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**PART 1**

**SEWER REGULATIONS AND CHARGES**

**§13-101. Purpose**

The purpose of this Part is to restate the regulations relative to the public wastewater system, to conform with the Agreement of Lease between the Borough and the Ebensburg Municipal Authority of the Borough of Ebensburg dated May 3, 2007, and to establish the Rules and Regulations as adopted by the Ebensburg Municipal Authority as the rules governing Borough wastewater operations.

**§13-102. Charge and Management of the Wastewater System**

- A. The Borough Council shall have exclusive charge and management of the wastewater system.
- B. It shall be the duty of the Borough Manager to report to Council the violation of any Part, rule or regulation governing the wastewater system; also the breach of the conditions of any contract with the Borough pertaining to the wastewater system.
- C. The Borough of Ebensburg will manage wastewater from the public under the provisions of this Part and not otherwise. Consumers discharging wastewater to the wastewater system shall be bound by the provisions of this Part and all rules and regulations made by the Borough in pursuance of the same.

**§13-103. Rules and Regulations**

- A. The Ebensburg Municipal Authority will adopt, by Resolution, rules and regulations governing the wastewater system.
- B. Borough Council, as manager of the system, shall enforce the rules and regulations as adopted by the Ebensburg Municipal Authority.

**§13-104. Schedule of Wastewater Rates, Tapping Fees and Fire Service Charges**

- A. The Ebensburg Municipal Authority will adopt, by Resolution, schedules of wastewater rates, tapping fees and fire service charges governing the wastewater system.
- B. Borough Council, as manager of the system, shall apply the rates and fees as adopted by the Ebensburg Municipal Authority.

**§13-105. Public and Non-Profit Use**

There shall be no free service rendered by the wastewater system and all public corporation, all charitable or nonprofit institutions and all school districts and other political subdivisions shall pay for the use of the services and facilities of the wastewater system in accordance with the aforementioned schedule of wastewater charges.

**§13-106. 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, in default of payment of said

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find 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.

(Ord. 636, 12/19/2016)

**PART 2**

**SANITARY SEWER CONNECTIONS**

**§13-201. General Requirements**

- A. From and after the effective date of this Ordinance, it shall be unlawful for any Person to construct, install, maintain, repair, operate, use, or allow an Illegal Storm or Surface Water Connection on real estate that they own. This prohibition expressly includes, without limitation, Illegal Storm or Surface Water Connections made prior to the effective date of this Ordinance, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- B. From and after the effective date of this Ordinance, it shall be unlawful for any Person to sell or otherwise transfer real estate within the Borough of Ebensburg on which a building or improvement exists, without first delivering unto the purchaser a Certificate of Sewage Compliance or Temporary Certificate of Sewage Compliance from the Borough Manager of the Borough of Ebensburg.
- C. From and after the effective date of this Ordinance, it shall be required, prior to the issuance of a Municipal Lien Letter or Property Tax Verification Letter, that the Owner of real estate to be sold or otherwise transferred, on which a building or improvement exists, first obtain a Certificate of Sewage Compliance or a Temporary Certificate of Sewage Compliance.
- D. From and after the effective date of this Ordinance, all Persons connected to or connecting to the Sanitary Sewer System owned and operated by The Ebensburg Municipal Authority shall be governed by the Rules and Regulations Governing Sanitary Sewer Service, as adopted, and amended from time to time, by The Ebensburg Municipal Authority.

**§13-202. Definitions**

As used in this Part, the following terms shall have the meanings indicated:

Authority: The Ebensburg Municipal Authority and its authorized representatives, including the Borough of Ebensburg.

Borough: The Borough of Ebensburg, Cambria County, Pennsylvania, including the Ebensburg Municipal Authority.

Building: Each single-family dwelling unit, multiple dwelling unit, multiple use unit, store, shop, office, business, institutional, commercial, or industrial unit; contained within any structure; erected and intended for continuous or periodic habitation, occupancy, or use by humans or animals; from which wastewater may be discharged.

Building Drain: The lowest horizontal piping of a building's drainage system which receives the discharge from other drainage pipes inside the walls of a building and conveys it to the Sewer Lateral at a point at the building wall.

