

TOWN OF LIBERTY GROVE
HOLDING TANK REGULATION ORDINANCE
NUMBER 5-99

As amended by 1-01, 3-01, & 19-03

The Town Board of Supervisors of the Town of Liberty Grove, Door County, Wisconsin does ordain as follows:

Town of Liberty Grove ordinance number 4-99 is hereby rescinded.

Section 1: Purpose

The purpose of this ordinance is to regulate the installation, use and maintenance of holding tanks as private sewage systems within the Town of Liberty Grove, Door County, Wisconsin, installed on or after the effective date.

Section 2: Statutory Authority

Pursuant to Chapter 145 of the Wisconsin Statutes and the Wisconsin Administrative Code [Comm 83], the Town Board of Liberty Grove does hereby enact this ordinance.

Section 3: Jurisdiction

The jurisdiction of this ordinance shall include all lands and waters within the Town of Liberty Grove, except for any incorporated Wisconsin cities or villages within the boundaries of the Town.

This ordinance does not release any holding tank permit holder from obligations created under any Wisconsin statute, the Wisconsin Administrative Code, Chapter 21 of the Door County Ordinance related to Private Sewage Systems or the Town of Liberty Grove Nuisance Ordinance.

Section 4: Severability

If any section, clause, provision or other portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Section 5: Holding Tank Permit

Prior to the installation of any holding tank for private sewage purposes within the Town of Liberty Grove the owner of the property desiring to install the holding tank shall apply to the Town Clerk for a permit authorizing the installation of the holding tank. Replacement holding tanks for existing structures to replace defective holding tank systems shall also be required to comply with this ordinance. The Town Clerk shall determine, based on the criteria set forth in this ordinance whether to grant or deny a permit.

Section 6: Holding Tank Permit & Installation Requirements

1. The use of holding tank installations will be considered on an individual basis. Holding tanks are considered a system of last resort and will only be permitted where there is no possibility of any other system being installed.
2. No person may install, locate, move, reconstruct, extend, enlarge, alter, convert, or modify a holding tank or change a land use connected to the holding tank, unless the owner of the property on which the holding tank is located, or is to be located, holds a valid holding tank permit.
3. No zoning or land use permits will be issued for any structure requiring connection to a holding tank, unless a holding tank satisfying all applicable state and county regulations already exists to serve the proposed structure or all permits necessary to install such a system including the sanitary permit have been approved.
4. An approved holding tank permit or subsequent renewal is valid for three (3) years from the date of issue and the holding tank must be completely installed in that period. If installation is not completed in the three years allowed, a renewal permit will be required. **A holding tank permit may be renewed for similar periods thereafter.** Renewal of a holding tank permit will be based on regulations in force at the time renewal is sought, **and changed regulations may impeded renewal.**
5. Prior to receiving a holding tank permit, an applicant property owner must submit a copy of an executed holding tank service agreement between property owner and a duly authorized holding tank service provider. This agreement is to be kept on file in the Town Clerk’s office with additional copies to be forwarded by the applicant to any additional governmental units and agencies as required by law.
6. All holding tank design and installations under this ordinance shall be in accordance with Wisconsin Administrative Code Comm 83.
7. Copies of a soil test report and supporting documents shall be submitted by applicant with the holding tank application.
8. Holding tank applicants must submit a site plan drawn to scale indicating the proposed location of the holding tank on the property in relation to other structures and the property boundaries on the subject parcel.

Section 7: Administrative Fees

1. The administrative fee or a holding tank permit for a tank with a total capacity of less than or equal to two thousand (2,000) gallons shall be as follows:

| | |
|----------------------------|----------|
| Holding Tank (New) | \$200.00 |
| Holding Tank (Replacement) | \$150.00 |

For a holding tank sized greater than two thousand (2,000) gallons in total capacity, a forty dollar (\$40.00) fee per each additional one thousand gallons capacity (rounded to the nearest one thousand (1,000) gallons) shall be added to the base fee listed above.
2. Double Permit Fees – A double holding tank permit fee shall be charged if any construction of a holding tank begins prior to the issuance of a holding tank permit. Such double fee shall not release the applicant from full compliance with this ordinance nor from prosecution for violation of this ordinance.

3. Renewal – Administrative fees for renewals of the holding tank permit granted under this ordinance with a total capacity of less than or equal to two thousand (2,000) gallons shall be as follows:

Holding Tank Renewal – \$50.00

For holdings tanks sized greater than two thousand (2,000) gallons in total capacity, a \$10.00 fee per each additional one thousand (1,000) gallon capacity rounded to the nearest one thousand (1,000) gallons shall be added to the base fee above.

Section 8: Installation of holding tanks prohibited in certain zoning districts

- A. Exempt Holding Tank Permit. Installation of holding tanks for new construction will be prohibited for Commercial and Multiple occupancy uses in all districts as established by the Door County Zoning Map for the Town of Liberty Grove. Existing buildings and other development in the Commercial and Multi-family zoning districts that currently have holding tanks installed may replace these tanks as necessary pursuant to this ordinance, the Door County Holding Tank Ordinance, and the Wisconsin Administrative Code.

