding tank and the

individual, firm, or corporation designated as being the owners of the ultimate disposal site for the contents of the holding tank shall be approved by both the Borough and by the Pennsylvania Department of Environmental Resources and who are, if applicable, duly licensed by the Borough and/or the Pennsylvania Department of Environmental Resources.

SECTION 7. The holder of a permit issued pursuant to this ordinance shall:

(a) Install, erect, or construct only such holding tank as shall be in compliance with the regulations of the Department of Environmental Resources of the Commonwealth of Pennsylvania issued pursuant to the Sewage Facilities Act.

(b) Notify the individual, firm or corporation designated in the application as the individual, firm, or corporation responsible for the removal of holding tank contents at such time that the tank is filled to within seventy-five per cent (75) of the capacity.

(c) Permit only the individual, firm, or corporation designated in the application to remove holding tank contents.

SECTION 8. The applicant shall be required to pay, at the time of submission of the application, a filing fee in accordance with the established fees of the Borough.

SECTION 9. The applicant shall, in addition to any other fees or costs, submit to the Sewage Enforcement Officer the sum of Three Hundred Fifty Dollars (\$350.00). The said sum shall be delivered by the Sewage Enforcement Officer to the Borough Treasurer, who shall hold the same in escrow. The Borough Treasurer shall pay over to the Sewage Enforcement Officer, on the basis of vouchers approved by the Borough Council, costs and fees incurred by the Sewage Enforcement Officer in enforcing the within ordinance. Any sums remaining in the escrow fund not deducted or paid over to the Sewage Enforcement Officer pursuant to the provisions of Sections 10 and 11 of this ordinance, shall be returned to the applicant or his assigns upon the removal of the holding tank.

SECTION 10. Following the issuance of a permit pursuant to this ordinance, the Sewage Enforcement Officer shall, from time to time, inspect the holding tank. In the event that the Sewage Enforcement Officer finds the holding tank to be filled in excess of seventy-five per cent (75%) of capacity, he shall deduct from the escrow fund the sum of Fifty Dollars (\$50.00) to be retained by him as an inspection fee. In the event the Sewage Enforcement Officer finds that the holding tank is filled to more than

eighty-five per cent (85%) of capacity, he shall promptly make arrangements to have the contents of the holding tank removed and shall pay the cost of such removal from the fund held in escrow. In such event, the Sewage Enforcement Officer shall, in addition, remove the permit issued pursuant to this ordinance, and all amounts remaining in the escrow fund, after payment of the inspection fee and payment of the cost of removal of the contents of the holding tank, shall be forfeited to the Borough. The holding tank shall be removed within ten (10) days from the date of the revocation of the permit issued pursuant to this ordinance.

SECTION 11. Any individual, firm, association, or corporation violating any of the provisions of this ordinance shall, upon conviction thereof before a District Magistrate, be subject to a penalty not in excess of Three Hundred Dollars (\$300.00) for each and every offense. Each and every day that a violation of any of the provisions of this ordinance occurs and each and every day that a holding tank remains erected, constructed, or installed without a permit having been issued or after a permit has been revoked shall be considered a separate and distinct offense and shall be subject to separate and distinct penalties hereunder.

SECTION 12. No individual, firm, association, or corporation which has been in violation of any of the provisions of this ordinance shall subsequently be issued a permit to erect, construct, or install a holding tank until the previous violation has been cured.

For purposes of the interpretation of this section, the individual, firm, association, or corporation applying for a permit, hereinafter referred to as "applicant", shall be considered the identical individual, firm, association, or corporation as the one in violation, hereinafter referred to as "violator", if at least twenty per cent (20%) of the ownership equity in both the "applicant" and the "violator" can be attributed to the same individual, firm, association, or corporation. For purposes of this section, an individual, firm, association, or corporation shall have attributed to him:

(a) All of the equity, stock, or partnership share owned by a corporation in which he and his spouse own at least fifty per cent (50%) of all of the outstanding voting stock.

(b) With respect to a corporation in which he and his spouse own less than fifty per cent (50%) of the outstanding voting stock, the same percentage of the ownership equity, stock, or partnership share that the voting stock owned by him and his spouse bears to the entire outstanding voting stock of the corporation.

(c) All of the equity, as tenants in common, joint tenants, or tenants by the entireties, owned by him and his spouse.

(d) All of the equity owned by a partnership in which the value of the partnership shares owned by him and his spouse is at least fifty (50%) percent of the value of all of the partnership shares.

(e) With respect to a partnership in which the value of the partnership shares owned by him and his spouse is less than fifty (50%) percent of all the partnership shares, the same percentage of ownership equity which the value of the partnership share owned by him and his spouse to the value of all the partnership shares.

SECTION 13. It shall be the burden of the "applicant" to prove that the applicant is not the same individual, firm association, or corporation as the "violator".

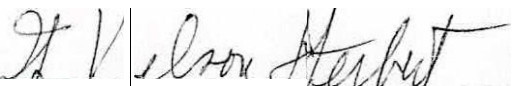
SECTION 14. For purposes of this section, "he" and "him" shall be interpreted to refer to the masculine, the feminine, and the neuter.

SECTION 15. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect; and, to this end, the provisions of this ordinance are hereby declared to be severable.

SECTION 16. This ordinance shall become effective five (5) days after enactment.


ATTEST:

FAWN GROVE BOROUGH COUNCIL

  
\_\_\_\_\_  
Secretary

  
\_\_\_\_\_  
President

APPROVED this 2nd day of February, 1987

BY   
\_\_\_\_\_  
Robert L. Sechrist, Mayor

STOCK AND LEADER  
D. REED ANDERSON, ESQUIRE  
Solicitors