Certificate of Sewage Compliance: An official statement from the Borough Manager of the Borough of Ebensburg or his/her designee stating that there are no known illegal storm or surface water connections into the sanitary sewer connections on the specific property which is being sold, and that

the customer facilities have successfully passed an air pressure test. A Certificate of Sewage Compliance shall remain in effect for a period of five (5) years.

Connection Stub: The short section of pipe, including the tapping tee or saddle, between the sewer main collection line and the customer's viewport. In most cases, the Connection Stub will terminate at the customer's viewport situated at the customer's property line. In some cases, due to distance from the Sewer Main, the Connection Stub may terminate at a point other than the customer's property line. The termination point of the Connection Stub shall be determined at the sole discretion of the Authority. The Connection Stub is considered part of the Sewer Main, owned and maintained by the Authority.

Customer: The individual or individuals, partnership, association, company, municipality, or any entity whatsoever becoming the contractual applicant or actually using the sanitary sewer service of the Authority and responsible for payment therefor, as provided in the Rules & Regulations of the Authority.

Illegal Storm or Surface Water Connections: The discharge of ground or surface water or the connection of downspouts, roof drainage, surface areaway drainage, foundation drainage, footer drainage or discharge from a sump pump into the sanitary sewer system.

Inspector: The person or persons appointed by the Borough and/or Authority to inspect existing or proposed facilities of the Sanitary Sewer System, Sewer Laterals, and Building piping and fixtures

Municipal Lien and Property Tax Verification Letter: A written letter from the proper official of the Township of Cambria concerning municipal liens and property taxes.

Owner: Any and all persons vested with title, legal or equitable, sole or partial, of a Building or other real estate.

Person: Any person, syndicate, associate, partnership, firm, corporation, institution, agency, Authority, or other entity recognized by law as the subject of rights and duties.

Rules and Regulations: The Rules and Regulations Governing Sanitary Sewer Services, as adopted and amended by The Ebensburg Municipal Authority.

Sale: When used in this Ordinance, the "sale" of property shall apply to any sale and/or any type of transfer of ownership of real estate for any purpose whatsoever including but not limited to transfers within a family, inheritance, corporate transfers, transfers from joint ownership to individuals, and to or from financial institutions in cases of foreclosure. It shall apply to a "sale, transfer or assignment" of any interest in real property, except that the following transactions are exempted:

1. Refinancing of real property without a conveyance of an interest.
2. A transfer from an individual or individuals into an ordinary grantor trust as that term is commonly accepted.
3. A transfer between spouses or former spouses pursuant to a bona-fide marriage settlement agreement.
4. A transfer arising from a Sheriff's sale where the purchaser is a mortgage holder or lien creditor. However, a subsequent transfer of the property from the mortgage holder or lien creditor shall be subject to this regulation.
5. A transfer from a record owner to a mortgage holder/lien creditor pursuant to a Deed in Lieu of Foreclosure. However, a subsequent transfer of the property from the mortgage holder or lien creditor shall be subject to this regulation.

Service Charges: The customer facilities fee, connection fee, and tapping fee (comprised of capacity, collection, special purpose and reimbursement fees) imposed by the Authority under Act 57 of 2003, as amended, payable upon connection of a Building or property to the Sanitary Sewer System, and also refers to regular usage fees, surcharges, and other charges.

Sewer Lateral: All piping, including the property line viewport, on the customer's side of the Connection Stub. In those cases where, due to distance from the Sewer Main, it is necessary to extend a Sewer Lateral through neighboring public or private property, the installation and maintenance of the entire Sewer Lateral shall be the responsibility of the Customer.

Temporary Certificate of Sewage Compliance: A temporary statement of certification from the Borough Manager of the Borough of Ebensburg, issued pursuant to the terms of Section IV of this ordinance.

