

**CHERRY TOWNSHIP, PENNSYLVANIA**

**ORDINANCE NO. 32**

**AN ORDINANCE OF CHERRY TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA, ESTABLISHING PROCEDURES FOR THE USE AND MAINTENANCE OF RETAINING TANKS.**

**BE IT ORDAINED AND ENACTED AS FOLLOWS:**

**SEWAGE RETAINING TANK ORDINANCE**

**Section 1:**

**A. Authorization.**

**§101. PURPOSE.**

The purpose of this Part is to establish procedures for the use and maintenance of retaining tanks designed to receive and retain sewage, whether from residential or commercial uses, and it is hereby declared that the enactment of this part is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of Cherry Township.

**§102. DEFINITIONS.**

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

**BOARD** – the Board of Supervisors of Cherry Township, Butler County, Pennsylvania.

**IMPROVED PROPERTY** – any property within this 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 the ownership, legal or equitable; sole or partial, of any property located in this Township.

**PERSON** – any individual, partnership, company, association, corporation or other group or entity.

**RETAINING TANK** – a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes the following:

- (1) **Chemical toilet** – a permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control.
- (2) **Holding tank** – a tank, whether permanent or temporary, to which sewage is conveyed by a water-carrying system.
- (3) **Privy** – a tank designed to receive sewage where water under pressure is not available.
- (4) **Incinerating toilet** – a device capable of reducing waste materials to ashes.
- (5) **Composting toilet** – a device for holding and processing human and organic kitchen waste employing the process of biological degradation through the action of microorganisms to produce a stable, humus-like material.
- (6) **Recycling toilet** – a device in which the flushing medium is restored to a condition suitable for reuse in flushing.

**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 for recreation.

#### **§103. RETAINING TANKS AUTHORIZED.**

From and after the effective date of this Part, the Board may authorize the owner of any improved property within this Township, which does not abut a public sewer system or which cannot otherwise be legally required to connect to a public sewer system, to install a retaining tank, but only upon issuance of a permit and only in accordance with rules and regulations established by the Board.

#### **§104. RULES AND REGULATIONS AUTHORIZED.**

Upon the enactment of this Part, the Board shall adopt such rules and regulations concerning the use of retaining tanks within this Township, the installation and maintenance thereof, the disposal of sewage therefrom, including the collection and transportation thereof, and such other matters pertaining to retaining tanks as said Board may deem necessary or advisable. Said rules and regulations may be amended, from time to time, by action of the Board. All such rules and regulations adopted by the Board shall be in conformity with the provisions of

this Part, all other ordinances of this Township, all applicable laws, and all applicable rules and regulations of the administrative agencies of the Commonwealth of Pennsylvania.

**§105. ISSUANCE OF PERMIT.**

Any owner of improved property within the Township who desires to install a retaining tank shall file an application for a permit with the Township Sewage Enforcement Officer, containing such information as may be required by the rules and regulations adopted by the Board, as herein authorized, and such other information as the Sewage Enforcement Officer may deem necessary or advisable in the particular case. If, after consideration of the application and investigation of all the facts surrounding the same, the Sewage Enforcement Officer determines that a retaining tank permit can legally be issued, he shall so inform the owner and advise the owner of the amount of the performance bond or other security to be deposited with the Township as provided for in §106 of this Part. Upon the deposit of such performance bond or other security and approval thereof by the Township Solicitor, the Sewage Enforcement Officer may issue the permit. If the Sewage Enforcement Officer determines that a retaining tank permit cannot legally be issued on the basis of the application, he shall so inform the owner in writing, specifying the reasons why the application cannot be approved. Any owner aggrieved by the determination of the Sewage Enforcement Officer may appeal therefrom to the Board, as set forth in §210, below.

