

Chapter 112

SEWERS AND SEWAGE DISPOSAL

[HISTORY: Adopted by the Board of Supervisors of the Township of Scott as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Holding Tanks

[Adopted 7-22-2003 by Ord. No. 7-22-03¹]

~ 112-1. Authorization.

A. The Township is hereby authorized and empowered to adopt such rules and regulations concerning holding tanks which it may deem necessary from time to time to effect the purposes of this article.

B. All such rules and regulations shall be in conformity with the provisions hereof, all other ordinances of the Township of Scott, all applicable laws of the Commonwealth of Pennsylvania, and all applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania.

~ 112-2. Regulation and prohibition.

A. It shall be unlawful for any individual, firm, association, or corporation to erect, construct, or install any holding tank of any kind within the limits of Scott Township unless a sewage disposal system permit for the holding tank is issued by the Township Sewage Enforcement Officer under the authority of the Pennsylvania Sewage Facilities Act.²

B. It shall be unlawful for any individual, firm, association, or corporation to use, operate or maintain any holding tank of any kind within the limits of Scott Township unless a holding tank operating permit for the holding tank is issued by the Township Sewage Enforcement Officer under the authority of this article.

~ 112-3. Holding tank definition.

For purposes of this article, "holding tank" shall be construed to mean a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate treatment or disposal of the sewage at another site.

¹ Editor's Note: This ordinance also repealed former Art. I, Holding Tanks, adopted 2-27-1990 by Ord. No. 1-1990B, as amended.

² Editor's Note: See 35 P.S. ~ 750.1.

~ 112-4. Permits and applications.

A. Permits for holding tanks may only be issued when proper application is made meeting the requirements of the various sections of this article and the specific criteria of Subsection C of this section.

B. A holding tank permit shall be valid for no more than one year from the date of issuance. It shall be the responsibility of the permit holder to make application and receive a valid permit prior to the expiration of the holding tank permit. Each holding tank permit shall meet all the provisions of this article.

C. When Subsection C(1), (2), (3) or (4) of this subsection applies, a permit may be issued.

(1) The permit application is for use in connection with a commercial building or commercial activity generating flows of less than 800 gallons per day and meeting the requirements of the Pennsylvania Sewage Facilities Act and the regulations issued pursuant thereto.

(2) The permit application is for use in connection with an existing dwelling or place of business with a malfunctioning on-lot sewage disposal system which the Sewage Enforcement Officer finds cannot be properly served by any sewage disposal system meeting the requirements of the Pennsylvania Sewage Facilities Act and the regulations issued pursuant thereto.

(3) For temporary use by new residential structures or land uses, where the property on which the proposed holding tank will be installed has a permit issued by the Township for construction of an on-lot sewage disposal system.

(4) For temporary use by new residential structures or land uses. The property where the proposed holding tank will be installed must be located in an area of the Township for which a "notice to proceed" has been issued by the Township for construction of a sewage collection system.

D. No application shall be approved or permit issued unless the ultimate disposal site for the contents of the holding tank shall be approved or permitted by the Department of Environmental Protection to receive such materials. The Township may reject the individual, firm or corporation designated as being responsible for the removal of the contents of the holding tank and/or the individual, firm, or corporation designated as being the ultimate recipient of such contents for any reasonable cause, including, but not limited to, the following:

(1) The proposed ultimate disposal site has not been approved or permitted by the Department of Environmental Protection or its approval or permit has been suspended or revoked.

(2) Such individual, firm or corporation has repeatedly failed to remove the contents on three or more occurrences from a holding tank on a timely basis after being notified to do so.

(3) Such individual, firm, or corporation has, in the past, been convicted of depositing sewage or holding tank contents in locations other than those approved by the Pennsylvania Department of Environmental Protection.

(4) All applications for a permit under this article shall be made to the Scott Township Sewage Enforcement Officer on forms provided by the Township. The application for a permit shall be signed by the owner or owners of the property on which the holding tank is to be located.

(5) The application shall be accompanied by an agreement approved by the Township and signed by the individual, firm, or corporation which is to be responsible for the removal of the contents of the holding tank, agreeing that they will remove the contents of the holding tank described in the permit application.