### **§13-203. Pre-Sale Compliance Required**

- A. Any person selling or otherwise transferring real estate located within the Borough of Ebensburg (hereinafter "Applicant") shall make application for a Certificate of Sewage Compliance, on a form furnished by the Borough of Ebensburg at least seven (7) days before the date of sale or transfer. The application fee shall be established from time to time by Resolution of the Borough Council.
- B. The Applicant shall, as prescribed within the Rules and Regulations, then have a qualified contractor perform an air pressure test of the Sewer Lateral on the property to be sold. The contractor shall notify the Authority at least seventy-two (72) hours before the test is made so that the Authority may witness the test. The Authority shall have the right to approve the test as performed and/or to require that additional tests be made. The Authority shall also have the right to rely on the results of any internal televising of the Sewer Lateral completed by the Authority. In the event that there are no illegal storm or surface water connections and the Sewer Lateral is deemed to be in compliance with these Rules and Regulations, the Authority shall issue a Certificate of Sewage Compliance upon the payment of any established fee. When an illegal storm or surface water connection or malfunctioning drainage system is discovered by the means of the above-mentioned testing, no Certificate of Sewage Compliance will be issued until the illegal connections/malfunctioning drainage system are removed/repaired, and/or the entire Sewer Lateral is replaced from the foundation wall to the Connection Stub. The system must then be retested. The Borough must inspect all work performed and witness all tests. Failure to have the Borough inspect the work may result in the Borough requiring the uncovering of any pipe or other structure to view the repair, at the cost of the property owner.
- C. A Certificate of Sewage Compliance shall expire five (5) years following the date of issuance of the Certificate of Sewage Compliance. If any additions are made to the property within the five (5) year period, certification for said addition shall be required.

### **§13-204. Temporary Certificate of Sewage Compliance**

A Temporary Certificate of Sewage Compliance may be issued at the Borough's sole discretion when either:

- A. The Applicant proves that such testing cannot be performed because of weather conditions, and when such is the case, the Applicant shall provide the Borough with security in the amount,

established from time to time by the Rules and Regulations of the Ebensburg Municipal Authority, to guarantee that the appropriate remedial work and subsequent testing will be performed. The Applicant will cause to have performed the appropriate test within thirty (30) days of subsequent written notification from the Borough, which will be given at such time as weather conditions make such testing possible. In addition, the Applicant shall provide a signed written acknowledgement from the purchaser of the real estate, agreeing to correct, at the said purchaser's sole expense, any violations/defects that may be discovered as the result of subsequent tests. Nothing in this subsection shall prohibit any purchaser from requiring the Applicant to reimburse the purchaser for any costs incurred; provided, nevertheless, that primary liability shall run with the land and no such agreement shall affect the Borough's enforcement powers or excuse the then current owner from performance.

- B. When an illegal storm or surface water connection or malfunctioning drainage system has been discovered and the necessary remedial activities to correct such connection would require a length of time such as to create a practical hardship for the Applicant, the Applicant may apply to the Borough for a Temporary Certificate of Sewage Compliance which may only be issued when the Applicant provides the Borough with all of the following:
  - 1. A bona fide executed contract between the Applicant and a qualified contractor to complete the necessary remedial work with the Borough listed therein as a third party beneficiary;
  - 2. Cash security in the amount of said contract posted with an escrow agent; and,
  - 3. An agreement by the purchaser to be responsible for all cost overruns related to the remedial work, together with a license to the Borough to enter upon the property to complete work in case of default by the contractor. The Borough Manager shall determine, by regulation, when such Temporary Certificate of Sewage Compliance shall expire, at which time the security shall be forfeited, and the Borough may use the security to have the necessary remedial work completed.
  
- C. When for any reason, the purchaser voluntarily chooses to undertake the necessary remedial activities. The Applicant may apply to the Authority for a Temporary Certificate of Sewage Compliance which may only be issued when the Purchaser provides the Authority with all of the following:
  - 1. An acknowledgment that remedial work is required.
  - 2. An acknowledgment that the Purchaser will be solely responsible for the cost of all necessary remedial work.
  - 3. The date by which all remedial work is to be completed and successfully tested, after which Section 12.10 shall be enforceable.
  