**§106. RESPONSIBILITIES OF OWNER.**

The owner of any improved property for which a retaining tank permit is issued shall have the responsibility:

- A. To have in force and effect at all times a contract with a person acceptable to the Township, for the removal (pumping), transportation and disposal of sewage from the retaining tank at such intervals, in such manner and at such site as may be required by the rules and regulations adopted pursuant to the provisions of this Part.
- B. To pay promptly all costs and expenses related to the removal (pumping), transportation and disposal of sewage from the retaining tank, all costs and expenses of maintenance of the retaining tank, all costs and expenses related to the performance bond or other security required by the provisions of this Part, and all costs and expenses related to the issuance of the retaining tank permit and the inspection of the holding tank.
- C. To keep on deposit with the Township at all times a fully effective performance bond or other security in an amount determined under the rules and regulations adopted pursuant to the provisions of this Part.
- D. To maintain the retaining tank in conformance with the rules and regulations adopted pursuant to the provisions of this Part, or the provisions of any

applicable law, or the rules and regulations of any administrative agency of the Commonwealth of Pennsylvania.

**§107. DURATION OF PERMIT; REVOCATION OF PERMITS.**

No permit issued hereunder shall extend for a term greater than two (2) years from the date of issuance thereof. The Sewage Enforcement Officer may revoke the retaining tank permit issued with respect to any improved property if the owner thereof violates any of the provisions of this Part or the rules and regulations adopted pursuant to the provisions hereof. Such revocation shall be made only if the owner fails or refuses to correct said violation within 48 hours after receiving written notification thereof. Such written notification shall be deemed to have been received at the time it is physically delivered to the address of the owner as appearing on the records of the Township, or 24 hours after such written notification is deposited in the United States Mail, postage prepaid, addressed to the address of the owner as appearing on the records of the Township.

**§108. PENALTIES.**

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 plus costs and reasonable attorneys fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

**§109. ABATEMENT OF NUISANCES.**

In addition to any other remedies provided in this Part, any violation of the provisions hereof or of the rules and regulations adopted pursuant hereto shall constitute a nuisance and shall be abated by the Township either by seeking appropriate equitable or legal relief from a court of jurisdiction or by other appropriate action.

**B. Rules and Regulations.**

**§201. AUTHORITY.**

These rules and regulations are promulgated pursuant to the authorization contained in §104 of this Part.

**§202. INTERPRETATION.**

These rules and regulations are adopted for the purpose of promoting, protecting and facilitating the public health, safety and general welfare and shall be construed to be minimum requirements for effectuating such purposes. Where the provisions of these rules and regulations conflict with the provisions of any other ordinance of Cherry Township or of

the rules and regulations adopted hereunder, the provisions imposing the greater restrictions and requirements shall prevail.

**§203            DEFINITIONS.**

The definitions contained in §102, above, are incorporated in these rules and regulations by reference. In addition, the following definitions shall be controlling:

**COMMUNITY SEWAGE SYSTEM** – any system, whether publicly or privately owned, for the collection of sewage from two or more lots and the treatment and/or disposal of the sewage on one or more of the lots or at any other site.

**RETAINING TANK PUMPER** – a person or entity who removes the contents of a retaining tank for purposes of disposing of the sewage at another site.

**INDIVIDUAL SEWAGE SYSTEM** – a system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part, into the soil or into any waters or by means of conveyance to another site for final disposal.

**SEWAGE ENFORCEMENT OFFICER** – the official appointed by the Board to review, issue, and enforce permit applications and conducts such investigations and inspections as are necessary to implement the sewage facilities act and the rules and regulations hereunder.

**TOWNSHIP** – the Township of Cherry, Butler County, Pennsylvania.

**§204.            USE OF RETAINING TANKS.**

1. Retaining tanks cannot be used on any improved property which abuts a public sewer system or which can otherwise be legally required to connect to a public sewer system.
2. Retaining tanks can be used as a temporary means of sewage collection and disposal on any improved property not included within subsection (1):
  - (1) Which cannot meet the minimum requirements for utilization of an on-lot sewage system.
  - (2) Which, according to the official Township sewer plan, is proposed to be served by a public sewer system within a period of 3 years.
  - (4) Which encounters a malfunction in the existing on-lot sewage system and such system cannot be repaired or altered so as to eliminate the malfunction and still meet the minimum requirements of Chapter 73 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection adopted pursuant to the Sewage Facilities Act.

