

SOUTH MIDDLETON TOWNSHIP
HOLDING TANK ORDINANCE

Ordinance No. *91-06* of 1991

BE IT ENACTED AND ORDAINED by the Board of Supervisors of South Middleton Township, of 384 Park Drive, Boiling Springs, Cumberland County, Pennsylvania 17007, and it is hereby enacted and ordained as follows:

TITLE : An Ordinance of the Township of South Middleton establishing restrictions upon the use of holding tanks and regulations for the maintenance and security thereof.

Section 1. Purposes. The purpose of this Ordinance is to establish limitations, regulations, and procedures for the use and maintenance of existing and new holding tanks designed to receive and retain sewage whether from residential or commercial uses. 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 this municipality.

Section 2. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

A. "Authority" shall mean the Board of Supervisors of South Middleton Township of 384 Park Drive, Boiling Springs, Cumberland County, Pennsylvania.

B. "Holding Tank" or "Retaining Tank" means 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. The terms holding tank and retaining tank shall for purposes of this Ordinance be interchangeable. The terms holding tank and retaining tank shall not, for purposes of this Ordinance, include a privy or chemical toilet.

C. "Improved Property" shall mean 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.

D. "Owner" shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

E. "Person" shall mean any individual, partnership, company, association, corporation or other group or entity.

F. "Sewage" shall, for purposes of this Ordinance, be limited to mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or domestic water usage.

No other waste, chemicals, noxious materials or deleterious substance 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 shall be introduced into any holding tank at any time.

G. "Township" shall mean South Middleton Township, Cumberland County, Pennsylvania.

H. "Conventional Sewage System" shall mean an on-site sewage disposal and treatment system including in ground and sand mound septic treatment systems.

I. "Official Plan" shall mean the duly enacted and currently effective comprehensive plan for sewage treatment as adopted by the Municipality and submitted to and approved by the Department of Environmental Resources.

J. "Holding Tank Security Agreement" An agreement between the landowner and the Municipality whereby the landowner guarantees the performance of all obligations of a permit holder under this Ordinance.

K. "Board of Supervisors" shall mean the duly elected members of the Board of Supervisors of South Middleton Township.

Section 3. Holding Tanks: Restrictions on use.

The installation and/or use of any holding tank on any property within South Middleton Township is hereby prohibited except by the holder of a valid and current permit for such use issued in conformity with the provisions of this Ordinance.

The use of holding tanks may be permitted, subject to the provisions of this Ordinance, in the following circumstances exclusively:

A. To replace a previously approved or permitted conventional sewage system which is malfunctioning and non-repairable; provided that public sewer is not available, and that the Township Sewage Enforcement Officer has determined that a conventional system cannot

be utilized on the property or lot due to soil conditions or site related limitations beyond the control of the landowner, or

B. As a temporary sewage facility for the disposal of domestic sewage at a new non-industrial site which is designated by the Official Plan for installation of public sewage facilities within two years from the date the Permit is requested, or

Section 4. Permit Requirements. No holding tank shall be used or installed on any property unless or until a Permit therefor has been issued in accordance with the provisions of this Ordinance.

1. A permit may be issued only when the site proposed for the holding tank conforms with the use restrictions in Section 3.

2. A person requesting a Permit for a holding tank shall submit a written Application, on a form provided by the Township, together with such fee as is established by Resolution of the Board of Supervisors.

3. Incomplete Applications shall not be considered or acted upon.

4. The Application for Permit shall include and be accompanied by the following:

(a) A detailed statement of reasons the holding tank is requested referencing the specific criteria of Section 3 herein.

(b) A detailed plan of the proposed site and facility prepared and certified as to accuracy by a Licensed Professional Engineer or Registered Surveyor.

(c) A detailed plan and statement describing the methods proposed for the maintenance of the facility, and the manner in which sewage pumping, waste hauling and ultimate disposal of sewage from the facility. Said plan shall identify the entity or agency designated to receive and dispose of all sewage and shall include a calculation of the anticipated sewage generation from the proposed site and a schedule for pumping based thereon.

(d) A notarized statement from an entity or agency licensed or approved by the Department of Environmental Resources for sewage disposal confirming without reservation that said entity or agency shall accept sewage from the proposed facility during the entire period of use thereof.

(e) An agreement, on a form approved by the Township, whereby the Applicant assumes responsibility for

the installation and maintenance of the proposed facility and the pumping, hauling and ultimate disposal of the sewage generated thereby together with an indemnification agreement saving and holding the Municipality harmless from any and all liability and expenses, including legal fees arising from the use of said facility or related to the sewage therefrom at any and all times and of every nature. The security agreement shall include bonding or other security for the installation of public sewer where applicable.

(f) In addition, the Applicant shall comply with such conditions and safeguards as may be imposed pursuant to Section 5 of this Ordinance.

Section 5. Issuance of Permits : Conditions and safeguards:

(A) The Board of Supervisors, or their designated agent, may issue a permit upon determining that the Application is complete, that the Applicant has satisfied all requirements of this Ordinance, and the proposed holding tank will not create a nuisance or threat to the health and welfare of the community and public.

(B) The Board of Supervisors, or their designated agent, may impose such reasonable conditions and safeguards upon the permit as are necessary to protect the public interest.

(C) The Township may issue or deny the requested permit within 30 days from the date the complete application and all supporting documentation is filed.

(D) Failure to act on an Application shall not be deemed an approval thereof.