- D. The Borough is anticipating future repair or replacement of the Sewer Main(s) in the vicinity of the property to be transferred. In such a case, the Applicant may choose to bring the Sewer Lateral into compliance, as described in Section III, or may apply for a Temporary Certificate of Sewage Compliance.
  - 1. If the Sewer Lateral is brought into compliance and a Certificate of Sewage Compliance is issued, the purchaser will be responsible for any additional remedial work that may be required in order to satisfactorily connect to the new Sewer Main.
  - 2. If the Applicant applies for a Temporary Certificate of Sewage Compliance, pending the completion of an anticipated Borough project, the Applicant shall provide the Borough with security in the amount, established from time to time by the Rules and Regulations of the Ebensburg Municipal Authority, to guarantee that the appropriate remedial work and

subsequent testing will be performed. In addition, the Applicant shall provide a signed written acknowledgement from the purchaser of the real estate, agreeing to correct, at the said purchaser's sole expense, any violations/defects that may be discovered as the result of subsequent tests. Nothing in this subsection shall prohibit any purchaser from requiring the Applicant to reimburse the purchaser for any costs incurred; provided, nevertheless, that primary liability shall run with the land and no such agreement shall affect the Borough's enforcement powers or excuse the then current owner from performance.

**§13-205. Pre-connection Compliance Required**

No Person shall connect or reconnect to the Sanitary Sewer System without first complying with the Rules and Regulations of the Ebensburg Municipal Authority relative to application for service, required testing and payment of any fees.

**§13-206. Reduction of Inflow & Infiltration**

All persons now connected to the Sanitary Sewer System, upon notice received from the Ebensburg Municipal Authority, shall employ any and all measures deemed necessary to bring Building Drain and Sewer Lateral facilities into compliance with the Rules and Regulations of the Ebensburg Municipal Authority.

**§13-207. Right of Inspection**

Duly authorized employees or representatives of the Borough and the Authority shall have the right to enter on the premises of any person, firm, corporation or other entity connected to the System for the purpose of inspection, observation, measurement, sampling, testing, inspection of connections or fixtures, for a disconnection of service, for enforcement of these Rules and Regulations and for other such purposes for the protection of public health and property and the effective, orderly operation of the Sanitary Sewer System. Borough and Authority employees or representatives shall bear proper credentials and identification and display the same when requested. By virtue of being connected to and receiving service from the Sanitary Sewer System, each person, firm, corporation or other entity receiving said services acknowledges and authorizes Borough and Authority employees or representatives to enter upon their premises for the aforesaid purposes, including closed circuit televising (CCTV) of all buried and under slab piping of the premises and any type of testing including air pressure, water pressure and smoke testing. In the event that access is required into the interior of any building on the premises, the Borough/Authority representative will give 24-hour notice.

**§13-208. Failure to Eliminate Inflow & Infiltration**

- A. Any Owner, found to be in violation of the Authority's Rules and Regulations, by allowing any quantity of Inflow and Infiltration into the Sanitary Sewer System, shall be required to bring all buried pipelines into compliance. In the event the Borough identifies any illegal connections or leaking, deteriorating or poorly constructed private Sewer Lateral and/or sanitary sewer service connections, the Borough Manager shall give written notice of same to the Owner that such illegal connections be eliminated and/or that said connections be repaired, replaced, or rehabilitated, at the Owner's expense, within six (6) months of the date of the notice.



- B. Compliance must be proven at the time of inspection by an air pressure test as outlined in Section 312 of the International Plumbing Code. If a portion(s) of the said system fails to meet compliance standards, additional repairs must be completed and tested until the entire system has been determined to be in compliance; all within the original six (6) month time frame.
- C. Failure to bring all buried pipelines into compliance within the six (6) month time frame shall be deemed a violation of the Rules and Regulations. In such circumstances, the Borough may take one or more of the following enforcement actions.
  - 1. The Borough and/or Authority may file a civil action in order to enforce the penalty clause of this Ordinance.
  - 2. The Borough may apply a surcharge, as determined from time to time by the Authority, to the customer's service charge until such time that required repairs are made.
  - 3. The Borough may discontinue water service to the property, and disconnect the non-compliant Sewer Lateral from the Sewer Main.
  - 4. The Borough and/or Authority may enter the property to correct the condition(s) and collect the cost of such correction(s) plus ten (10%) percent of all costs.