**§205. ISSUANCE OF PERMIT.**

1. The installation of a retaining tank constitutes the installation of either an individual sewage system or a community sewage system. Prior to the installation of a retaining tank and prior to the start of construction of any new building for which a retaining tank is proposed to be installed, the owner shall obtain a retaining tank permit.
2. Prior to the installation of a retaining tank in connection with the replacement, repair or enlargement of any existing sewage system, the owner shall obtain a retaining tank permit unless the Pennsylvania Department of Environmental Protection determines that a permit is not required in the particular case.
3. Any owner desiring to obtain a retaining tank permit shall make application to the Township. The application shall include or be accompanied by the following information and documents:
  - A. The information required on the Pennsylvania Sewage Facilities Act Application for Sewage Disposal System.
  - B. The schedule for the complete maintenance and disposal operation, including the name of the retaining tank pumper, the location of the disposal site, the approximate date or dates each month for the cleaning of the retaining tank, and the approximate time of day when such cleaning shall be done.
  - C. Statement from the retaining tank pumper indicating his intent to enter into a contract with the owner for the pumping of the retaining tank on the approximate dates and times shown on the schedule, the estimated annual cost of such cleaning, that the contract will be terminable by either party only on ten (10) days notice, and his promise to notify the Township promptly if such contract is terminated.
  - D. Evidence that the retaining tank pumper and the proposed disposal site have been approved by the Pennsylvania Department of Environmental Protection.
  - E. Plan Revision Module prepared in accordance with the requirements of the Pennsylvania Department of Environmental Protection.
  - F. Such other information and documentation as the Township Sewage Enforcement Officer shall deem necessary in the particular case.
4. The application shall be filed with the Township and shall be accompanied by the fee required by §209 of these rules and regulations.
5. The Sewage Enforcement Officer shall approve or deny the application within a period of 30 days after a completed application is filed, unless such time is extended by

consent of the owner and the Township. If the application is not complete or if the Sewage Enforcement Officer is not able to verify the information submitted, the owner shall be notified in writing within a period of 7 days and the time limits for approving or denying the application shall be extended 30 days beyond the date when adequate supplementary or amendatory data is received by the Sewage Enforcement Officer.

6. If the Sewage Enforcement Officer is satisfied that the application is complete, that the proposed design meets all requirements of this Ordinance and/or these rules and regulations and will adequately protect the public health and prevent pollution, he shall approve the application and notify the owner, in writing, that a permit will be issued:
  - A. After the owner deposits with the Township a bond or other security in the amount specified in the notice and a copy of the executed contract between the owner and the retaining tank pumper.
  - B. After such documents are examined and approved by the Township Solicitor.
  - C. After the Board accepts and approves the plan revision module.
  - D. After the plan revision module is forwarded to the Pennsylvania Department of Environmental Protection for approval.
7. When everything required by subsection (6) of this Section has been accomplished, the Sewage Enforcement Officer shall issue the permit.
8. If the application does not satisfy the requirements of this Ordinance and/or these rules and regulations, the Sewage Enforcement Officer shall deny the application and so inform the owner in writing, specifying the reasons for the denial.
9. Permits shall extend for a term of not more than 3 years from the date of issuance. If the installation of the retaining tank and the individual sewage system or community sewage system of which it is a part is not commenced within a period of 2 years after the date of issuance of the permit, the permit shall expire and no installation shall be commenced without the issuance of a new permit.

**§206. REVOCATION OF PERMITS.**

1. The Sewage Enforcement Officer may revoke a retaining tank permit for any one or more of the following reasons:
  - A. The information and date contained in, or submitted with, the application is false in a material sense.
  - B. The issuance of the permit is in violation of this Part of these rules and regulations.

