

TOWNSHIP OF HEIDELBERG
LEHIGH COUNTY, PENNSYLVANIA
ORDINANCE NO. 2016-1

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF HEIDELBERG TOWNSHIP ESTABLISHING STANDARDS FOR HOLDING TANKS AND PROVIDING FOR CERTAIN SECURITY TO BE POSTED BY THE OWNERS THEREOF TO ASSURE FOR THE PROPER MAINTENANCE AND REMOVAL OF SAID TANKS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Heidelberg Township, Lehigh County, Pennsylvania, as follows:

CHAPTER 18 SEWERS AND SEWAGE DISPOSAL

SECTION 18-201

TITLE. This Ordinance shall be known as "The Heidelberg Township Holding Tank Ordinance".

SECTION 18-202

AUTHORIZATION. This Ordinance is authorized by Pennsylvania Clean Streams Law Act of 1937, June 22, P.L. 1987, amended by Act of 1965, August 23, P.L. 372, 35 P.S. Section 691.1 et seq., "THE PENNSYLVANIA SEWAGE FACILITIES ACT", Act of 1966, January 24, P.L. (1965) 1535, as amended, 35 P.S. 750.1 et seq., and by the applicable regulations of the Department of Environmental Protection dealing with sewage facility systems specifically 25 PA Code, Section 71.63.

SECTION 18-203

PURPOSE. The purpose of this Ordinance is to provide for the installation, maintenance, and removal of holding tanks; and to provide a means of assuring that proper security is provided to enable the Township of Heidelberg to properly remove such tanks should the owner thereof default on his responsibilities and to establish penalties for violations of said Ordinance.

SECTION 18-204

DEFINITIONS. When used in this Ordinance, the following words shall have the meanings ascribed to them herein.

A. Act 537: The Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. Section 750.1 et seq., also known as the Pennsylvania Sewage Facilities Act.

B. Board: The Board of Supervisors of Heidelberg Township, Lehigh County, Pennsylvania.

C. DEP: The Department of Environmental Protection of the Commonwealth of Pennsylvania.

D. Holding Tank: A retaining tank, either permanent or temporary, to which sewage is conveyed by a water carrying system.

E. Official Sewage Facility Plan: The Heidelberg Township Act 537 Sewage Facilities Plan as approved by the DEP.

F. Person: Any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau, or agency of the Commonwealth or other political subdivision, municipality, district, authority, or any other legal entity whatsoever recognized by law. Whenever used in any clause prescribing or imposing a penalty or imposing a fine or imprisonment, the term "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipality, public or private corporation whether for profit or not for profit.

G. Retaining Tank: A water tank receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site.

H. Sewage: A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances 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, or which constitutes pollution under "The Pennsylvania Clean Streams Law".

I. Sewage Enforcement Officer (SEO). The official of Heidelberg Township who issues permits, reviews permit applications and sewage facility planning modules, and conducts investigations and inspections necessary to implement Act 537 and the regulations thereunder.

J. Licensed Septage Hauler. Person registered in accordance with Pennsylvania Code Title 25 CH 285 Section 225(c).

SECTION 18-205

APPLICABILITY. The provisions of this Ordinance shall apply to all persons owning any property within Heidelberg Township serviced by a holding tank for the first time after the effective date of this Ordinance and to all persons within Heidelberg Township installing, repairing, altering, or removing a holding tank. This Ordinance shall not apply to existing holding tanks lawfully in use at the time of the enactment of this Ordinance.

SECTION 18-206

REASONS FOR USAGE OF HOLDING TANKS. The reasons for usage of holding tanks consist of the following:

- A. Limit to repair of an existing facility or if a health hazard exists.
- B. As an interim facility prior to public sewer.
- C. To prohibit holding tanks for new residential construction.

SECTION 18-207

LIMITATION ON HOLDING TANK CAPACITY. Permits may be issued only for holding tanks of institutional, recreational, or commercial establishments and which have a sewage flow of no greater than 800 gallons per day to abate a public nuisance health hazard.

SECTION 18-208

PERMIT REQUIREMENTS. All permits issued shall meet the following requirements:

A. No person shall install, construct, or alter a holding tank system without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with the provisions and standards adopted pursuant to Act 537.

