ORDINANCE NO. 104 2023
FOSTER TOWNSHIP, LUZERNE COUNTY, PENNSYLVANA

BE IT ORDAINED AND ENACTED by the Foster Township Board of Supervisors that the Foster Township Code of Ordinances is hereby amended to include the following Article XVII entitled "Holding Tanks" which reads as follows:

Chapter 173
SEWERS AND SEWAGE DISPOSAL

ARTCILE XVII
Holding Tanks

§173-112. Purpose. The purpose of this Ordinance is to provide for and regulate the installation, use, maintenance and removal of holding tanks to prevent the residents and inhabitants of the Township of Foster from danger and harm due to inadequate or malfunctioning on-site septic systems; to permit the development of lands with the use of holding tanks under carefully controlled and regulated circumstances; to regulate the use and maintenance of holding tanks in conformity with the laws, statutes, and regulations of the Commonwealth of Pennsylvania and the Department of Environmental Protection (DEP); and to provide a temporary alternative to discontinuing otherwise lawful land use by the inhabitants and residents of the Township of Foster.

§173-113. Definitions.

ACT–means the Pennsylvania Sewage Facilities Act, 35 P.S. §§ 750.1-750.20, as, from time to time amended.

BOARD OR BOARD OF SUPERVISORS–means the Board of Supervisors of the Township of Foster.

DEPARTMENT–means the Pennsylvania Department of Environmental Protection.

DISPOSAL SITE –means a suitable facility for the final disposition of human and animal sewage and wastes, which facility shall have been and remains approved for such purposes by the Department.

HOLDING TANK– means a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The terms shall include:

(1) Retention Tank – a holding tank to which sewage is conveyed by a water carrying system; and

(2) Privy – A holding tank designed to receive sewage where water under pressure is not available.

HOLDING TANK CLEANER–means a person who removes the contents of a holding tank for the purpose of disposing of the sewage at another site.

LANDOWNER– means the person holding legal or equitable title to the land.

LOT –means a parcel of land under single ownership regardless of acreage. In the event the land is a part of a larger parcel of land, the larger parcel of land shall be considered as the "lot."

OFFICER OR SEWAGE ENFORCEMENT OFFICER–means the appointed Sewage Enforcement Officer for the Township of Foster.

PERSON-includes any individual, corporation, partnership, or other association or organization.

REGULATIONS–means the regulations of the Pennsylvania Department of Environmental Protection, Pa., Code, Title 25, Subpart C. Chapters 71 and 73, as adopted and, all future regulations of the Department pertaining to holding tanks.

SEWAGE–means any substance that contains any of the waste products, 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 Clean Streams Law.

TOWNSHIP – means the Township of Foster, County of Luzerne, and Commonwealth of Pennsylvania.

§173-114. Use of Holding Tanks. Holding tanks may be used subject to the provisions of this Ordinance to serve as temporary sewage disposal from existing structures within the Township:

1. Where on-lot sewage disposal facilities are not feasible due to unsuitability of soils;

2. For a temporary sewage disposal from existing structures where a malfunction in the presently installed on-site sewage treatment system cannot be suitably repaired or replaced due to unsuitability of soils;

3. To temporarily serve sewage disposal for new construction in any area of the Township for which a revision to the Township Official Sewage Facilities Plan has been approved by the Department; or

4. To serve institutions, recreational vehicle dump stations or commercial establishments with a sewage flow of less than 800 gallons per day.

§173-115. Application For a Permit.

1. Any landowner seeking to use a holding tank for sewage disposal on any lot situated in the Township shall first obtain a permit.

2. A permit application shall be made on a form to be supplied by the Township to any landowner upon such landowner's request.

3. The landowner shall file the completed and executed application for permit with the Township; and, shall pay to the Township such application fees as the Board may from time to time prescribe by resolution.

4. The landowner shall cooperate with the Sewage Enforcement Officer at all stages of the application process.

5. A permit shall be issued to the landowner upon proper application after the Board has amended its Official Sewage Facilities Plan and after approval by the Department.

6. Prior to grant of a permit, the landowner shall obtain and file with the Township a certified copy of each of the following documents:

   A. A completed application.

   B. A written contract between the landowner and a qualified and responsible holding tank cleaner for the term of the holding tank permit which 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 an approved disposal site for final disposition.