(6) The application shall be accompanied by an agreement approved by the Township and signed by the individual, firm, or corporation which is to be the ultimate point of disposition of the contents of the holding tank, agreeing that they will accept the contents of the holding tank described in the permit application for ultimate disposal.

(7) The applicant shall submit with the permit application an application fee in an amount which is, from time to time, established by the Board of Supervisors by resolution.

(8) To establish a relationship with a different holding tank pumping contractor than that identified in the then-current permit, the landowner must reapply for a permit by complying with ~ 112-48 and C of this article. There shall be no filing fee when the sole purpose of reapplication is to change pumping contractors.

~ 112-5. Financial security.

A. As required by the Board of Supervisors, the applicant shall submit with the permit application financial security in an amount which is, from time to time, established by the Board of Supervisors by resolution. Said amount shall be used by the Township to pump, repair or restore the system or its components to normal working order or mitigate contamination in the event that:

(1) The owner fails to have the tank pumped in a timely manner and when such failure results in a discharge of sewage to the surface of the ground or the waters of the commonwealth.

(2) The tank or any of its components is discovered, upon inspection, to be defective, unsafe or unsatisfactory.

(3) The owner upon notification by the Township that the tank has exceeded 75% of its capacity fails to have the tank pumped within 24 hours of notification.

B. Financial security may be provided in any manner approved by the Township. This may include but not be limited to;

(1) An escrow account established by the Township for the deposit of holding tank financial security funds.

(2) An irrevocable letter of credit naming the Township as the beneficiary.

(3) A bond issued by a reputable bonding company naming the Township as the beneficiary.

C. In the event that the Township uses all or part of the financial security, the landowner shall, upon written notice from the Township, make such arrangements to restore the financial security to full value and, if necessary, repay any amount expended by the Township in excess of the financial security amount.

D. Failure to restore the financial security to full value within 15 days of receipt of written notice of the deficiency will result in revocation of the holding tank permit.

E. The applicant shall make a written request to the SEO for decommissioning of the holding tank. The SEO shall within 20 days of receipt of this request inspect the holding tank to ensure that it was decommissioned in a manner approved by the Department and that there is no contamination as a result of the holding tank malfunctioning.

F. The holding tank permittee shall be released of any financial security obligations, and any sums remaining in the escrow shall be returned to the applicant upon the approved decommissioning of the holding tank.

G. No interest shall be paid on escrow funds. All interest that may be earned shall be applied to offset the administrative costs of this article and its related activities.

~ 112-6. Capacity and operational safeguards.

A. All holding tank systems shall have a minimum total liquid capacity as required by and meet all requirements of PA Code, Title 25, Chapter 73 regarding construction, and must be installed in a manner which ensures that they will not float when empty.

B. Every holding tank shall be equipped with an audible alarm system which will give warning when the tank is filled to seventy-five-percent capacity.

C. Every holding tank shall be equipped with a visible alarm system which will give warning when the tank is filled to seventy-five-percent capacity.

D. It shall be a violation of this article to shut off, tamper with or render an audible or visible alarm inoperative.

E. In the event the Sewage Enforcement Officer finds that either alarm system on any holding tank has been tampered with or rendered inoperative, within three days of the notice of discovery the SEO shall notify the landowner, in writing, of the need to restore the system to proper working condition.

F. If the repairs are not completed within three days of receipt of said notice, the Sewage Enforcement Officer shall use the escrow funds to cause the system to be restored.

~ 112-7. Removal of contents.

The holder of a permit issued pursuant to this article shall:

- A. Notify the designated individual, firm or corporation responsible for the removal of holding tank contents at such time that the tank is filled to within 75% of capacity.
- B. Permit only the individual, firm, or corporation designated in the application to remove holding tank contents.
- C. Cause the individual, firm, or corporation designated in the application to remove holding tank contents to provide a receipt to the permit holder of each pumping activity.
- D. Retain all pumping receipts.
- E. Within seven calendar days, forward to the SEO an exact duplicate of all receipts for the pumping of the holding tank.
- F. Allow the Township's SEO to conduct inspections of the holding tank.

~ 112-8. Inspections.

