

**ORDINANCE NO. 2008-04**

**AN ORDINANCE OF PICTURE ROCKS BOROUGH,  
LYCOMING COUNTY, PENNSYLVANIA  
REGULATING THE INSTALLATION, OPERATION  
AND MAINTENANCE OF SMALL FLOW FACILITIES  
AND SEWAGE TREATMENT FACILITIES  
AND PRESCRIBING PENALTIES  
FOR VIOLATION THEREOF**

**WHEREAS**, small flow sewage treatment facilities need to be properly installed, maintained and inspected to insure the welfare and safety of Picture Rock Borough's residents (hereinafter "Borough"); and

**WHEREAS**, the Borough, pursuant to Pa. Code, Title 25, Section 71.72 is charged with assuring the long-term proper operation and maintenance of non-municipal sewage facilities which are permitted by the Department of Environmental Protection.

**NOW THEREFORE**, the Borough's Council has amended, or will amend, its official sewage facilities plan so as to allow the installation, operation and maintenance of small flow sewage facilities in the Borough as follows:

**SECTION 1 - SHORT TITLE**. This Ordinance shall be designated as the Small Flow Sewage Treatment Facilities Ordinance of Picture Rocks Borough.

**SECTION 2 - DEFINITIONS**.

**Council** - The Council of Picture Rocks Borough, Lycoming County, Pennsylvania.

**DEP** - The Pennsylvania Department of Environmental Protection.

**Effluent** - Liquid sewage discharged as waste.

**Landowner** - The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any conditions), a lessee if he is authorized under the lease to exercise the rights of the landowner, or any other person having a proprietary interest in the land.

**Official Sewage Facilities Plan** - The comprehensive plan for the provision for adequate sewage disposal systems, adopted by the Council and approved by DEP pursuant to the Pennsylvania Sewage Facilities Act.

**Regulations** - The current regulations of DEP as set forth in Pa. Code, Title 25, and all future regulations of DEP pertaining to small flow sewage facilities, as amended from time to time.

**Small Flow Sewage Treatment Facility** - Any individual or community sewage system designed to adequately treat sewage flows not greater than 2,000 gallons per day for final disposal using stream discharge or discharge to the surface of the ground as more fully set forth in 25 Pa. Code, Section 71.1.

**System** - The small flow sewage treatment facility to be designed, installed, operated and/or maintained by a landowner upon any property in the Borough.

**Borough Official** - A sewage enforcement officer, code enforcement officer, certified sewage treatment plant operator, Borough employee, professional engineer, solicitor, plumbing inspector, or any other qualified or licensed person who is authorized to function

as an agent of the Borough.

**SECTION 3 - DESIGN STANDARDS.**

The system shall be designed in accordance with the standards and requirements of the Department of Environmental Protection. In addition to those requirements, the design shall include the following:

A. Convenient access shall be provided for the inspection and periodic maintenance of all treatment systems.

B. A readily accessible effluent sampling point shall be provided at the discharge end of the system.

C. An alarm system shall be provided for all pumps, aeration devices, or other possible malfunctioning devices which make up the system. Alarms shall include both visual and audible devices located so as to be readily noticeable by occupants on the property. In addition, an appropriate high level alarm in the dosing tank and an alarm for the aeration motor, if applicable, shall be provided.

D. Reasonable vehicular access shall be provided to the system for periodic removal of sludge.

**SECTION 4 - PRECONSTRUCTION APPROVAL AND PERMITS.** The

Landowner must submit a sewage planning module to the Borough and DEP. After the planning module is approved, the Landowner must obtain required DEP permits. No building or system construction may occur until a preconstruction meeting has been held

with Borough officials, the system contractor, the Landowner and the factory representative.

**SECTION 5 - PREOPERATION INSPECTION AND CERTIFICATION.** After installation of the system, but prior to covering with soil, the registered professional engineer for the Landowner, Borough officials and a factory representative shall conduct an inspection and certify in writing that the construction and installation of the system is in conformance with the permit issued by DEP. Notice of the system inspection shall also be given to DEP at least seventy-two (72) hours prior to inspection. A copy of the written certification signed by all parties will be sent to DEP and the Borough official within ten (10) days of completion of inspection. A service contract consistent with the requirements of the National Sanitation Foundation must be signed and a copy sent to DEP and the Borough official when aerobic treatment units are used. Copies of the operation and maintenance manuals shall also be provided to necessary Borough officials.

**SECTION 6 - PLANS.** Landowner shall provide the Borough and Lycoming Sanitary Committee a complete set of “as built” plans for the system as finally approved by DEP.

**SECTION 7 - MAINTENANCE RESPONSIBILITY.** The Landowner is specifically required to meet all the operational, maintenance and reporting requirements of DEP and the Borough or Borough official. These include, but are not limited to, all requirements on the DEP permit. The landowner shall also submit not less than quarterly on or before the fifteenth (15<sup>th</sup>) day of January, April, July and October, a certification, that to the best of their ability, they have inspected the system at least monthly and are not aware

of any malfunctions.