   C. A certified copy of a written contract between the holding tank cleaner and the disposal site providing the holding tank cleaner with the right to dispose of the holding tank contents for a time at least until the end of the period for which the holding tank permit is requested, which contract shall conform to 25 Pa. Code Chapter 71.

   D. The fees as established by Resolution of the Board adopted annually for on-lot sewage disposal systems.

   E. An agreement to reimburse and indemnify the Township for any liability, costs and expenses which shall or may be incurred by the Township in actions to enforce compliance by the landowner or to remove the contents of the holding tank or the holding tank upon default or failure of the landowner to perform or for any fines incurred by the Township by reason of the landowner'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 Board.

§173-116. Removal of Holding Tanks.

1. In the event a holding tank permit has been issued for new construction pending the installation if an off-site sewage disposal system, the landowner shall remove or cause the removal of the holding tank within twenty (20) days after the use of the off-site sewage disposal system is made available to the landowner; and, shall connect with the off-site sewage disposal system in the same time.

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

§173-117. Requirements for Holding Tanks.

1. 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 Regulations of the Department, 25 Pa. Code Chapter 73 inclusive.

2. 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.

3. All holding tanks shall be installed on a firm and stable soil or subsoil; and in such manner as to prevent settlement or movement.

4. No holding tanks or lines to the holding tank shall be covered until the Sewage Enforcement Officer shall have first inspected and approved the installation and authorized covering the same. The landowner shall be responsible for furnishing the Sewage Enforcement Officer reasonable notice of the installation.

5. The landowner shall cause a holding tank to be cleaned as frequently as may be required to maintain the contents at a level less than seventy-five (75%) percent of the tank capacity.

6. Holding tanks shall be installed at least fifty (50) feet downgrade from any source of water supply.

§173-118. Inspections and Certification of Pumping.

1. Any landowner who applies for and receives a permit for holding tanks shall be deemed to have granted consent for inspections of the holding tank and facilities used in connection with the holding tank by Sewage Enforcement Officer. At reasonable times

during the hours of 8 a.m. until 8 p.m., the landowner shall grant the Sewage Enforcement Officer access to the lot where the holding tank is located or to be located for the purpose of making such inspections upon request of the Sewage Enforcement Officer verbally or in writing.

2. Any landowner receiving a holding tank permit shall furnish to the Township a true and corrected copy of all pumping receipts for cleaning or removing the contents of the holding tanks. Such reports shall be made to the Township within ten (10) days after the contents of the holding tank are pumped out.

3. The failure of a landowner to permit inspection of holding tanks or equipment of facilities used in connection with the holding tanks; or, the failure of the landowner to have the holding tanks properly maintained and pumped out; or, the failure of the landowner to furnish pumping receipts to the Township in a timely fashion, shall be grounds for immediate revocation of permit.

§173-119. Appeals. Any landowner aggrieved by denial of permit application shall first appeal to the Board of Supervisors. The procedure for appeal shall in all respects conform to the procedure for appeal from denial of sewage permit by the Sewage Enforcement Officer, as provided by law.

§173-120. Violations; Penalties; and Enforcement.

1. Penalties. Any person who shall violate this Ordinance shall be subject to one of the following enforcement proceedings as determined by the officer enforcing this Ordinance:

   A. Any person who shall violate this Ordinance shall be subject in a Civil Enforcement proceeding, to a fine of not more than Six Hundred Dollars ($600.00) for each offense, together with the cost of prosecution incurred by the Township. Each day that a violation shall continue shall constitute a separate offense. OR

   B. Any person who shall violate any provision of this Ordinance shall, upon conviction in a summary proceeding, be subject to a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment for a term not to exceed thirty (30) days, or both, at the discretion of the Court. Each day that a violation continues shall constitute a separate offense.

2. Enforcement. The Sewage Enforcement Officer may enforce the provisions of this Ordinance.

§173-121. Severability. If any section, clause, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction such decision shall not affect any other section, clause, provision, or portion of this Ordinance so long as it remains legally enforceable less the invalid portion.

§173-122. Effective Date. This Ordinance shall become effective immediately following its adoption.

§173-123. Repealer. Any ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of the inconsistencies.

This Ordinance is adopted by the Foster Township Board of Supervisors this 12th day of July, 2023.

ATTEST:

Secretary

Foster Township Board of Supervisors:

By: _____
Wilson Malloy, Chairperson

_____
John Pavuk, Vice-Chairperson

_____
Georgiann Eckrote-Jones,
Secretary/Treasurer