B. No holding tank shall be covered from view until approval to cover the same has been given by the SEO. If 72 hours have elapsed, excepting Sundays and holidays, since the SEO issuing the permit received notification of completion of construction, the applicant may cover said system or structure unless permission has been specifically refused by the SEO.

C. The Board may require applicants for holding tank permits to notify the Township's SEO of the schedule for construction of the holding tank so that inspections in addition to the final inspection required by Act 537 may be scheduled and performed by the SEO.

D. No zoning permit, building permit, or occupancy permit shall be issued by Heidelberg Township or its designated Zoning Officer for a building which will contain a holding tank until a valid permit under this Ordinance and Act 537 has been obtained from the SEO.

E. No zoning, building, or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure if served by a holding tank if said alteration or conversion will result in an increase or potential increase in sewage flows from

the structure until the structure's owner receives from the SEO either a permit for alteration or replacement of the existing holding tank or written notification that such a permit will not be required. The SEO shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows based upon a submission by the applicant.

F. No building or occupancy permit shall be issued for any structure to be served by a holding tank until the owner of said structure has entered into an agreement and provided the security required under this Ordinance.

G. A permit for a holding tank may be issued for residential use when the SEO has certified that an existing system has failed and that the site is unsuitable for any replacement system so that a holding tank is necessary to remedy the existing system failure, or in the alternative that the Board allows such system on the basis that the area where the holding tank will be installed will be connected to a community sewage system within one year of the installation of the holding tank so that said holding tank will be for a temporary measure only.

SECTION 18-209

INSPECTIONS. The SEO shall have the right to conduct inspections of holding tanks as follows:

A. The SEO shall conduct, at a minimum, an annual inspection of each holding tank within the Township and prepare a written inspection report; one copy of which shall be delivered to the owner of the property and one copy shall be retained by the Township.

B. In addition to required yearly inspections, any holding tank may be inspected by the SEO at any reasonable time.

C. All inspections may include a physical tour of the property, the taking of samples from surface water, wells, other ground water sources, the sampling of the contents of the holding tank itself and/or the introduction of a traceable substance into the interior plumbing of the structure served to ascertain the path and ultimate destination of waste water generated in the structure.

D. The SEO shall have the right to enter upon all land for the purpose of inspections described above.

SECTION 18-210

RESTRICTIONS ON DISCHARGE. Only normal domestic wastes shall be discharged into any holding tank. The following shall not be discharged into a holding tank system.

1. Industrial waste.
2. Automobile oil and/or other non-domestic oil.
3. Toxic and/or hazardous substances and/or chemicals, including but not limited to, pesticides, disinfectants, acids, paints, paint thinners, herbicides, gasoline and/or other solvents.
4. Surface or ground water, including water from roof and/or cellar drains, springs, basement sump pumps and/or french drains.

SECTION 18-211

MAINTENANCE DUTIES. Every owner of a lot with a holding tank shall have the following duties of maintenance:

A. Any person owning a lot served by a holding tank shall have said holding tank pumped by a Licensed Septage Hauler at least once every year. The person must submit documentation to the Township SEO illustrating that the holding tank has been pumped according to this requirement.

B. This required pumping frequency may be increased at the discretion of the SEO based upon the Officer's inspection of the holding tank.

C. Any person owning a property served by a holding tank shall submit, with each required pumping receipt, a written check list report, from the Hauler or from any other qualified individual acceptable to the Township to verify that the tank has been found to be in good working order and/or properly functioning; said verification is Hauler's responsibility. Any person whose tank has been determined to require repair or replacement shall first contact the SEO for approval of the necessary repair.

D. In the event that the person who is the property owner of any property containing a holding tank has failed to submit the above required receipts to the SEO evidencing that the tank has been pumped on an annual basis, the Township shall have the ability to have the tank pumped by a Licensed Hauler with the cost to be billed to the person owning the property upon which the tank is installed. In the event that

said person refuses to pay said bill, the Township may draw upon the security provided under this Ordinance to pay for said pumping.

SECTION 18-212

SECURITY.

A. No person shall operate a holding tank system and no building, zoning or occupancy permit shall be issued for the occupancy of any structure if said structure will be served by a holding tank system until said person has posted security as required under this Ordinance.