- A. Following the issuance of a permit pursuant to this article, the Sewage Enforcement Officer shall, from time to time, inspect the holding tank but not less frequently than once a year. The Sewage Enforcement Officer shall provide the permit holder a written report of the findings of this inspection. The Township shall retain a copy of this report along with the records of pumping activity required by ~ 112-11E.
- B. In the event the Sewage Enforcement Officer finds the holding tank to be filled in excess of 75% of capacity, the permittee shall within 24 hours of notification have the individual, firm, or corporation designated in the application remove the holding tank contents. The permittee 10 days after being billed for a reinspection shall pay to the Township an inspection fee in an amount periodically set by the Board of Supervisors by resolution.
- C. In the event the Sewage Enforcement Officer finds that the holding tank is filled to more than 85% of capacity, he shall promptly make arrangements to have the holding tank pumped, and the cost of such removal shall be paid from the fund held in escrow.
- D. In the event the permit holder fails to pay the above referred to inspection fee within the ten-day period, the Sewage Enforcement Officer may, in addition, revoke the permit issued pursuant to this article, and all amounts remaining in the escrow fund after payment of the inspection fee and payment of the cost of removal of the contents of the holding tank shall be forfeited to the Township.
- E. In the event that the permit issued pursuant to this article is revoked, the holding tank shall be removed within 20 days from the date of revocation notice of the permit.

~ 112-9. Administrative.

- A. Permits issued under this article are not transferable.

B. All holding tanks in Scott Township, whether or not they were installed pursuant to a permit from the Sewage Enforcement Officer, are subject to the operating permit provisions of this article.

C. Within 30 days of the enactment of this article, the owner of every property served by a holding tank which is not currently permitted shall apply for a holding tank operating permit as required by this article. Any property served by a currently permitted holding tank shall apply for a holding tank permit as required by this article upon expiration of its current permit.

~ 112-10. Transfer of real estate served by holding tanks.

A. It shall be the responsibility of the owner of real property served by a holding tank which was installed, permitted or operated pursuant to this article to disclose that fact to all prospective buyers.

B. When the ownership of a property served by a holding tank is transferred, the subsequent (new) owner shall obtain a permit under this article prior to the transfer of title.

(1) Until such time as a permit is issued in the name of the new owner, the previous owner shall be responsible and liable for the operation and maintenance of the holding tank on the property in question.

(2) When the new owner makes the necessary application and financial security arrangements and after transfer of title, any positive escrow account balance shall be refunded to the previous owner and or any financial obligation to the holding tank shall be removed.

(3) Until any negative financial security balance is paid, no new permit shall be issued and the previous owner shall be responsible and liable for the operation and maintenance of the holding tank.

(4) Prior to issuing a permit under this article to a new owner, the Sewage Enforcement Officer shall inspect the holding tank in the usual and customary manner, and any deficiencies found shall be corrected before the structure can be occupied or a new permit issued.

~ 112-11. Violations and remedies.

A. In the event that the holder of a permit issued pursuant to this article shall violate or be in violation of the provisions of this article, the SEO shall revoke from the permit holder the permit issued under this article in addition to any other remedies included herein.

B. The permit holder may appeal this decision to the Scott Township Board of Supervisors. During the pendency of the appeal, the permit holder shall not be permitted to use in any fashion the holding tank.

C. Notice of the revocation shall be made in writing stating the reason for the revocation and mailed first class mail, United States Postal Service to the permit holder. The notice shall state that the permit holder shall have five days from the date of the notice to correct the violation or, in writing, request an appeal before the Scott Township Board of Supervisors. If

the permit holder fails to take the above-mentioned actions, the revocation shall become effective immediately after the expiration of the five-day period.

D. Any individual, firm, association, or corporation violating any of the provisions of this article shall, upon conviction thereof, be subject to a penalty in the amount of not less than \$1,000 for each and every offense. Each and every day that a violation of any of the provisions of this article occurs and each and every day that a holding tank remains erected, constructed, or installed without a permit having been issued pursuant to this article or after a permit has been revoked, shall be considered a separate and distinct offense and shall be subject to separate and distinct penalties hereunder.

E. In addition to any other actions to obtain compliance, the Township may assess civil penalties as described in the Pennsylvania Sewage Facilities Act.

F. No individual, firm, association, or corporation which owns property which is in violation of any of the provisions of this article shall be issued a permit to erect, construct, install or maintain a holding tank on a different property until the current violation has been cured.

