

AN ORDINANCE REGULATING THE INSTALLATION, MAINTENANCE AND USE OF HOLDING TANKS WITHIN THE LIMITS OF PEACH BOTTOM TOWNSHIP, AUTHORIZING THE ISSUANCE OF PERMITS; PROVIDING FOR FEES; AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Peach Bottom Township, York County, Pennsylvania as follows:

SECTION 1. This Ordinance shall be known as the “Peach Bottom Township 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 Peach Bottom Township or to permit to be erected, constructed or installed on property owned by him any holding tank within the limits of Peach Bottom Township 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 regulation 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. Irrespective of the provisions of Section 2 of this ordinance

- (a) a privy may be installed at a construction site without a permit provided a permit has been issued to permit construction at such site and the privy is removed upon expiration of the permit or issuance of a certificate of use and occupancy permitting use of the structure or facility being constructed, whichever first occurs.
- (b) a privy may be installed without a permit at a place of public gathering or entertainment provided that the privy is removed within twenty (20) days of installation. A privy may not again be installed on such property until at least twenty (20) days following such removal.

SECTION 5. All applications for a “permit” under this ordinance shall be made to the Peach Bottom Township 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.

The agreement executed by the individual, firm, or corporation responsible for the removal of the contents of the holding tank shall also obligate such individual, firm, or corporation to forward to the township Sewage Enforcement Officer a copy of the York County Solid Waste and Refuse Authority Septage Manifest (hereinafter “Manifest”) within three (3) days following each time such individual, firm, or corporation removes contents for the holding tank. Such individual, firm, or corporation shall at the time of forwarding the manifest to the Township Sewage Enforcement Officer inform the Township Sewage Enforcement Officer whether any violations of any of the provisions of this ordinance regarding the holding tank were observed during the removal process.

In the event the individual, firm or corporation obligated to remove the holding tank contents intends to terminate the agreement because of nonpayment by the permit holder or for other costs, such individual, firm, or corporation shall inform the township Sewage Enforcement Officer in writing by certified mail of such intention and all obligations of such individual, firm, or corporation shall cease thirty (30) days following receipt by the township Sewage Enforcement Officer of notification. Following such receipt of such notification, the township Sewage Enforcement Officer shall notify the permit holder by certified mail that unless a new agreement is entered into with another individual, firm, or corporation to assume responsibility for removal of the contents of the holding tank in accordance with the provisions of this section of this ordinance and presented to the township Sewage Enforcement Officer within such thirty (30) day period, the permit for such holding tank shall be revoked. If such agreement is not presented to the township Sewage Enforcement Officer within such thirty (30) day period, the township Sewage Enforcement Officer shall revoke the permit upon the expiration of such thirty (30) day period. The permit holder must cause the holding tank to be removed from the property within ten (10) days from the date of revocation of the permit.

SECTION 6. Permits pursuant to this ordinance may be issued by the Sewage Enforcement Officer only when proper application is made meeting the requirements of Section 5 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 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, or is for use in connection with a school.
 - (2) The dwelling or place of business, or school was not originally constructed or placed in violation of the "Building Permit Code" or other Township 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 7. 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 Township and by the Department of Environmental Protection. The Township may reject the individual, firm, or corporation designated as being responsible for the removal of the contents of the holding tank and/or the individual, firm, or corporation designated as being the ultimate recipient of such contents for any reasonable cause including, but not limited to, the following:

- (a) Such individual, firm, or corporation has not been approved by the Department of Environmental Resources.
- (b) Such individual, firm, or corporation in the past has failed to remove contents from a holding tank on a timely basis after being notified to do so.
- (c) Such individual, firm, or corporation has in the past failed to deposit contents of a holding tank in the approved disposal facility for such contents.
- (d) Such individual, firm, or corporation has in the past deposited septic tank affluent or other such material in locations other than those approved by the Pennsylvania

Department of Environmental Protection such as in the woods or in a stream or in a field except in a manner specifically approved by the Pennsylvania Department of Environmental Protection.

SECTION 8. The applicant shall submit with the application a filing fee required by Section 7 of the Peach Bottom Township Sewage Permit Ordinance.

SECTION 9. The applicant shall in addition submit to the Township the sum which is established by resolution of the Board of Supervisors which shall be held in escrow by the Township. Any sum remaining in the escrow fund not deducted pursuant to the provisions of Section 13 of this ordinance shall be returned to the applicant upon the removal of the holding tank.

SECTION 10. No property shall be permitted to have its sewage needs served by a "retention tank" unless the capacity or the combined capacity of the retention tank or retention tanks serving such property is at least two thousand (2,000) gallons. No property which is served by water under pressure shall be permitted to have its sewage needs served by a "retention tank" unless the capacity or combined capacity of the retention tank or retention tanks serving such property is at least two thousand (2,000) gallons.

SECTION 11. All "retention tanks" shall be built of concrete, shall be watertight and must be installed in a manner which insures that they will not flow when empty due to hydraulic action of ground water and/or storm water runoff.

SECTION 12. No "retention tank" may be installed unless it is equipped with a sound alarm system which will give warning when the tank is filled to within seventy-five (75%) percent capacity. It shall be a violation of this ordinance for there to be present on any property a "retention tank" if the sound alarm has been shut off or been tampered with or render inoperative. In the event that Sewage Enforcement Officer finds that the sound alarm system on any "retention tank" has been tampered with or rendered inoperative, he shall revoke 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 Township. The holding tank shall be removed within ten (10) days from the date of revocation of the permit issued pursuant to this ordinance.