**§13-209. Failure to Connect or Reconnect**

- A. Each Owner of any Building within the Borough and Authority service area, located on property abutting any street, alley or right-of-way in which a Sewer Main has been provided by the Authority, and where any part of a Building wherein wastewater is generated is within one hundred fifty (150) feet of the Sewer Main; at his/her own expense shall connect the Building to the Sanitary Sewer System in accordance with these rules and regulations within six (6) months after the date of official written notice to do so from the Borough, unless otherwise approved in writing by the Borough.
- B. Each Owner of any Building within the Borough and Authority service area, already connected to the Sanitary Sewer System and for which a new Sewer Main has been provided by the Authority; at his/her own expense shall connect the Building to the new Sanitary Sewer System in accordance with the Rules and Regulation within six (6) months after the date of official written notice to do so from the Borough, unless otherwise approved in writing by the Borough.
- C. In the event any Owner refuses or neglects to connect within the six (6) month period, he/she shall be deemed to be in violation of the Authority's Rules and Regulations and this Ordinance.
- D. Failure to connect or reconnect to the Sanitary Sewer System within the six (6) month time frame shall be deemed a violation of the Rules and Regulations. In such circumstances, the Borough may take one or more of the following enforcement actions.
  - 1. The Borough and/or Authority may file a civil action in order to enforce the penalty clause of this Ordinance. Any Owner who fails to make a proper connection to the Sanitary Sewer System within the time specified after receipt of proper notice or after obtaining a time extension in writing from the Borough shall, upon conviction thereof before a District Magistrate, pay a fine or penalty of \$50.00 for each day that the violation continues.
  - 2. The Borough may discontinue water service to the property.
  - 3. The Borough and/or Authority may enter the property to install a properly functioning Sewer Lateral and collect the cost of such correction(s) plus ten (10%) percent of all costs.

- E. Any owner that fails or neglects to connect to the Sanitary Sewer System shall nonetheless be assessed all ongoing service charges that would otherwise have been payable had the Owner connected, as required, by the Rules and Regulations. The payment of service charges shall not relieve the Owner of the requirement to connect.

**§13-210. Corrective Action Plan**

If for any reason an Owner is unable to comply with the Rules and Regulations and make required repairs or connection within the six (6) month period, the Owner may submit a corrective action plan to the Borough. The plan shall include a signed contract with a prospective contractor as well as the specific date of repair. The scope of work must be sufficient, as determined by the Authority, to accomplish compliance with the Rules and Regulations. The approval of a corrective action plan will avoid any penalty described above during the approved term of said corrective action plan, but will not negate the obligation to pay any and all service charges that would have otherwise been payable.

**§13-211. Connections to Stormwater System**

The diversion or direct connection of storm or surface water to the Borough's separate stormwater collection system is prohibited. In no event is stormwater to be discharged upon or across public or private sidewalks and public or private streets, or discharged onto adjacent property.

**§13-212. Right to Enforce**

Nothing in this Ordinance shall limit, in any fashion whatsoever, the Borough's right to enforce any ordinance or law of the Borough of Ebensburg, County of Cambria or Commonwealth of Pennsylvania. Nothing in this Ordinance shall be a defense of any citation issued by any municipal corporation or the Commonwealth pursuant to any other law or ordinance.

**§13-213. Penalties**

Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance (except failure to connect), or of any regulation or requirement pursuant thereto and authorized thereby shall, upon conviction before any district justice, be sentenced to pay a fine of \$600.00 and costs of prosecution, and in default of payment thereof, to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 558, 10/27/2008; as repealed and replaced by Ord. 631, 9/26/2016)

**PART 3**

**USE AND MAINTENANCE OF HOLDING TANKS FOR SEWAGE**

**§13-301. Purpose**

The purpose of this Ordinance is to establish procedures and criteria for the use and maintenance of holding tanks designed to receive and retain sewage from commercial, institutional and recreational uses where the sewage flow is 800-gallons per day or less. 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.

**§13-302. Definitions**

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

Commercial: Shall mean the use of the property, or portion thereof, which is occupied or is intended, arranged or designed to be used or occupied for the purpose of operating a business, an office, a manufactory or any public accommodation. Commercial shall not include any use of the property residential in character, such as, but not limited to, apartment buildings, condominiums, townhouses, and the like. The use by the occupier of the land shall control.

