

ORDINANCE NUMBER 5.05
AN ORDINANCE OF THE TOWN OF BLOOMING GROVE
ADOPTING RESTRICTION ON USE OF HOLDING TANKS

The Town Board of the Town of Blooming Grove, Dane County, Wisconsin, does ordain as follows:

Section 1. Authority. The Town Board hereby finds that the County of Dane has not adopted an ordinance or resolution in the matter of prohibition of the use of holding tanks. Pursuant to the authority vested in the Town Board by sec. ILHR 83.18(2)(b), Wis. Adm. Code, the Town Board hereby enacts the following regulations restricting the use of holding tanks.

Section 2. Commencing with the effective date of this ordinance, it shall be unlawful for any person to construct, install, maintain, or operate a private septic system known as a "holding tank", as that term is defined in sec. ILHR 83.02(26), Wis. Adm. Code, except as such holding tank may be authorized by variance of the Town Board pursuant to this ordinance.

Section 3. Variances.

- (1) Commercial uses. The Town Board may, as the Town Board finds is in the public interest, grant variances allowing the installation of holding tanks to serve commercial uses. Any such permit shall specify that the applicant is required to meet the bonding and other requirements found in Chapter ILHR 83, Wis. Adm. Code. No permit may be granted pursuant to this subsection for installation of a holding tank on land which is in an environmentally sensitive area as defined by this ordinance.
- (2) Residential. The Town Board may grant a variance to allow installation of a holding tank to serve a residential use only under the following conditions:
 - i) The use is a single-family residential use.
 - ii) The land is not located in an environmentally sensitive area as defined by this ordinance.
 - iii) The Town Board finds, based on the information presented to it by the applicant and after a public hearing, that approval of a holding tank is necessary to avoid a substantial hardship to the property owner.
 - iv) The property owner shall consent to the recording of a deed restriction, running with the land, which obligates the owner and all subsequent owners of the property to abide by all conditions of the permit established by the Town Board.

- v) The property owner shall grant the Town of Blooming Grove an easement, running with the land, authorizing the Town, its officers, employees or agents to enter unto the land of the property owner at any time, without first procuring a warrant, to inspect the holding tank in order to determine whether it is being operated properly, consistent with the requirements of Wisconsin law, or to carry out the other duties of the Town with respect to holding tanks.
- vi) The property owner shall post and maintain at all times current a surety bond issued by a licensed surety company authorized to do business in the State of Wisconsin in an amount found by the Town Board to be sufficient to defray the cost of pumping the holding tank in the event the property owner shall fail to pump it and to remediate the effects of any unauthorized discharge of sewage.

Section 4. Environmentally Sensitive Areas. Notwithstanding any other provision of this ordinance, the Town Board may not authorize installation of a holding tank serving any use, whether residential or commercial, in any of the following instances:

- (a) The land is a wetland as defined by Wisconsin law or zoned on the Dane County zoning map;
- (b) The land is zoned conservancy on the Dane County zoning map; or
- (c) The proposed location of the holding tank is within a floodway, floodplain or a shoreland.

Section 5. This ordinance shall be applied to all private septic system installations which occur on or after the effective date of this ordinance. Any holding tank which has been previously approved by the Town Board shall be permitted to continue in operation for so long as the conditions under which it was originally granted apply. In the event any holding tank previously authorized is discontinued in use for a period of more than ninety (90) days, that holding tank shall first conform to the requirements of this ordinance prior to being placed again in service.

Section 6. The Town Board shall have the authority to enforce the provisions of this ordinance by civil action or by proceedings for an injunction. Any person violating the provisions of this ordinance shall forfeit the sum of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00) per violation. Each day of continued violation constitutes a separate offense. For the purposes of this ordinance, all persons assisting or facilitating in the illegal installation, operations or maintenance of a holding tank shall be jointly and severally liable, for the damages and forfeitures imposed under this ordinance.

Section 7. Effective Date.

This ordinance shall take effect the day after its passage and publication.

The above and foregoing ordinance was duly adopted by the Town Board of the Town of Blooming Grove at a regular meeting held on the 8th day of March, 1993.

Chairperson, Patricia Ampe

Supervisor, Marlen J. Moody

Supervisor, Stephen R. Sasso

I hereby certify that the foregoing ordinance adopting restriction on use of holding tanks was published as a Class 1 notice under ch. 985, Wis. Stats., on the 24th day of March, 1993.

Dated: April 6, 1993

Clerk