ARTICLE II Funding of Sewer Project

[Adopted 6-18-1990 by Ord. No. 4-1990³]

~ 112-12. Authorization for Authority to undertake project.

This township authorizes and requests the Authority to undertake and to complete the acquisition and construction of the project.

~ 112-13. Determination that Authority shall incur debt.

This township determines that the Authority shall incur debt, which shall be lease rental debt of this township pursuant to the Act, to acquire and construct the project.

~ 112-14. Description of debt.

Such debt will constitute lease rental debt of this township pursuant to the Act, shall be in the aggregate principal amount of \$4,800,000, shall be evidenced by certain obligations to be issued by the Authority under the Authorities Act and shall consist of a series of guaranteed sewer project notes, to be designated as "Guaranteed Sewer Project Notes, Series of 1990," dated as of July 1, 1990, (the "notes"), which notes shall have the benefit of and shall be secured by the guaranty obligations of this township pursuant to the Guaranty Agreement (hereinafter mentioned and identified).

³Editor's Note: The introductory paragraphs to this ordinance defined "Act" as "Pennsylvania Act No. 1972-185, as re-enacted, amended and revised by Pennsylvania Act No. 1978-52, known as the 'Local Government Unit Debt Act,' as amended and supplemented from time to time" (53 P.S. ~ 6780-1 et seq.). It also defined "Authority" as the "Scott Township Authority" and "project" as "a project that consists of, inter alia, planning, designing, acquiring and constructing sanitary sewage collection and transmission system facilities, including all related and necessary facilities required for rendering sewage service in and for certain portions of this township."

~ 112-15. Useful life of project.

This township specifies that the realistic useful life of the project is at least 30 years.

~ 112-16. Entrance into Guaranty Agreement.

A. This township, as guarantor, shall enter into a Guaranty Agreement, dated as of July 1, 1990, (the "Guaranty Agreement") substantially in the form referred to in ~ 112-17, with the Authority and First Eastern Bank, N.A. (the paying agent), Wilkes-Barre, Pennsylvania, appointed as paying agent under a resolution dated for convenience as of July 1, 1990, but effective as provided therein (the "resolution"), of the Authority, with respect to the project and the notes, under terms and provisions of which Guaranty Agreement, inter alia, this township shall guarantee unconditionally, for the benefit of the holders, from time to time, of the notes, full and prompt payment of the principal of the notes, in the aggregate principal amount of four million eight hundred thousand dollars

(\$4,800,000,.) together with interest on said principal of the notes at the rate provided therein, as such shall be due and payable.

B. The Guaranty Agreement shall be for the life of the notes and shall set forth terms, conditions, provisions, covenants and agreements to be observed by this township, the Authority and the bank in relation to the project and the notes.

~ 112-17. Form of Guaranty Agreement.

The Guaranty Agreement shall be substantially in the form presented to this meeting, which form is approved, and a copy of the Guaranty Agreement, in the form so presented to this meeting and so approved, shall be filed with the Secretary of this Township and shall be made available for inspection at reasonable times by interested persons requesting such inspection.

~ 112-18. Debt statement and borrowing base certificate.

A. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary of this township, respectively, are authorized and directed to prepare, to certify and to file the debt statement, as such phrase is defined in the Act, required by Section 410 of the Act,⁴ in behalf of this township.

B. Proper officers of this township are authorized and directed to prepare and to execute an appropriate borrowing base certificate for filing with the Department of Community Affairs (the "Department") of the commonwealth, as required by the Act.

~ 112-19. Qualification of self-liquidating debt.

The Chairman or Vice Chairman of the Board of Supervisors and the Secretary, respectively, of this township, as appropriate, are authorized and directed to prepare and to file appropriate

⁴Editor's Note: See 53 P.S. ~ 6780-160.

statements required by Article II of the Act⁵ that are necessary to qualify all or any portion of the lease rental debt of this township that is subject to exclusion as self-liquidating debt for exclusion from the appropriate debt limit as self-liquidating debt.

~ 112-20. Authorization to execute Guaranty Agreement.

The Chairman or Vice Chairman of the Board of Supervisors and the Secretary of this township, as applicable, are authorized and directed to execute, to attest and to deliver the Guaranty Agreement, in behalf of this township, substantially in the form approved in ~ 112-17, subject, however, to applicable provisions of the Act.