Council: Shall mean the Council of the Borough of Ebensburg, Cambria County, Pennsylvania.

Department: Shall mean Commonwealth of Pennsylvania, Department of Environmental Protection.

Holding Tank: Shall mean 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.

Improved Property: Shall mean any property within the Municipality upon which there is erected a structure intended for commercial, institutional or recreational occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

Municipality: Shall mean the Borough of Ebensburg, Cambria County, Pennsylvania.

Owner: Shall mean any person vested with ownership, legal or equitable, sole or partial, of any real property located in the Municipality.

Person: Shall mean any individual, partnership, company, association, corporation or other group or entity.

- I. “Institutional” shall mean any facility whose use is by or for a charitable public or philanthropic purpose such as a church or school and which is not in any manner used for residential purposes.
- J. “Recreational” shall mean only facilities which have received a permit or certificate from the Department as a recreational facility (campground, organized camps, swimming pools, etc.). It does not include hunting camps and weekend (second home) cottages.

K. “Sewage” shall mean any substance that contains any of the waste products or excrements or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health or to animal or aquatic life or 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. Sections 691.1-691-1001).

**§13-303. Rights & Privileges Granted**

The Borough Council is hereby authorized and empowered to undertake within the Municipality the control and methods of holding tank sewage disposal and sewage collection and transportation thereof.

**§13-304. Rules & Regulations**

The Borough Council is hereby authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effectuate the purposes therein.

**§13-305. Rules & Regulations to be in Conformity with Applicable Law**

All such rules and regulations adopted by the Borough Council shall be in conformity with the provisions herein, all other ordinances of the Municipality, all applicable laws, and all applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania.

**§13-306. Rates & Charges**

The Borough Council shall have the right and power to fix, alter, charge and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

**§13-307. Condition of Holding Tank Use**

Holding tanks may be used in the following circumstances:

- A. When the Borough Council, Borough Manager and/or Department determine that the use is necessary to abate a nuisance or public health hazard.
- B. When it can be satisfactorily proven/shown that an alternate public/municipal sewage treatment service will be available and utilized within two (2) years.
- C. For a commercial, institutional, and recreational establishment with a sewage flow of 800-gallons per day or less.
- D. Holding tanks may not be used when the use of the property is residential except as may be permitted in Subparagraph A and B above.

**§13-308. Application for Permit**

- A. Any owner seeking to use a holding tank as permitted herein for sewage disposal on any lot situated in the Municipality shall, after receipt of municipal and Department official sewage facilities plan approval, shall obtain a permit from the municipal Sewage Enforcement Officer.

- B. Permit application shall be made upon a form(s) to be supplied by the Municipality to the owner upon such owner's request. Included with the application the applicant shall provide a certified copy of each of the following documents:
1. A completed Application for an Onlot Sewage Disposal System Permit;
  2. A written contract between the owner and a licensed, qualified and responsible holding tank cleaner for the term of the holding tank permit. The contract shall provide for the timely and regular removal of the contents of the holding tank by the holding tank cleaner; and, for the removal of the said contents to a Department approved disposal site for final disposition.
  3. A certified copy of a written contract between the cleaner and the disposal site providing the holding tank cleaner with the right to dispose of the holding tank contents.
  4. Fees as established by resolution of the Borough Council.
  5. An Agreement:
    - a. to reimburse and indemnify the Municipality for any liability, costs and expenses which shall or may be incurred by the Municipality in actions to enforce compliance by the owner or to remove the contents of the holding tank or the holding tank upon default or failure of the owner to perform or for any fines incurred by the Borough Council by reason of the owner's failure to comply with this Ordinance, any properly enacted amendment hereto or the laws and regulations of the Commonwealth of Pennsylvania. The Agreement shall be in the form required by the Borough Council;
    - b. that the Municipality shall be notified of any change of ownership of the land upon which the holding tank is located;
    - c. that the terms of the Agreement and the Ordinance shall be binding upon the successors and assigns of the owner; and
  6. A bond or other security (as approved by the Borough Council) in favor of the Municipality in the amount of Five Thousand (\$5,000.00) Dollars from a bonding company licensed to do business in the Commonwealth of Pennsylvania, and secure to the public the proper record of the contents of the holding tank, removal and/or repair and maintenance thereof, clean up costs and damages in the event of a malfunction of the holding tank, and the costs of enforcement of this Ordinance incurred by the Municipality in the event of a violation. Said bond to remain in effect for the period the holding tank is in place, with notice to the Municipality by the bonding company in the event the bond lapses or is terminated by the bonding company.
- C. The owner shall file the completed and executed application for permit with the Municipality; and, shall pay to the Municipality such application fee as the Borough Council may from time to time prescribe by resolution.
- D. The owner shall cooperate with the Borough Council at all stages of the application process.
- E. A permit shall be issued to the owner upon proper application that the Municipality has amended its Official Sewage Facilities Plan and after approval by the Department.