(E) The Applicant may request a hearing upon the Application pursuant to the Local Agency Law.

Section 6. Denial of Permit. In the event an Application is denied, written Notice of Denial setting forth the reasons for said action shall will be mailed to the Applicant not later than 14 days following the date of the said denial.

Section 7. (A) Restriction of Permit transfer. A permit issued pursuant to this Ordinance shall not be transferred except as hereinafter provided. A transfer or attempted transfer of any permit, or any interest therein, except in conformity with this section shall constitute a default under the security agreement and a violation subject to the hereinafter stated penalties.

(B) Method of Transfer. A person or persons seeking to transfer or acquire an existing holding tank permit or authority to use a holding tank for which a permit has been granted to another, shall submit a written application as required by Section 4 of this Ordinance. In addition, the Transferee shall submit a security agreement either assuming, without exception or reservation, the obligations of the Transferor, or a substitute agreement whereby the Transferee undertakes all legal obligations of a permit holder under this Ordinance. The Township shall have the right to refuse transfer if the proposed Transferee is unable to comply with the provisions of this Ordinance. In addition, the Township shall have the right to impose such other conditions and safeguards upon transfer as are deemed reasonable and necessary to protect the public interest and prevent a nuisance or health hazard.

Section 8. Duties of Improved Property Owner. The owner of an improved property that utilizes a holding tank and every permit holder shall:

A. Maintain the holding tank in conformance with this Ordinance and the security agreement, and abide by the provisions of any applicable law, and the regulations of any administrative agency of the Commonwealth of Pennsylvania.

B. Permit the Township or its agent to inspect holding tanks at any reasonable time to ensure that the facility is properly maintained and functioning.

C. Permit only the Township or the entity or agency designated in the Holding Tank Security Agreement to collect, transport, and dispose of the contents therein.

D. Permit only the landowner or a person lawfully occupying the premises designated in the Permit to use the holding tank facility or deposit sewage therein.

E. Submit to the Township copies of pumping receipts and maintenance records for the holding tank upon demand and in no event less than annually.

Section 9. Violations. Any person who violates any provisions of this Ordinance shall, upon conviction thereof by summary proceedings before a District Justice, be sentenced to pay a fine of not less than One Hundred (\$100.00) dollars and not more than Three Hundred (\$300.00) Dollars and cents, and in default of said fine and costs to undergo imprisonment in the County Prison for a period not in excess of thirty (30) days.

In addition, Township, upon violation of any provision of this Ordinance or default under a security agreement hereunder, shall after five days written notice mailed to the address of the landowner as stated in the Permit or Application, have the following rights and recourse:

a. Township shall have the right to revoke any permit issued hereunder and institute any and all legal action to restrain and prevent further use of the facility.

b. Township, its designated agent or agents, shall have the right to enter upon the premises of the landowner and take such remedial action as is necessary to maintain the facility or prevent a nuisance or health hazard including the disconnection of the facility, pumping thereof, and hauling and disposal of sewage therefrom.

c. Township shall have the right to impose upon the landowner or permit holder all costs, fees and expenses, including reasonable legal fees incurred as a result of any remedial action, enforcement proceeding or litigation required or occasioned by any default, and to institute any and all lawful proceedings in any Court including actions for damages and costs, and equitable or injunctive relief including restraint of further use and occupancy of the premises.

d. Township shall in addition have the right to enter a lien against the landowner or permit holder in the Office of the Prothonotary or Recorder of Deeds in an amount equal to the costs and expenses incurred as a result of any default or violation. Upon Owners failure to satisfy the said lien Township shall have the right to enforce the same by execution sale or foreclosure.

Section 10. Abatement of Nuisances. In addition to any other remedies provided in this Ordinance, any violation of Section 3 above shall constitute a nuisance and shall be abated by the Township by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a Court of competent jurisdiction.

Section 11. Repeal. This Ordinance constitutes the exclusive basis whereby holding tanks may be utilized within the Township of South Middleton. All other Ordinances, Resolutions or parts of Ordinances or Resolutions, insofar as they are inconsistent herewith, or purport to authorize the use of holding tanks except as herein provided, be, and the same are hereby repealed.

Section 12. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of South Middleton Township, that this Ordinance would have been adopted has such constitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

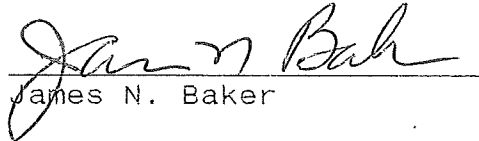
Section 13. Effective Date. This Ordinance shall become effective five (5) days after its adoption.

ENACTED AND ORDAINED into an Ordinance this *20th* day of *June*, 1991, by the Board of Supervisors of South Middleton Township, of 384 Park Drive, Boiling Springs, Cumberland County, Pennsylvania, 17007, in Lawful Session duly assembled.

BOARD OF SUPERVISORS OF
SOUTH MIDDLETON TOWNSHIP,



Dale F. Jones, Jr., Chairman



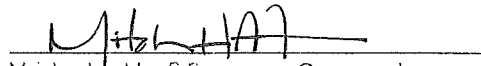
James N. Baker



Harold E. Mortimore

CERTIFICATE OF ADOPTION

I hereby certify the foregoing to be an exact copy of an Ordinance adopted by the Board of Supervisors of South Middleton Township, Cumberland County, Pennsylvania, at a regular meeting of the Board on


Mitch Hoffman, Secretary