**SECTION 8 - MAINTENANCE ON SYSTEM.** In the event Borough or DEP inspections indicate the need for maintenance on any component or the system as a whole to bring the system into compliance with the DEP permit or regulations, the landowner shall complete such maintenance and obtain certification from the landowner's engineer or Borough official that the work has been completed in accordance with appropriate standards. A landowner must perform any necessary maintenance and the certification must be provided within seventy-two hours of the time the problem was brought to the landowner's attention.

**SECTION 9 - SAMPLING.** A Borough official may inspect the system at any time, but shall sample the system at least three (3) times per calendar year. At least two of the samplings will be conducted between April 1 and September 30 of each year. At least one inspection will be conducted during the remaining portion of the year.

The inspection shall include the following:

A. Testing for adequate chlorine residual at levels required by the DEP permit. Landowners are required to test chlorine residual on a monthly basis and keep a written record of the date and results of the test. The landowner must assure that the chlorine residual levels are in compliance with all relevant DEP standards.

B. The inspector may collect a sample for fecal coliform analysis at any time. An EPA approved laboratory must perform a bacteriological analysis.

C. The Borough and/or Borough official must retain copies of all written

inspection reports and lab results received in a permanent file. The records shall be available for inspection by DEP upon request.

**SECTION 10 - REPAIRS AND REPLACEMENT OF SYSTEM.** In the event inspections or other review indicates the need for repair or replacement of the system in order to bring the system into compliance with the DEP permit or regulations, the landowner shall complete such repairs or replacement and obtain certification from Landowner's engineer or the Borough official that the work has been completed in accordance with appropriate standards. Except in the most extraordinary circumstances, the repairs must be completed and the certification provided within thirty (30) days of the time the problem was brought to the landowner's attention.

**SECTION 11 - AUTHORITY TO REPAIR.** In the event the landowner fails or refuses to achieve timely compliance with the provisions for a system repair, replacement and/or maintenance as described in Sections 8 and/or 10, above, the Borough or Borough official shall have the right to enter upon the premises and to perform any repairs, replacement and/or maintenance with respect to the system. All such work will be done at the sole cost and expense of landowner. If feasible, the Borough or Borough official will make reasonable efforts to stop the flow in the system within thirty (30) days after needed repairs may not have been done or within seventy-two (72) hours in the event of a maintenance issue.

**SECTION 12 - EFFLUENT REMOVAL.** During the period of time when the system is inoperable or incapable of treating the discharged effluent to meet or exceed those

standards of DEP, Landowner shall make the necessary arrangements to remove said effluent and arrange for the appropriate disposition of the same at a DEP permitted sewage disposal facility. In the event the Landowner shall fail to make the necessary arrangements for the removal of said effluent within the time specified by the Borough or Borough official, such time not to exceed forty-eight (48) hours, the Borough or Borough official shall have the right, upon the expiration of that forty-eight (48) hours to enter upon the premises and cause such effluent to be removed. Where the Landowner causes the effluent to be removed, he shall, upon request, provide an agreement with a hauler providing for the removal and submission of all pumping receipts. The Landowner shall continue hauling effluent until such time as the system has been properly certified as being operable by the Borough official or DEP.

**SECTION 13 - INSPECTION FEE.** On or before January 30, of each year, the Landowner deposit with Lycoming Sanitary Committee the sum of Three Hundred Dollars (\$300.00). The sum represents the present inspection fee of One Hundred Fifty Dollars (\$150.00) for the three inspections and sampling of the system and a laboratory testing escrow of One Hundred Fifty Dollars (\$150.00). The Landowner will be responsible for the actual laboratory testing costs plus a ten percent (10%) administrative fee for which Lycoming Sanitary will make appropriate adjustments and send invoices on an annual basis. The fees and escrow amounts may be modified by the Council at their annual reorganization or other meeting.

**SECTION 14 - RECOVERY OF COSTS INCURRED BY BOROUGH.**

Landowner shall pay for any and all costs incurred by the Borough or Borough official for inspections in excess of the three (3) mandatory annual inspections, sampling, repairs, replacement and/or maintenance of the system. The Landowner shall also pay for any and all costs incurred in the removal of effluent in accordance with the terms of this Ordinance or any other steps taken to protect the environment. Said costs to be paid within ten (10) days of demand. In the event the Landowner, or his or her heirs, successors or assigns, shall fail to pay for such costs or expenses, the Borough or Borough official shall institute suit against the Landowner in a civil action or cause a lien to be recorded on the property in accordance with the municipal lien law for all costs and/or expenses incurred in the enforcement of this Ordinance, including reasonable attorney's fees.

