

**LOWER OXFORD TOWNSHIP**

**ORDINANCE NO. 4-2008**

**AN ORDINANCE ESTABLISHING  
REGULATIONS FOR HOLDING/RETAINING TANKS**

BE IT AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Lower Oxford, Chester County, Pennsylvania as follows:

**HOLDING/RETAINING TANKS**

**Purpose.**

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

**Holding/Retaining tanks.**

Holding/Retaining tanks are designed and constructed to facilitate ultimate disposal of the sewage at another site. This requires the control of holding/retaining tanks through specific restrictions on their use.

**Definitions.**

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

**TOWNSHIP** – Lower Oxford Township, Chester County, Pennsylvania.

**HOLDING/RETAINING TANK** – 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 sewage at another site.

**IMPROVED PROPERTY** – Any property within the township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings and from which structure sewage shall or may be discharged.

**MUNICIPALITY** – Lower Oxford Township, Chester County, Pennsylvania.

**OWNER** – Any person vested with ownership, legal or equitable, sole or partial, of any property located in the township.

PERSON - Any individual, partnership, company, association, corporation or other group or entity.

SEWAGE – Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings 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 or for recreation.

### **Conformance with applicable law required.**

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

### **Design Standards.**

The Holding/Retaining Tank System to be designed installed, operated and maintained by the Owner upon the Improved Property shall be in accordance with or exceed the minimum requirements of the Pennsylvania Department of Environmental Protection (PADEP) and any other applicable government agency or authority whether Local, County, Township, State or Federal. The Holding/Retaining Tank System shall be approved by the Chester County Health Department (CCHD) as to design, construction, installation and permitting. The Owner assumes full responsibility for the proper design, construction, installation, operation and maintenance of the Holding/Retaining Tank System. Any modifications to the Holding/Retaining Tank System shall be presented to the CCHD for review and approval. The Owner will inform the Township and CCHD of any substantial changes in the condition of the Holding/Retaining Tank System.

### **Term of Operation.**

The Holding/Retaining Tank System shall be operated as an interim measure for a period of three (3) years from the date of the issuance of the permit. After the expiration of the three (3) year period, the Owner will either receive approval from the Township, CCHD, and PADEP for an addition period of time or will remove the Holding/Retaining Tank System at the Owner's expense and, after restoring the Improved Property, shall provide proof of such removal and restoration to the Township.

### **Inspection and Maintenance.**

The Township and CCHD are permitted to inspect the Holding/Retaining Tank System at their discretion. In the event the inspection by the Township, or inspections by the CCHD indicate repair and/or replacement of any component part or all of the Holding/Retaining Tank System in order to bring the Holding/Retaining Tank System into compliance with PADEP or other applicable governmental requirements or regulations, the Owner shall complete such repairs and obtain certification from the CCHD that the repairs have been made in accordance with PADEP Regulations (or other applicable regulations at issue), within thirty (30) days of the date the report is issued.

### **Establishment of Escrow Account.**

The owner shall establish an escrow account in an amount satisfactory to the Township Engineer and in a form satisfactory to the Township Solicitor. The Owner agrees that should any cost be incurred by the Township for inspections, repairs and/or replacement of the Holding/Retaining Tank System or its component parts or in the removal of effluent in accordance with the terms of this ordinance, the costs shall be recoverable by the Township from the Owner. In the event the Owner (or his heirs or assigns) shall fail to pay the Township for such costs or expenses, then the Township shall have the rights either to assess the escrow account or to sue the said Owner in assumpsit for reimbursement for its costs or to cause a lien to be placed on the Property in the amount of said expense.

### **Zoning, Land Development and Subdivision.**

It is expressly understood and agreed that nothing contained herein shall be construed to waive, affect or alter any requirements of the zoning, land development and subdivision or other ordinances of the Township and nothing contained herein empowers any Township officer or employee to waive any requirements of such ordinances. It is expressly understood and agreed that installation of the Holding/Retaining Tank System upon the Property does not constitute approval for any land development of the Property.

### **Rates and Charges.**

The township 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.

### **Exclusiveness of rights and privileges.**

- A. The collection and transportation of all sewage from any improved property utilizing a holding/retaining tank and the disposal thereof shall be made only at such site or sites as may be approved by the Department of Environmental Resources of the Commonwealth of Pennsylvania.
- B. The township will receive, review and retain pumping receipts from permitted holding/retaining tanks.

### **Duties of improved property owner.**

The owner of an improved property that utilizes a holding/retaining tank shall:

- A. Maintain the holding/retaining tank in conformance with this or any ordinance of this township, the provisions of any applicable law and the rules and regulations of the township and any administrative agency of the Commonwealth of Pennsylvania.
- B. Permit the township or its agent or other agency acting for the township to inspect holding/retaining tanks on an annual basis or provide a written inspection report annually to the township when the township so directs.
- C. Permit only certified or approved entities to collect, transport and dispose of the contents therein.
- D. Provide the township with receipt of the certified sewage pumper.
- E. Provide a plan for procedures to be used should the tank malfunction.

**Violations and penalties.**

The penalty for violation of this Ordinance shall be Six Hundred (\$600.00) Dollars. If the penalty imposed by a violation of this Ordinance is not voluntarily paid to the township, the township shall initiate a civil enforcement proceeding before a District Justice. In addition to, or in lieu of civil actions before a District Justice, the township may use its authority to enforce this Ordinance in equity. In any case when this Ordinance has been violated and the penalty has not been paid, when the person upon the penalty was imposed is found to have been liable in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney's fees incurred by the township in the enforcement proceeding.

A violation of this Ordinance which is found to exist shall constitute a separate offense for each day in which said violation continues to exist.

The fines, penalties, and other expenses incurred for the violation of this Ordinance shall be paid to the township treasurer.

The Board of Supervisors may delegate the initial determination of the violation of this Ordinance to a township agent or employee.

**Abatement of nuisances.**

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

**Severability.**

In the event that any term or provision of this Ordinance shall be determined to be invalid or unenforceable, for any reason, this determination shall not affect any of the remaining terms

and obligations of this Ordinance, which shall be read and construed as if the parties has initially intended to omit that term or provision determined to be invalid or unenforceable.

This ordinance shall take effect five (5) days after its enactment.

ENACTED AND ORDAINED this 13 day of August, 2008.

Attest:

LOWER OXFORD TOWNSHIP

Sara B. Laganelli  
Secretary

Kenneth L. Hershey  
Kenneth L. Hershey, Chairman

W. Ronald Kepler  
W. Ronald Kepler

W. Ralph Cheek  
W. Ralph Cheek