

MILLCREEK TOWNSHIP
LEBANON COUNTY, PENNSYLVANIA

ORDINANCE NO. 11112020

**AN ORDINANCE ESTABLISHING PROCEDURES FOR
THE USE AND MAINTENANCE OF RETAINING
TANKS DESIGNED AND CONSTRUCTED TO
RECEIVE AND RETAIN SEWAGE AND
ESTABLISHING PENALTIES FOR VIOLATIONS**

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Millcreek Township, Lebanon County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same as follows:

Section 1. Purposes. The purpose of this Ordinance is to establish procedures for the use and maintenance of retaining tanks designed and constructed 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 this Township.

Section 2. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

DEPARTMENT – the Department of Environmental Protection of the Commonwealth of Pennsylvania.

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 or animals and from which structure sewage shall or may be discharged.

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.

RETAINING TANK – a watertight receptacle that receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes, but is not limited to, the following:

Chemical Toilet – a permanent or portable non-flushing toilet using chemical treatment in the retaining tank for odor control.

Holding Tank – a tank, whether permanent or temporary, to which sewage is conveyed by a water-carrying system.

Privy – a tank designated to receive sewage, where water under pressure is not available.

Incinerating Toilet – a device capable of reducing waste materials to ashes.

Composting Toilet – a device for holding and processing human and organic kitchen waste employing the process of biological degradation through the action of microorganisms to produce a stable, humus-like material.

Recycling Toilet – a device in which the flushing medium is restored to a condition suitable for reuse in flushing.

SEWAGE – any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substance being harmful or inimical to the public health, or to animal or aquatic life or to the use of water for domestic water supply or for recreation.

TOWNSHIP – Millcreek Township, Lebanon County, Pennsylvania.

Section 3. Rules and Regulations. The Township is hereby authorized and empowered to adopt such rules and regulations concerning sewage that it may deem necessary from time to time to effect the purposes of this Ordinance.

Section 4. Rules and Regulations to be in conformity with Applicable Law. All such rules and regulations adopted by the Township shall be in conformity with the provisions of this Ordinance, all other ordinances of the Township, all applicable laws, and all applicable rules and regulations of the Department.

Section 5. 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. Unless otherwise prohibited by law, such rates, assessments, and other charges may be set by the Township Board of Supervisors by Resolution.

Section 6. Collection, Transportation, and Inspection.

1. The collection and transportation of all sewage from any improved property using a retaining tank shall be done solely by a pumper/hauler licensed by the Department, and that sewage shall be delivered only to such site or sites as may be approved by the Department.

2. The Township shall receive, review, and retain all pumping receipts from permitted retaining tank owners.

3. The Township directly and through its Sewage Enforcement Officer will complete and retain annual inspection reports for each permitted tank, and in conjunction therewith, shall review the pumping receipts applicable to each permitted tank. The cost of the inspection and review of pumping receipts shall be paid by owner.

Section 7. Duties of Improved Property Owner. The owner of an improved property that uses a holding tank shall:

1. Maintain a retaining tank in conformance with this Ordinance or any other Ordinance of the Township, the provisions of any applicable law, the rules and regulations of the Township and the Department, and only after the issuance of a permit therefor by the Township's Sewage Enforcement Officer.

2. Permit only the Township or its agent to inspect the retaining tank on an annual basis.

3. Pay within ten (10) days any charge, rate, or assessment that is fixed by the Township.

4. Provide regular service and maintenance of all retaining tanks, including regular cleaning and having the contents removed in accordance with this Section.

5. Prevent overflows of the retaining tank.

6. Prior to issuance of the retaining tank permit, owner shall enter into an agreement with a pumper/hauler licensed by the Department evidencing the pumper/hauler's agreement to collect, transport, and dispose of the contents of the retaining tank at a licensed permanent dumping site.

7. Owner shall discontinue the use of the retaining tank, if a permit for its use has been issued pursuant to this Ordinance and rules and regulations adopted hereunder, within one (1) year from the date of issuance of the permit, and begin using a sewage collection and disposal system that has been approved for permanent use in place of such holding tank, unless the permit has been renewed by the Township.

8. Fill any retaining tank which has remained unused for a period of four (4) consecutive years with dirt or a similar material.