- B. Exempt Holding Tank Permit In the event an applicant is obligated to create a private onsite wastewater treatment system (POWTS) that is considered a conventional or mound septic system (“System”) and is unable to design the System due to lack of generally accepted scientific evidence of safe harbor estimates of wastewater flow that affirm and support Public Health Standards and other applicable rules and regulations in Wis. Admin. Code § Comm 83, and related administrative provisions, Wisconsin Statutes, County Ordinances and Town Ordinances, the Applicant may apply for a permit provided both of the following elements are satisfied:
 1. The applicants property is located in a Commercial Center or General Commercial area as identified by the Town of Liberty Grove Comprehensive Plan General Design Map and is able to demonstrate through the use of expert testimony and scientific evidence that the site and the applicant’s intended use will not support a conventional or mound septic system POWTS; and
 2. The Town finds that there is not a health, safety or welfare threat to the residents of Liberty Grove by the use of a holding tank as a system of last resort to handle wastewater produced by the applicant’s intended use of the property and that the municipal waste water treatment plant servicing the Town is able to process the wastewater effluent.

Upon the findings by the Town of clear and convincing scientific evidence and expert opinion that a holding tank is the system of last resort for handling the wastewater effluent produced by the applicant’s intended use of the property, the Town Board by a supermajority vote of no less than 4 to 1 may instruct the Town Clerk/Administrator to issue a holding tank permit on the following terms and conditions:

- a. A non-refundable fee is paid to the Town in the amount of 1,000.00;
- b. The risk of proceeding under this section is solely at the risk of the applicant;
- c. The section 8.A. Exempt Holding Tank Permit is not assignable—if the ownership or permitted use of the property changes a new Section 8.A. Exempt Holding Tank Permit must be applied for;
- d. If sewer and water service become available to the applicant’s property, the applicant’s Section 8.A. Exempt Holding Tank Permit shall terminate 6 months after service is available;
- e. In the event the terms of this Addendum to the Holding Tank Regulation Ordinance, other Town Ordinances, County Ordinances, State Administrative Code provisions or State Statutes are violated, the Town may revoke the permit;
- f. All other terms and conditions of the Holding Tank Ordinance 5-99 remain in force and effect.

Section 9: Inspection

The Town of Liberty Grove clerk or other designee shall be authorized to inspect at reasonable times any holding tank installed and in use under this ordinance.

Section 10: Enforcement & Notice of Violation

Upon inspection by the Town of Liberty Grove clerk or other designee, if the holding tank has not been properly maintained or serviced in compliance with this ordinance or with Wisconsin Law or in such a manner as to create a nuisance, the building inspector may issue a notice to the property owner to pump or correct the violation within 24 hours. The notice shall indicate that failure to pump the holding tank or take corrective action as directed shall result in the Town of Liberty Grove causing such work to be done and charged back to the property owner. Further, that failure to pay the cost of such work within 30 days of date of notice of the charges shall result in placing the charge on the property owner’s tax bill as a special charge.

Section 11: Servicing of Holding Tank

Upon failure of the property owner to comply with a proper notice of the Town of Liberty Grove Town Clerk or other designee to pump or correct a violation in the use of a holding tank, the building inspector may contract with a license business to pump or correct the holding tank. The costs of such pumping or other correction shall be billed to the owner of the land. Failure to pay the costs within 30 days shall result in the placing of the cost on the property owner’s tax bill as a special charge. The special charge shall be a special assessment against the property.

Section 12: Servicing Reports

For holding tanks permitted under this ordinance, copies of the Servicing Reports submitted to the Door County Sanitarian shall be submitted to the Town Clerk on a semi-

annual basis or as prescribed by the Wisconsin Administrative Code. The following information should be included on the Servicing Reports:

- a. The name and address of the person responsible for servicing the holding tank.
- b. The name of the owner of the holding tank.
- c. The location of the property on which the holding tank is installed.
- d. The sanitary permit number issued for the holding tank.
- e. The dates on which the holding tank was serviced.
- f. The volume in gallons of the contents pumped from the holding tank for each servicing.
- g. The disposal sites to which the contents from the holding tank were delivered.

Section 13: Denial of Holding Tank Permit

- A. Pursuant to Wisconsin Administrative Code Chapter 83.18(2)(b), the Town Clerk may deny a permit for the installation and use of holding tanks for new construction. Factors the Clerk may take into consideration include:
 - a. Insufficient disposal capacity exists or is projected in the future for the septage at wastewater treatment facilities or land disposal sites.
 - b. The applicant fails to demonstrate that a holding tank is the private sewage system of a last resort for the property based on soil conditions and other geographical and environmental factors related to the intended parcel.
 - c. Access to the holding tank from a town road or county and state highway is insufficient or may create a public hazard.
 - d. Vehicles that service the holding tank create a disproportionate burden on town roads or county and state highways.
 - e. Other requirements under this ordinance are not met.
- B. The applicant that is denied a permit to install a holding tank under this ordinance may appeal to the Liberty Grove Town Board. Applicant's appeal should be filed according to the Town of Liberty Grove Code of Ordinances.

Section 14: Effective Date

This ordinance shall take effect upon proper publication, posting, recording and filing with the Town Clerk.

Severance

If provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this ordinance.

I, Walter L. Kalms, Clerk/Administrator of the Town of Liberty Grove, Door County Wisconsin hereby certify that the above is a true and correct copy of an ordinance which was adopted at a properly noticed meeting of the Liberty Grove Town Board on the 21st day of October, 1999 and amended on the 17th day of January, 2001 and again amended on the 17th day of December 2003.

Dated this 18th day of December, 2003.

Walter L., Kalms Clerk/Administrator