

INTRODUCED BY: Carol Hill-Evans

DATE: November 6, 2013

**AN ORDINANCE**

Establishing Article 1126 - Regulation of Portable Toilets of the York City Codified Ordinances.

**WHEREAS**, the City of York, Pennsylvania is obligated to protect the health, safety and welfare of the public; and

**WHEREAS**, the placement of portable toilets has a direct impact on the health, safety and welfare of the public;

**NOW, THEREFORE, BE IT ORDAINED**, that the Council of the City of York, Pennsylvania hereby establishes Article 1126 – Regulation of Portable Toilets of the York City Codified Ordinances as follows:

ARTICLE 1126

REGULATION OF PORTABLE TOILETS

1126.01 PORTABLE TOILETS

No person, firm, partnership, corporation, non-profit or franchise (hereinafter “individual”) shall place or install a portable toilet in the City except as provided for in this Article.

1126.02 DEFINITIONS

For the purposes of this Article, the following definitions shall apply and absent a specific definition herein all words and phrases shall have their ordinarily accepted meanings:

- a. **Offensive odor** means any odor escaping from the portable toilet structure that can be detected outside of said structure.
- b. **Portable Toilet** means a free standing, movable toilet structure equipped with a water-tight impervious container which receives waste discharged through of a hopper, seat, urinal or similar device and into which container may be placed disinfecting or deodorizing chemicals. For the purposes of this section, portable toilet and chemical toilet shall have the same meaning.
- c. **Parks/Open Space** means public passive or active recreation areas including but not limited to; parks, hiking trails, natural areas, wild life areas, arboretums, open grass areas and tot lots, baseball diamonds, tennis courts, basketball courts, play fields, playgrounds, outdoor swimming pools, fitness courses and driving ranges. For the purposes of this section common areas owned and operated by homeowners associations are also included in this definition.

1126.03 ALLOWABLE USE OF PORTABLE TOILETS

Portable toilets may only be used to provide temporary bathroom facilities for special events, seasonal bathroom facilities on public and private parks and open recreational spaces, or as part of construction projects. In no case shall portable toilets be used as permanent sanitary facilities for residential or nonresidential uses, or as secondary sanitary facilities on existing developed lots.

1126.04 PERMIT REQUIRED

Permit required. No individual shall place or install a portable toilet in the City without first obtaining a Portable Toilet Permit. **Application for such permit shall be made to the Office of Permits, Planning & Zoning of the City of York. The application fee shall be established by resolution of Council.**

#### 1126.04.1 REQUIRED INFORMATION

Permit applicants shall provide the following information when applying for a Portable Toilet placement permit, incomplete applications shall be rejected:

- a. The owner of the property
- b. The owner of the portable toilet(s)
- c. Dates during which the portable toilets are to be provided
- d. A site plan of sufficient detail identifying the proposed location of portable toilet(s)
- e. Emptying and maintenance schedule and procedures.

#### 1126.04.1.2 PERMIT EXEMPTION

Under the following specific instances a portable toilet placement permit shall not be required:

- a. Community events. The placement of portable toilets by the City of York on public property for community events lasting up to seven (7) calendar days and
- b. *The seasonal placement of portable toilets by the City of York at public recreational facilities.***
- c. Private Events: The placement of portable toilets on private property for private outdoor events lasting up to four (4) days, as long as an outdoor event permit has been approved by the City.
- d. Public Road and Utility Projects: Portable toilets placed on public or private property in conjunction with public road and utility construction projects, as long as the location is approved by the City
- e. Private Development Construction Projects: Portable toilets placed on private property in conjunction with private development road and utility projects, or individual building projects, as long as the location is approved as a part of the permit for the project.
- f. Emergencies and Natural Disasters: Any portable toilet placed to support emergency services operations during emergencies and natural disasters.

#### 1126.05 LOCATION AND ORIENTATION

Any individual that places or causes to be placed a portable toilet shall comply with the requirements of this section irrespective of a requirement for permitting.

- a. Setback from residential property. Portable toilets shall be located at least ten (10) feet from any residential property line.
- b. Setback from non-residential property. Portable toilets shall be located at least ten (10) feet from any non-residential property line.
- c. Setback from lake or stream. Portable toilets shall be set back at least fifty (50) feet from the ordinary high water elevation of any lake or stream.
- d. Setback from wetlands. Portable toilets shall be located at least thirty (30) feet from the edge of any wetland or pond, and shall not be located within any required wetland buffer.
- e. Orientation. Portable toilets shall be oriented in such a way that the opening or door face away from any residential dwelling unit unless screened by a solid fence of at least six (6) feet in height equipped with a door or scree wall which completely blocks the view of the portable toilet .
- f. In addition to the above requirements, all portable toilets shall be located in such a manner as to allow for the appropriate servicing of said portable toilet and to ensure that any vehicle required for said servicing shall not cause damage to adjoining properties.

#### 1126.06 SCREENING

Any portable toilet located with parks and open space as defined herein and located less than fifty (50) feet from a dwelling unit must be screened by a solid fence at least six (6) feet in height.

1126.07 EMPTYING AND MAINTENANCE SCHEDULE

All portable toilets shall be emptied by a person, firm or corporation engaged in the business of cleaning or emptying portable toilets and recharged at a sufficient frequency to prevent the escape of offensive odors or spillage. Every individual engaged in the business of cleaning or emptying portable toilets shall use a suitable vehicle property provided in water-tight, completely closed tanks or boxes designed to prevent leakage onto the streets or highways and further designed to prevent the escape of offensive odors in the atmosphere.

1126.08 PUBLIC NUISANCE

Any portable toilet that is placed without the required permit, emits an offensive odor, is leaking, is located in contradiction to the requirements of this article, is located in such a manner as to block any public or private right of way, or that in any way causes a hazard to the public health safety and welfare shall be declared a public nuisance. The Building Code Official and or his designee shall immediately cause to be removed any portable toilet that is deemed a public nuisance, and the owner of said portable toilet shall be responsible for such removal and any cost thereof. The declaration of public nuisance and removal of the portable toilets may be in addition to the penalty section of this article.

1126.09 ENFORCEMENT

The Building Code Official and or his designee(s) shall have the authority to enforce this Article and shall have the authority to institute summary criminal proceedings as a means of enforcement and shall, when acting within the scope of their employment hereunder, have the powers of a police officer of the City; provided, however, that under no circumstances shall they have the power to arrest.

1126.10 SEVERABILITY

If any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of this section and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.

1126.99 PENALTY

Any person who shall violate a provision of this article, or fail to comply with any of the requirements thereof, shall be guilty of a summary offense, punishable by a fine of not less than \$100.00 nor more than \$1000.00 for the first two continual and uncorrected violations and not exceeding five thousand dollars (\$5,000) for the third and any subsequent continual and uncorrected violation and the costs of prosecution, and in default of the payment thereof, shall be imprisoned for not more than ninety days (90 days). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

This ordinance shall become effective twenty-days after approval by the Mayor.

PASSED FINALLY:

BY THE FOLLOWING VOTE:

YEAS: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

NAYS: \_\_\_\_\_.

ATTEST

\_\_\_\_\_  
Carol Hill-Evans, President of Council

\_\_\_\_\_  
Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

APPROVED:

\_\_\_\_\_  
Mayor Date

VETOED:

\_\_\_\_\_  
Mayor Date