B. Said security shall consist of a cash escrow in an amount sufficient to cover the estimated maintenance and/or pumping costs of a holding tank for a one year period of time and also sufficient to cover the estimated removal cost of said holding tank both as determined by the Township SEO based upon a submission by the applicant.

C. The said security shall also consist of a holding tank improvement and maintenance agreement to be entered into by the person owning and/or installing said tank by Heidelberg Township and by the financial institution providing the letter referred to in Subparagraph B above. Said agreement shall be prepared by the Township Solicitor and the cost to prepare the same shall be paid by the property owner.

D. Said improvements agreement and cash escrow shall permit the Township to draw upon the cash escrow in order to undertake required maintenance which the owner of the holding tank has not undertaken including pumping the holding tank, other maintenance and/or repairs, and the removal and/or replacement of said holding tank.

E. Said security fee shall be reviewable annually and adjustments made accordingly by the Township.

SECTION 18-213

MALFUNCTIONING SYSTEMS.

A. No person shall operate and maintain a holding tank in such a manner that it malfunctions. All liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a tank. No holding tanks shall discharge untreated or partially treated sewage to the surface of the ground or into the waters of the Commonwealth unless a permit to discharge has been obtained from the Department.

B. The Township may issue an initial written notice of violation to any person who is the owner of a property in the Township which is found to be served by a malfunctioning holding tank or which is discharging raw or partially treated sewage without a permit.

C. Within seven (7) days of notification by the Township that a malfunction has been identified, the property owner shall make application to the SEO for a permit to repair or replace the malfunctioning tank. Within thirty (30) days of issuance of permit, weather permitting, construction of the permitted repair or replacement shall commence. Within sixty (60) days of the issuance of a permit by the Township, weather permitting, the construction shall be completed unless the Township shall extend the period.

D. Failure to apply for a permit or to complete the repair or replacement within the times specified in Section 213C shall constitute

a violation, subjecting the property owner to a daily fine up to \$1,000.00 per day.

E. The Township's certified SEO shall have the authority to require the repair of any malfunction by the following methods; cleaning, repair or replacement of components of the existing system, adding capacity or otherwise altering or replacing the system's treatment tank, or other alternatives as appropriate for the specific site.

F. In lieu of, or in combination with, the remedies described in E above, the SEO may require the installation of water conservation equipment and the institution of water conservation practices in structures served. Water using devices and appliances in the structure may be required to be retro-fitted with water saving appurtenances or they may be required to be replaced by water conserving devices and appliances. Wastewater generation in the structure may also be reduced by requiring changes in water usage patterns in the structure served.

G. In the event that the rehabilitation measures in A through F are not feasible or do not prove effective, the Township may require the owner to apply to the DEP for a permit to install a single residence treatment and discharge system. Upon receipt of said permit the owner shall complete construction of the system within sixty (60) days.

H. Should none of the remedies described above prove totally effective in eliminating the malfunction of an existing holding tank, the property owner is not absolved of responsibility for that malfunction. The Township may require whatever action is necessary to lessen or mitigate the malfunction to the extent that it feels necessary.

I. Failure of the landowner to take the actions required in Section 213 relating to malfunctioning systems shall constitute a public nuisance and a violation of this Ordinance, as well as, a violation of the Heidelberg Township Zoning Ordinance/Code of Ordinances forbidding public nuisances.

J. Should the remedies provided above not prove effective in eliminating the malfunction of an existing holding tank, the Township shall have the remedy of requiring the property owner to remove said system. Should the property owner refuse to remove said system then the Township shall have the ability to accomplish the removal drawing upon the funds provided under the security agreement entered into between the property owner and the Township.

SECTION 18-214

FEES. The Board of Supervisors shall establish by Resolution a Schedule of Fees. Costs for the completion of required water quality testing and Township SEO inspections shall be assessed to the property owner. It shall be each individual property owner's responsibility to contract with a Licensed Septage Hauler for the pumping of the owner's septic tank.

