YORK HAVEN BOROUGH
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 2025-01

AN ORDINANCE RESTATING AND AMENDING THE YORK HAVEN BOROUGH HOLDING TANK ORDINANCE

WHEREAS, York Haven Borough adopted Ordinance No. 1977-01 regulating the installation, maintenance and use of holding tanks within the Borough (the "Holding Tank Ordinance"); and

WHEREAS, the Borough desires to restate and amend the Holding Tank Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the York Haven Borough Council, as follows:

SECTION 1. Short Title. This Ordinance shall be known as the "York Haven Borough Holding Tank Ordinance".

SECTION 2. Definitions.

(a) Word Usage: Words and phrases shall be presumed to be used in their ordinary context unless such word or phrase is defined or interpreted differently within this section.

(b) Language Interpretation: In this Ordinance when not inconsistent with the context-

(i) Words in the present tense imply also the future tense.

(ii) The singular includes the plural.

(iii) The male gender includes the female gender.

(iv) The term "shall" or "must" is always mandatory.

(c) Specific Words and Phrases: The following words and phrases shall have the particular meaning assigned by this section in the appropriate sections of this Ordinance.

APPLICANT – the Person applying for the permit.

DEP – Pennsylvania Department of Environmental Protection

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

PERSON – the word Person includes a firm, association, partnership or corporation as an individual.

SEO – Sewage Enforcement Officer.

BOROUGH – York Haven Borough, York County, Pennsylvania.

VIOLATOR – the Person in violation of this Ordinance.

SECTION 3. Unlawful to Erect, Construct or Install Without a Permit. It shall be unlawful for any Person to erect, construct or install any Holding Tank of any kind within the limits of the Borough or to permit to be erected, constructed or installed on property owned by him any Holding Tank within the limits of the Borough unless such Person has a permit for such Holding Tank issued pursuant to this Ordinance, and unless all provisions of such permit, all the requirements of the Pennsylvania Sewage Facilities Act, and the regulations issued pursuant thereto respecting the erection, construction, installation and use of the Holding Tank have been complied with.

SECTION 4. Applications. All applications for a permit under this Ordinance shall be made to the SEO. The application for a permit for a Holding Tank shall be signed by the owner or owners of the property on which the Holding Tank is to be located and shall include a statement as to who has been contracted to be responsible for removal of the material to be placed in the Holding Tank and the place where such material shall ultimately be deposited. The Applicant shall submit with the application an agreement executed on forms supplied by the SEO signed by the Person which is to be responsible for the removal of the contents of the Holding Tank and by the Person which is to be the ultimate point of disposition of the contents of the Holding Tank agreeing that they will remove and accept such materials as may be deposited in the Holding Tank during such period as the Holding Tank continues to be located on the premises of the Applicant. The Applicant shall submit with the application a filing fee in the amount as set forth in the current Borough Fee Schedule.

SECTION 5. Permits. Permits pursuant to this Ordinance may be issued by the SEO only when proper application is made meeting the requirements of Section 4 hereof, the fees required pursuant to Section 4 are paid, and the amounts required by Section 13 to be paid into the escrow fund are paid, and the application meets the criteria of either subsection (a) or subsection (b) of this section.

(a) The permit is for temporary use at a construction site or a place of public gathering or entertainment and will be for a period of not more than ninety (90) consecutive days. A permit issued pursuant to this subsection may not be renewed, nor may a new

permit be issued to locate a Holding Tank on the same tract of land for which a permit was previously issued without at least six (6) months having expired between the date of removal of the previously permitted Holding Tank and the date of application for another Holding Tank.

(b) For other than temporary use under subsection (a) of this subsection, when all three (3) of the following circumstances are present:

(i) The permit is for use in connection with an existing dwelling or place of business which the SEO finds cannot be properly served by an on-site sewage disposal system within the requirements of the Pennsylvania Sewage Facilities Act and the regulations issued pursuant thereto.

(ii) The dwelling or place of business was not originally constructed or placed in violation of the Building Permit Code or other Borough Ordinance.

(iii) The proposed Holding Tank will be located at such a place where there will be suitable access for the vehicle necessary to remove the contents of the Holding Tank when required.

SECTION 6. Capacity. No Holding Tank with a minimum capacity of less than fifteen hundred (1,500) gallons shall be permitted unless so specifically designated by the SEO.

SECTION 7. Building and Installation. All Holding Tanks shall be built of concrete, approved fiberglass or approved plastic, shall be watertight, and must be installed in a manner which insures that they will not float when empty due to hydraulic action of groundwater and/or stormwater runoff.

SECTION 8. Fixture Installation. No Holding Tank may be used unless water saver fixtures are first installed.

SECTION 9. Sound Alarm System Installation. No Holding Tank may be installed unless it is equipped with a sound alarm system which will give warning when the tank is filled to seventy-five (75%) percent of capacity. It shall be a violation of this Ordinance for there to be present on any property a Holding Tank if the sound alarm system has been tampered with or rendered inoperative. A vent pipe utilizing the system shall be at least twelve (12") inches higher than any point where sewage enters into the system. In the event the SEO finds that either the sound alarm system or automatic shut-off on any Holding Tank has been tampered with or rendered inoperative, he shall revoke the permit issued pursuant to this Ordinance 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 Borough. The Holding Tank shall be removed within ten (10) days from the date of the revocation of the permit issued pursuant to this Ordinance.