9. Enter into and execute a retaining tank agreement with the Township and deposit with the Township financial security in a form in an amount satisfactory to the Township to secure reimbursement to the Township for the costs of collecting, transporting, and disposing of the contents of the retaining tanks, repairing or correcting malfunctions of the retaining tanks, or eliminating health hazards caused by the use of the retaining tanks, and the Township shall have the right to withdraw funds from such financial security for such purposes without any specific consent of the owner.

Section 8. Term of Retaining Tank Permit. Any permit for the use of a retaining tank issued by the Township pursuant to this Ordinance or any other rules and regulations adopted under this Ordinance, shall be valid for only one (1) year and shall not be renewable, except at the discretion of the Township, upon the Township's review, for such additional period of time as the Township shall deem appropriate. Any person who sells, transfers, or conveys an improved property in

the Township of Millcreek that uses a permitted retaining tank for collection and disposal of sewage shall give written notice to the purchaser or transferee thereof that the permit for the retaining tank shall expire one (1) year from the date of issuance thereof and shall not be renewable and shall furnish a true and correct copy of the retaining tank permit to the new owner.

Section 9. Use Alternate Sewage System.

1. No permit for the use of a retaining tank shall be issued, whether under to this Ordinance, any rules or regulations adopted herein, or otherwise, unless all other possible means of collecting and disposing of sewage at the property in question have been considered and found to be unusable.

2. The issuance of permits for retaining tanks by the Township shall also be subject to the following conditions:

- (a) The Township Act 537 Plan, or revision thereto, indicates the use of retaining tanks for the lot and provides for replacement by adequate sewage services in accordance with the schedule approved by the Department.
- (b) The Township Act 537 Plan, or revision thereto, includes municipal financial assurances of the replacement project's implementation, such as public financing, bonding, or other security of sufficient present value to assure completion or other assurances, either singularly or in combination, that the Department deems necessary.
- (c) The conditions set forth in (a) and (b) above shall not apply to retaining tanks when the Township or the Department determines that the use is necessary to abate a nuisance or public health hazard.
- (d) The conditions set forth in (a) and (b) above do not apply to retaining tanks when the use is for institutions, recreational vehicle dump stations, or commercial establishments with a sewage flow of less than eight hundred (800) gallons per day.

- (e) Privies or chemical toilets shall be used in lieu of other methods of sewage disposal only when the following conditions are met:
 - (i) The Township Act 537 Plan, or revision thereto, indicates the use of privies or chemical toilets for that lot and documents that soil and site suitability testing of that lot under § 25 Pa. Code §§ 73.11-73.16 has been conducted and the site meets the requirements for the ultimate sewage disposal by one of the systems described under § 25 Pa. Code §§ 73.51-73.55 and 73.167 to assure adequate sewage facilities will be available to that lot in the future.
 - (ii) The Township has assumed responsibility for assuring the removal of a privy or chemical toilet and the installation of an approved on-lot sewage disposal system when water under pressure or pipe water is available to the lot or when the property owner installs water under pressure or pipe water or plumbing to move waste water from the structure to the privy vault or to an unpermitted disposal system on that lot.
- (f) The restrictions in (e) above do not apply (i) to a privy or chemical toilet when proposed for use on a lot of record in existence prior to May 15, 1972, which is one (1) acre or larger and is not served now and will not be served in the future by water under pressure, pipe water or plumbing to move waste water from the structure to the privy vault, or to an unpermitted disposal system on that lot, and (ii) the temporary use of portable retention tanks or portable chemical toilets when their use is proposed at construction site or at the site of public gatherings or entertainments.

Section 10. Penalties. Any person, firm, or corporation who shall violate any provision of this Ordinance, upon conviction thereof, in an action brought before a magisterial district judge in a manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000.00, plus costs, and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day

that a violation of this Ordinance continues or each section of this Ordinance that shall be found to be violated shall constitute a separate offence.

Section 11. Abatement of Nuisances. In addition to any other remedies provided in this Ordinance, any violation of this Ordinance shall constitute a nuisance and shall be abated by the Township by seeking either equitable or legal relief from a court of competent jurisdiction.

Section 12. Effective Date. This ordinance shall take effect and be in force five days after its enactment as provided by law.

DULY ENACTED AND ORDAINED on this 11th day of NOVEMBER, 2020, by the Board of Supervisors of the Township of Millcreek, Lebanon County, Pennsylvania.

BOARD OF SUPERVISORS
MILLCREEK TOWNSHIP
LEBANON COUNTY, PENNSYLVANIA

Don K. Hoge

[Signature]

[Signature]

ATTEST:

[Signature]
Secretary