- D. Access to each tank shall be provided by a manhole having a diameter of at least 20 inches and equipped with a removable cover. Manhole extensions shall terminate at least 12 inches below the surface or be air-tight. When at ground level, covers must be reasonably secured to avoid access by children.
3. Warning Device. A retaining tank shall be equipped with a warning device to indicate when the tank is filled to 75% of its capacity. The warning device shall create an audible or visible signal, or both, at a location frequented by the owner or other responsible person.

**§208. MAINTENANCE REQUIREMENTS; INSPECTION.**

1. The owner shall be fully responsible for the timely cleaning and maintenance of the retaining tank and related facilities and for the payment of the costs thereof.
2. The owner shall keep in force and effect at all times the contract between the owner and a retaining tank pumper, a copy of which was deposited with the Sewage Enforcement Officer at the time of issuance of the permit, or a contract in replacement thereof. If either party to the contract gives notice of termination, the owner shall promptly advise the Sewage Enforcement Officer and proceed to enter into a contract with another retaining tank pumper not later than the termination of the prior contract. A copy of the new contract shall be delivered promptly to the Sewage Enforcement Officer, shall involve a retaining tank pumper and disposal site approved by the Pennsylvania Department of Environmental Protection and shall otherwise conform to the prior contract except in those particulars specifically approved by the Sewage Enforcement Officer.
3. The owner shall keep in force and effect at all times and on deposit with the Township a performance bond or other security acceptable to the Board and approved by the Township Solicitor in an amount at least equal to the estimated annual cost of cleaning the retaining tank pursuant to the schedule approved as part of the application and at the rates set forth in the contract between the owner and the retaining tank pumper. If, because of increase in rates or because of increase in the frequency of cleaning, or both, the performance bond or other security is no longer adequate in the opinion of the Sewage Enforcement Officer, the owner shall, upon 30 days notice, deposit a bond or other security in the specified higher amount. If the bond or other security has an expiration date earlier than the expiration date of the permit or if the owner decides to replace the bond or other security on deposit with another bond or other security, the owner shall notify the Sewage Enforcement Officer at least 60 days in advance and shall deposit a replacement bond or other security for approval at least 30 days in advance.
4. The owner shall permit the Sewage Enforcement Officer, or his authorized agent, to inspect the retaining tank and related facilities at any reasonable time, no less than annually, and shall promptly perform such maintenance and correct such deficiencies as the Sewage Enforcement Officer or his authorized agent may direct.



5. The owner shall pay promptly all costs and expenses related to the cleaning, maintenance, repair and inspection of the retaining tank and related facilities, all costs and expenses necessary to keep in continuing full force and effect the approved contract between the owner and the retaining tank pumper and all costs and expenses necessary to keep in continuing full force and effect the approved performance bond or other security.

**§209. FEES.**

The fee for a permit or renewal permit shall be as established from time to time by resolution of the Board to cover the costs to the Township of investigation and processing of the application.

**§210. APPEALS.**

Any owner aggrieved by a decision or action of the Sewage Enforcement Officer may appeal therefrom to the Board. Said appeal shall be filed in writing with the Township within 30 days after the decision or action complained of. Unless specifically approved by the Board, no such appeal shall act as a supersedeas.


**Section 2:** The effective date shall be five (5) days after enactment.

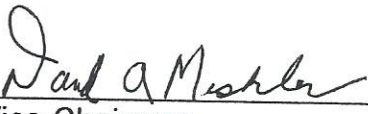
*(the balance of this page is left blank)*

**Section 3:** This Ordinance shall not act to repeal any prior Ordinance except to the specific extent set forth above.

ENACTED on this 2nd day of FEBRUARY, 2010.

CHERRY TOWNSHIP  
BOARD OF SUPERVISORS:

By:   
Chairman

By:   
Vice-Chairman

By:   
Supervisor