SECTION 18-215

TOWNSHIP MAY REPAIR MALFUNCTIONING SYSTEM. Where a property owner or other person fails to maintain, repair or replace a holding tank system after notice pursuant to the terms of this Ordinance, such failure shall constitute a public nuisance and a violation of this Ordinance. The Township may abate the nuisance by performing the work needed, or

by contracting to perform the work needed to abate the nuisance, and may charge the landowner or other responsible person for the cost thereof plus a penalty of twenty percent (20%). Said cost plus penalty may be collected by an Action in Assumpsit or by the filing of a Township Lien according to law. Such costs plus penalty may also be drawn from the irrevocable letter of credit or cash equivalent provided by the security agreement.

SECTION 18-216

DISPOSAL OF CONTENTS OF HOLDING TANKS. The contents of holding tanks shall be disposed of as follows:

A. The contents of all holding tanks originating within the Township shall be disposed of at sites or facilities approved and permitted by the DEP. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites, and approved farm lands.

B. Pumper/haulers operating within the Township shall operate in a manner consistent with the provisions of the Act of July 28, 1988, P.L. 556, No. 101, as amended, 53 P.S. 4000.101 et seq., known as the "Municipal Waste Planning, Recycling and Waste Reduction Act."

SECTION 18-217

ADMINISTRATION. The Township shall fully utilize those powers it possesses through enabling Statutes and Ordinances to effect the purposes of this Ordinance.

SECTION 18-218

APPEALS. Any person aggrieved by any notice, action, or determination may appeal to the Board within thirty (30) days in writing pursuant to the Act of 1978, April 28, P.L. 202, No. 53, as amended, 2 Pa.C.S.A. 105 and 551 et seq., known as the "Local Agency Law."

SECTION 18-219

VIOLATIONS. Any person who shall violate any of the provisions of this Ordinance, or who shall fail to act upon notice or determination of the SEO or other authorized agent of the Township within the time stated in the notice on determination, shall upon conviction thereof before a District Magistrate be guilty of a summary offense and shall be sentenced to a fine of not more than \$1,000.00, and costs, or in default thereof, shall be confined in the County Jail for a period of not more than thirty (30) days. It is further provided as follows:

A. Each day of violation or continuing violation shall constitute a separate offense.

B. Failure to appeal a notice or determination pursuant to Section 218 and the Local Agency Law shall constitute an admission of the violation and a failure to utilize administrative remedies.

C. This Ordinance constitutes an Ordinance enacted for the purposes of property maintenance, public health and safety, and for water and air pollution violations, for the purposes of Section 702, Clause XLI, of the Second Class Township Code, as amended, 53 P.S. 657541.

D. In addition to all other remedies, the Township may institute suits in equity to restrain or prevent violations of this Ordinance, or to abate public nuisances.

E. The Township may file Township Liens for abatement of nuisances in accordance with law.

SECTION 18-220

REPEALER. All Ordinances and parts of Ordinances heretofore adopted to the extent that the same are inconsistent in any manner herewith are repealed.

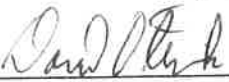
SECTION 18-221

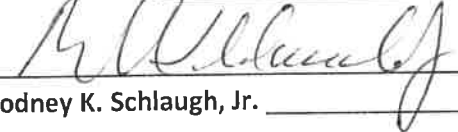
EFFECTIVE DATE. This Ordinance shall take effect five days after passage by the Board of Supervisors.

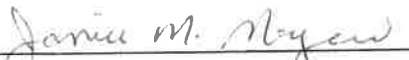
ENACTED AND ORDAINED This 18th day of February, 2016.

TOWNSHIP OF HEIDELBERG

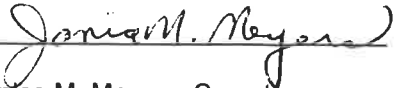

Steven Bachman, _____


David O. Fink, _____


Rodney K. Schlaugh, Jr. _____


ATTEST: Janice M. Meyers, Secretary

I, Janice M. Meyers, Secretary to the Board of Supervisors of the Township of Heidelberg do hereby certify the attached to be a true and correct copy of the ordinance adopted by the Supervisors at a meeting of the same duly convened and held on the 18th day of February, 2016. Witness my hand and seal of the Township this 18th day of February, 2016.


Janice M. Meyers, Secretary