**SECTION 15 - ESCROW.** In order to secure the costs which may be incurred by the Borough or Borough official and which are recoverable as provided herein, the Landowner, contemporaneously with permit approvals, or anytime upon demand, shall deposit a sum of not less than Two Thousand Dollars (\$2,000.00) with the Borough. The deposit shall be held by the Borough in an interest-bearing account with the interest to be accumulated in the discretion of the Borough. Said sums may be used by the Borough or Borough official for system, repair, replacement or maintenance in the sole discretion of the Borough or Borough official. Should the escrow fall below the sum of Two Thousand Dollars (\$2,000.00), Landowner shall be notified and, within ten (10) days, restore the amount to Two Thousand Dollars (\$2,000.00). In the event the escrow account exceeds Two Thousand Five Hundred Dollars (\$2,500.00), the excess deposit can be utilized to offset the



annual inspection, sampling and testing cost. Should DEP approval require the Landowner to establish a higher escrow, that amount shall prevail and be deposited with the Borough.

**SECTION 16 - PENALTIES.** Any person who shall violate any provision of this Ordinance, shall, upon conviction thereof, in an action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be subject to a penalty or fine of not less than One Hundred Dollars (\$100.00) per violation, but no more than One Thousand Dollars (\$1,000.00) per violation, together with the cost of prosecution for each such violation, and may upon default of the payment of fines and costs be sentenced to suffer imprisonment in accordance with law. Each day a violation exists may be considered a separate violation. Said fines and penalties may be collected by suit or summary proceeding brought in the name of the Borough or Borough official. The Borough or Borough official may utilize any other lawful criminal, civil or equitable remedy to seek enforcement in compliance with this Ordinance.

**SECTION 17 - REMEDIES.** Landowners, for themselves, their heirs, administrators, executors, successors and assigns, shall at all times hold the Borough or Borough official harmless from any claims, suits, legal expenses or judgments which may be brought against the Borough or against any Borough official and/or against Landowner or any of the successors in title for any adverse conditions, casually and directly or indirectly related to the operation Landowner of the system. The Landowner shall have the duty to defend Borough and Borough official, including their agents and employees against any claim or suit made by any person which alleges that adverse conditions have been caused by

the operation or lack of maintenance of the Landowner. In the event the Landowner fails to undertake such defense to any claim, and the Borough or Borough official is required to enter upon its own defense, Landowner shall reimburse Borough or Borough official for any expenses that may occur, including legal fees, engineering fees or other expert witness fees and/or pay any judgment rendered against the Borough as the result of said suit. As to damages alleged to have been caused by reason of the operation of the system, Landowner shall have the right and option to join Borough in the defense and/or compromise of such claim and Landowner shall only be required to pay those damages and expenses for which the Landowner agrees to pay, it being the express understanding of the parties hereto that the Landowner shall only be required to pay those damages and expenses for which the Landowner agrees to pay, it being the express understanding of the parties hereto that the Landowner shall not be responsible for any conditions occurring that cannot be demonstrated to the operation and/or malfunction of the system installed by the Landowner. In the event the Landowner, or its heirs, successors or assigns, shall fail to pay the cost, legal fees, other expenses or damages as herein provided and the Borough or Borough official is required to pay the same, said party shall have the right to recover said funds it has expended either by a civil action against the Landowner, or his or her heirs, successors or assigns, or by causing a lien to be recorded on the property in an amount equal to the sums required to be expended.

**SECTION 18 - CONVEYANCE OR TRANSFER.** If title to a property upon which a system is located is transferred in any manner, the new Landowner shall provide the Borough with an escrow account as required herein, within thirty (30) days of the conveyance or transfer. The existing financial security of the prior Landowner will not be

released until the new transferee provides the escrow.

**SECTION 19 - EFFECT ON OTHER ORDINANCES.** Nothing in this Ordinance shall be construed to waive, effect or alter any requirements of the zoning, land development and subdivision or any other Ordinances or Resolutions of the Borough. Nothing contained herein empowers any Borough official to waive any requirements of such Ordinance and it is expressly understood and agreed that the installation of the system upon the property does not in any way constitute approval for any land development of the property.

**SECTION 20 - AGREEMENT REQUIRED.** The Landowner requesting the installation and operation of the small flow sewage treatment system must enter into an installation and maintenance agreement with the Borough. This agreement will be in the form required by the Borough and list each parties responsibility for construction, operation, maintenance and other necessary undertakings to maintain the system. The Landowner shall provide a copy of said agreement to any Borough official upon request.

**SECTION 21 - SEVERABILITY.** The provisions of this Ordinance shall be severable, and if any of the provisions shall be deemed to be unconstitutional, illegal or invalid, such decision shall not effect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as legislative intent that this Ordinance would not have been adopted had such unconstitutional, illegal or invalid provisions not been included herein. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not effect or impair any remaining provision, section, sentence, clause or part of this Ordinance. It being the intent of this Borough that the

remainder shall remain in full force and effect.

**SECTION 22 - EFFECTIVE DATE.** This Ordinance shall become effective five (5) days from the date hereof, and, thereafter, shall apply prospectively and retroactively to all small flow sewage treatment facilities in operation in the Borough.

ENACTED AND ORDAINED this 8<sup>th</sup> of December, 2008.

ATTEST:

PICTURE ROCKS BOROUGH  
BOARD OF SUPERVISORS:

William M. Stone  
\_\_\_\_\_, Secretary  
(SEAL)

Lay Chen  
\_\_\_\_\_, Chairman

Paul H. Bond  
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_