SECTION 13. 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 Pennsylvania Department of Environmental Protection 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 (75%) per

- cent of capacity.
- (c) Permit only the individual, firm, or corporation designated in the application to remove holding tank contents.
 - (d) Supply to the Township Sewage Enforcement Officer a record of the pumping of the holding tank each time the tank is pumped, which record shall disclose the name of the entity doing the pumping and the amount of contents pumped.

SECTION 14. Duties Following Permit Issuance

- (a) Duties of Permit Holder

Each owner of a permit permitting a holding tank to serve the sewage needs of the property of such permit holder shall within ten (10) days next following the sending of notice of an intent to inspect by the Township Sewage Enforcement Officer make arrangements with the Township Sewage Enforcement Officer for the inspection of the holding tank located on such permit holder's property. A notice shall be conclusively presumed to have been sent if it is deposited in the U. S. mail addressed to the permit holder and sent to the address given by the permit holder at the time of application for such permit or any more recent address provided to the Township by the permit holder. At the time of the scheduled inspection, the permit holder shall make the holding tank and the alarm accessible for inspection by the Township Sewage Enforcement Officer. It shall be a violation of this provision if any permit holder given notice as above provided fails to contact the Township Sewage Enforcement Officer and arrange for inspection of the holding tank within ten (10) days from the date of such notice and it shall be a further violation if such permit holder fails to make the holding tank and alarm system available for inspection at the date of the scheduled inspection.

At or prior to the inspection of the holding tank the permit holder shall pay to Peach Bottom Township a fee established by the Board of Supervisors as an initial inspection fee.

In the event the Township Sewage Enforcement Officer, at the time of any inspection, finds the holding tank to be filled in excess of seventy-five percent (75%) of capacity the permit holder shall within ten (10) days following such inspection cause the holding tank to be pumped. In the event the Township Sewage Enforcement Officer finds the required alarm system not functioning as designed, the permit holder shall within ten (10) days following the inspection cause the required alarm system to be repaired so that it functions as designed. In the event the Sewage Enforcement Officer finds that the holding tank is filled in excess of seventy-five percent (75%) of capacity or that the required alarm system

is not functioning as designed, the permit holder shall within five (5) days following such inspection pay to the Township an initial inspection fee as shall be established by resolution of the Board of Supervisors which may be reduced by any sums previously paid on account of such inspection. Upon completion of the pumping and/or repair as may be applicable, the permit holder shall make arrangements with the Township Sewage Enforcement Officer for a second inspection of the holding tank located on such permit holder's property. At or prior to the second inspection of the holding tank, the permit holder shall pay to Peach Bottom Township as a second inspection fee, a fee as shall be established by resolution of the Board of Supervisors.

In the event the Township Sewage Enforcement Officer finds the holding tank is filled to more than eighty-five percent (85%) capacity and arranges for removal of the contents of the holding tank, the holder of the permit shall reimburse the Township for the cost of removal of the contents within ten (10) days of being billed therefore and if the Sewage Enforcement Officer revokes the permit for the holding tank the permit holder shall remove the holding tank within ten (10) days of revocation and cause all improved premises whose sewage needs are served by such holding tank to be vacated.

(b) Duties of Sewage Enforcement Officer

Following issuance of a permit pursuant to this Ordinance, the Sewage Enforcement Officer shall from time to time inspect the holding tank but not less frequently than once a year. In the event the Sewage Enforcement Officer finds that the holding tank is filled to more than eighty-five percent (85%) of capacity, the Sewage Enforcement Officer shall promptly make arrangements to have the contents of the holding tank removed and the cost of such removal paid from the fund held in escrow. In the event the permit holder fails to reimburse the Township and the escrow fund for the cost of such removal within ten (10) days of being billed therefor, the Sewage Enforcement Officer shall in addition revoke the permit issued pursuant to this Ordinance and any and all amounts remaining in the escrow fund shall be forfeited to the Township.

SECTION 15. Any individual, firm, association, or corporation violating any of the provisions of this ordinance shall upon conviction thereof before the district Magistrate be subject to a penalty in the amount of One Thousand and 00/100 (\$1,000.00) Dollars 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 16. No individual, firm, association, or corporation which has been in violation or 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 (20%) per cent of the ownership equity in both the “applicant” and the “violator” can attributed to the same individual, fir, 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 (50%) per cent of all of the outstanding voting stock.
- (b) With respect to a corporation in which he and his spouse own less than fifty (50%) per cent 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 entirety, 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%) per cent 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%) per cent of all the partnership shares, the same percentage of ownership equity which the value of the partnership shares owned by him and his spouse to the value of all partnership shares.

SECTION 17. 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 18. For the purpose of this section, “he” and “him” shall be interpreted to refer to the masculine, the feminine, and the neuter.

SECTION 19. If any section, subsection, paragraph, sentence, clauses, or phase 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 20. This ordinance shall become effective (5) days after enactment.

ATTEST:

PEACH BOTTOM TOWNSHIP
BOARD OF SUPERVISORS

Secretary

By: _____
Chairman

Date: _____ February 1, 2010 _____