~ 112-21. Application for approval of Guaranty Agreement; filing fee.

The Chairman or Vice Chairman of the Board of Supervisors and the Secretary of this township are authorized and directed to make application to the Department for approval with respect to the Guaranty Agreement, as required by Section 411(b) of the Act;⁶ and in connection with such application, this township shall pay to the Department the filing fee as required by Section 803 of the Act, as amended,⁷ the payment of which filing fee is authorized and approved.

~ 112-22. Maximum guaranty obligations.

A. The maximum guaranty obligations of this township with respect to the notes as set forth in the Guaranty Agreement in the form referred to in ~ 112-17, which shall be payable, if and as necessary, shall be as are set forth in Exhibit A which is ⁸attached hereto and made part hereof.

Any person who shall violate this Article shall be subject, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine of not more than \$1,000, together with costs of prosecution in each case, and in default of payment of such fine and costs shall be subject to imprisonment for a term not to exceed 30 days. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such.

~ 112-51. Recovery of fines and costs.

Fines and costs imposed under provisions of this Article shall be enforceable and recoverable in the manner at the time provided by applicable law.

ARTICLE IV Grant of Rights to Authority To Maintain Sewer System

⁵Editor's Note: See 53 P.S. ~ 6780-51 through ~ 6780-59.

⁶Editor's Note: See 53 P.S. ~ 6780-161(b).

⁷Editor's Note: See 53 P.S. ~ 6780-353.

⁸~ 112-50. Violations and penalties. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[Adopted 6-18-1990 as Ord. No. 6-1990]

~ 112-52. Purpose.

It is declared that enactment of this Article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this township.

~ 112-53. Rights granted.

This township does grant to the Authority, its successors and assigns all easements, rights-of-way and other rights and privileges necessary and desirable in, along, over and under streets, roads, lanes, courts, culs-de-sac, alleys, public ways, public squares and other properties of this township, together with free ingress, egress and regress therein and thereto, along with other persons having interests or rights therein, for use in connection with constructing, replacing, repairing, altering, extending, improving, operating and maintaining the sewer system, as the same shall exist, from time to time.

~ 112-54. Rules and regulations.

The rights and privileges granted to the Authority under ~ 112-53 shall be exercised by the Authority under and subject to such reasonable rules and regulations as shall be adopted and specified, from time to time, by resolution or ordinance of this township, and this township does reserve the right to adopt and specify, from time to time, such reasonable rules and regulations in connection with exercise by the Authority of such rights and privileges.

ARTICLE V
Agreement with Authority To Construct and Operate
Sewage Facilities
[Adopted 6-18-1990 as Ord. No. 7-1990]

~ 112-55. Purpose.

It is declared that enactment of this Article and the execution, acknowledgment and delivery of the agreement is necessary for the protection, benefit and preservation of the health, safety and welfare of inhabitants of this township.

~ 112-56. Entrance into agreement.

This township shall enter into an agreement (the "agreement") with Scott Township Authority (the "Authority"), whereby, inter alia, the Authority will covenant and agree to acquire, to construct, to own and to operate certain sanitary sewage collection and transmission system facilities, including the acquisition of certain sewage treatment and disposal capacity, required for rendering sewage service, inter alia, in and for portions of this township, and this township will make certain covenants and agreements with respect to the proposed sewer system to be acquired, to be constructed, to be owned and to be operated by the Authority, including, inter alia: the enforcing of requirements for connection to and use of such sewer system; the granting of certain easements, rights-of-way, rights and privileges to the Authority; and other related

matters. The agreement shall be substantially in the form presented to this meeting, which agreement and the form thereof is approved.

~ 112-57. Agreement on file.

A copy of the agreement, in the form so presented to this meeting and so approved, shall be filed with the Secretary of this township and shall be made available for inspection at reasonable times by interested persons requesting such inspection.

~ 112-58. Authorization to execute agreement.

The Chairman or Vice Chairman of the Board of Supervisors and the Secretary or Assistant Secretary of this township, as applicable, are authorized and directed to execute, attest, acknowledge and deliver the agreement, in behalf of this township, in the form so approved.

~ 112-59. Authorization to execute documents.

Proper officers of this township are authorized and directed to execute all documents and to do all other acts that may be necessary and proper to carry out this Article and the undertakings of this township in the agreement.