**§13-309. Removal of Holding Tank**

The Municipality, at its option, shall have the right to enter upon the premises of a owner for the purpose of removing or causing the removal of any holding tank which remains in place in violation of this Ordinance. Municipality as used herein shall mean the Municipality, its employees or third parties contracted by the Municipality for the purpose of removing the holding tank. All costs and expenses of removal shall be borne by the owner.

**§13-310. Requirements for Holding Tank**

Any holding tank installed or maintained pursuant to a permit issued under this Ordinance shall comply, in all respects, to the specification set forth in Regulation of the Department, 25 Pa. Code, Chapter 73 inclusive. The landowner shall cause the holding tank and all lines, pipes or conduits to the same to be maintained in a good watertight condition at all times. All holding tanks shall be installed on a firm and stable soil or subsoil; and in such manner as to prevent settlement or movement. No holding tank or lines to the holding tank shall be covered until the Municipality's Sewage Enforcement Officer shall have first inspected and approved the installation and authorized covering the same. The owner shall be responsible for furnishing the Officer reasonable notice of the installation. The owner shall cause a holding tank to be cleaned as frequently as may be required to maintain the contents at a level less than 75-percent of the tank capacity. Holding tanks shall be installed at least 50-feet downgrade from any source of water supply. Holding tanks shall be installed at least 50-feet from the limit of the flood maximum stage of flood control facilities within the Municipality.

**§13-311. Inspections & Certification of Plumbing**

- A. Any landowner who applies for and receives a permit for holding tanks shall be deemed to have granted his/her consent for inspections of the holding tank and facilities used in connection with the holding tank by the Sewage Enforcement Officer of the Municipality. At reasonable times during the hours of 8:00 A.M. until 5:00 P.M., the landowner shall grant the Sewage Enforcement Officer access to the premises for the purpose of making such inspections upon request of the Sewage Enforcement Officer verbally or in writing.
- B. Any owner receiving a holding tank permit shall furnish the Municipality a true and correct copy of all pumping receipts for cleaning or removing the contents of the holding tank(s). Such reports shall be made to the Municipality, or its Agent, within 10-days after the contents of the holding tank are pumped out, and upon request.
- C. The failure of an owner to permit inspection of holding tanks or, equipment or facilities used in connection with the holding tanks; or, in the failure of the owner to have the holding tanks properly maintained and pumped out; or, the failure of the owners to furnish pumping receipts to the Municipality in a timely fashion; or the failure to keep in force the bond or other security required by this Ordinance; or any violation of any other terms of this Ordinance shall be grounds for immediate revocation of the permit.

**§13-312. Exclusiveness of Rights & Privileges**

- A. The collection and transportation of all sewage from any improved property utilizing a holding tank shall be done solely by or under the direction and control of the Borough Council, and the disposal thereof shall be made only at such site or sites as may be approved by the Department
- B. The Borough Council will receive, review and retain pumping receipts from permitted holding tank(s).

**§13-313. Abatement of Nuisances**

In addition to any other remedies available to the Municipality, any violation by the owner of the requirement of this Ordinance shall constitute a nuisance and may be abated by the Municipality by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction.

**§13-314. Penalties**

Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance, or of any regulation or requirement pursuant thereto and authorized thereby shall, upon conviction before any district justice, be sentenced to pay a fine of \$600.00 and costs of prosecution, and in default of payment thereof, to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 633, 11/28/2016)