SECTION 10. Application Approval Responsibilities. No application shall be approved unless both the Person designated as being responsible for the removal of the contents

of the Holding Tank and the Person designated as being the owner(s) of the ultimate disposal site for the contents of the Holding Tank shall be approved by both the Borough and DEP. The Borough may reject the Person designated as being responsible for the removal of the contents of the Holding Tank and/or the Person designated as being the ultimate recipient of such contents for any reasonable cause including but not limited to the following:

(a) Such Person has not been approved by DEP.

(b) Such Person in the past has failed to remove contents from a Holding Tank on a timely basis after being notified to do so.

(c) Such Person has in the past failed to deposit contents of a Holding Tank in the approved disposal facility for such contents.

(d) Such Person has in the past deposited septic tank effluent or other such material in locations other than those approved by DEP such as in the woods or in a stream in a filed, except in a manner specifically approved by DEP.

SECTION 11. Permit Holder Regulations. The holder of the permit issued pursuant to this Ordinance shall:

(a) Install, erect, or construct only such Holding Tank as shall be in compliance with the regulations of DEP, issued pursuant to the Sewage Facilities Act.

(b) Notify the Person designated in the application as the Person responsible for the removal of Holding Tank contents at such time that the tank is filled to within seventy-five (75%) percent capacity.

(c) Permit only the Person designated in the application to remove Holding Tank contents.

SECTION 12. Design Review, Permit Issuance, and Holding Tank Installation Inspections. The Applicant shall submit a DEP application for the Holding Tank system, inclusive of scaled design, site drawings and appropriate cross sections of the proposed tankage to the SEO for review. All electrical and mechanical elements of said system shall be included. Following the issuance of the permit by the SEO the Holding Tank system shall be inspected incrementally to insure proper construction. All fees associated with the above project up to completion of installation shall be paid by the Applicant under the current Borough Fee Schedule as approved and adopted by the Borough.

SECTION 13. Escrow Fund. The Applicant shall in addition submit to the Borough an escrow amount at least sufficient for two (2) pump-outs and five (5) inspections or an amount to be established from time to time by the Borough Council by resolution, which shall be held in escrow by the Borough. Any sums remaining in the escrow fund not deducted pursuant to the provisions of section 8 and 13 of this Ordinance shall be returned to the Applicant upon removal of the Holding Tank.

SECTION 14. Inspection. Following the issuance of a permit pursuant to this Ordinance, the SEO shall inspect the Holding Tank at least yearly, with a fee for such inspection to be set by the Borough Fee Schedule. The fee for the yearly inspection shall be paid in advance of such inspection. In the event that the SEO finds the Holding Tank to be filled in excess of seventy-five (75%) percent of capacity, the Borough shall deduct from the escrow fund as set forth in the current Borough Fee Schedule, to be provided to the SEO as an inspection fee. In the event the SEO finds that the Holding Tank is filled to more than eighty-five (85%) percent capacity, he shall promptly make arrangements to have the contents of the Holding Tank removed and shall have the Borough pay the cost of such removal from the funds held in escrow. In such event, the SEO shall in addition revoke the permit issued pursuant to this Ordinance 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 Borough. The Holding Tank shall be removed within ten (10) days from the date of the revocation of the permit issued pursuant to this Ordinance.

SECTION 15. Penalties. Any Person violating any of the provisions of this Ordinance shall upon conviction thereof before a magisterial district judge be subject to a penalty not in excess of Six Hundred ($600.00) Dollars for each and every offense. Each and every day that a violation of any of the provisions of this Ordinance occurs, and each and every day the Holding Tank remains erected, constructed, or installed without a permit having been issued, 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.

SECTION 16. Violation.

(a) No Person who has been in violation of any of the provisions of this Ordinance shall subsequently be issued a permit to erect, construct, or install a Holding Tank until the previous violation has been cured.

(b) Applicant shall be considered the Violator, if at least twenty (20%) percent of the ownership equity in both the Applicant and the Violator can be attributed to the same Person. For purposes of this section, a Person, shall have attributed to him:

(i) All of the equity, stock, or partnership share owned by a corporation in which he and his spouse own at least fifty (50%) percent of all of the outstanding voting stock.

(ii) With respect to a corporation in which he and his spouse own less than fifty (50%) percent of the outstanding voting stock, the same percentage of the ownership equity, stock, or partnership share that the voting stock owned by him and his spouse bears to the entire outstanding voting stock of the corporation.

(iii) All of the equity, as tenants in common, joint tenants, or tenants by the entireties, owned by him or his spouse.

(iv) All of the equity owned by a partnership in which the value of the partnership shares owned by him and his spouse is at least fifty (50%) percent of the value of all of the partnership shares.

(v) With respect to a partnership in which the value of the partnership shares owned by him and his spouse is less than fifty (50%) percent of all the partnership shares, the same percentage of ownership equity which the value of the partnership shares owned by him and his spouse bears to the value of all the partnership shares.

SECTION 17. Burden to Prove. It shall be the burden of the Applicant to prove that he is not the same Person as the Violator.

SECTION 18. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

SECTION 19. Repealer. All Ordinances or parts of Ordinances, which are inconsistent herewith, are hereby repealed.

SECTION 20. Effective Date. This Ordinance shall be effective five (5) days after enactment.

ENACTED AND ORDAINED this 2nd **day of** June **2025.**

ATTEST:

Amber Rural
Secretary

YORK HAVEN BOROUGH COUNCIL

By: Ray G. Hall
President

Mayor