

ARTICLE II

SEWAGE RETAINING TANKS

History: Adopted by the Board of Supervisors of Center Township as Ordinance No. 2006-05-02, as amended by Ordinance No. 2013-08-07, August 14, 2013 and Ordinance No. 2017-01-01, January 3, 2017.

§15-201. Title

This Ordinance shall be known and may be cited as the "Center Township Sewage Holding Tank Ordinance."

§15-202. Authority

This Ordinance is adopted pursuant to the authority set forth in the Pennsylvania Sewage Facilities Act, Act 537, 35 P.S. §§ *et seq.*, the Pennsylvania Clean Streams Law, 35 P.S. §§ 65101, *et seq.*

§15-203. Purpose

- A. The purpose of this Ordinance is to protect the public health by preventing the discharge of untreated or inadequately treated sewage into the soil or waters of the Commonwealth.
- B. This Ordinance is intended to implement the provisions of the Pennsylvania Sewage Facilities Act ("Act 537"), and the regulations and standards promulgated by the Pennsylvania Department of Environmental Protection ("PADEP") pursuant to Act 537, and the provisions of the Pennsylvania Clean Streams Law, and the regulations and standards promulgated pursuant to the Clean Streams Law.

§15-204. Applicability

This Ordinance shall apply to the installation of holding tanks and multiple portable toilets on a single site within the corporate limits of Center Township, Butler County, Pennsylvania. Upon this Ordinance becoming effective, it effectively revokes Ordinance Number 2013-08-07 as the prior Holding Tank Ordinance.

§15-205. Definitions

The following words and phrases shall have the meanings set forth herein unless the context of the use thereof dictates another interpretation:

- A. **ACT 537** - The Pennsylvania Sewage Facilities Act, 35 P.S. §§750.1, *et seq.*, as amended
- B. **COMMUNITY SEWAGE SYSTEM** – A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.
- C. **HOLDING TANK (Retaining Tank)** – A watertight receptacle, whether permanent or

temporary, which receives and retains sewage conveyed by a water carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site. Sewage permits for temporary holding tanks shall expire no later than eighteen (18) months from the date the permit was issued and are not renewable.

- D. **INDIVIDUAL SEWAGE SYSTEM** -A system of piping, tanks, or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means or conveyance to another site for final disposal.
- E. **OWNER** -Any person vested with ownership, legal or equitable, sole or partial, of any property located in the corporate limits of Center Township, Butler County, Pennsylvania .
- F. **PADEP** – The Pennsylvania Department of Environmental Protection or any successor department or agency of the Commonwealth of Pennsylvania.
- G. **PERSON** – Any individual, association, public, or private corporation for profit or not-for-profit, partnership, firm trust, estate, department, board, bureau, or agency of the United States, Commonwealth, political subdivision, municipality, district, authority, or another legal entity which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or a fine or imprisonment, the term includes the members of an association, partnership, or firm and the officers of any local agency or municipal, public, or private corporation for profit or not-for-profit.
- H. **PORTABLE TOILET (Chemical toilet)** – A portable non-flushing toilet using chemical treatment in the retaining tank for odor control.
- I. **PUMPER** – Any person properly licensed or certified by the Commonwealth of Pennsylvania who engages in pumping-out sewage holding tanks and transport the sewage cleaned, removed, or extracted from such systems.
- J. **SEWAGE** – Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animal and noxious or deleterious substances, including but not limited to gray water, being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation or which constitutes pollution under the Clean Streams Law 35 P.S. §§691.1, *et. seq.*, as amended.
- K. **SEWAGE ENFORCEMENT OFFICER** – An official appointed by the Board of Supervisors and certified by PADEP, who reviews sewage permit applications, and sewage facilities planning modules, issues permits as authorized by Act 537, the regulations and standards promulgated under Act 537 and this ordinance, and conducts investigations and inspections that are necessary to implement Act 537, the regulations and standards promulgated by the PADEP pursuant to Act 537, and this ordinance. The term shall include the Alternate Sewage Enforcement Officer.

L. **SEWAGE FACILITIES PLANNING MODULE** – A revision to, or exception to the revision of, the township's Official 537 Plan submitted in connection with the request for approval of a subdivision or land development in accordance with PADEP regulations.

M. **TOWNSHIP** -Center Township, Butler County, Pennsylvania

§15-206. Permits Required

- A. A sewage permit issued by the Township is required prior to the construction or installation of any permanent or temporary sewage holding tank.
- B. A sewage permit issued by the Township is required prior to the installation of four (4) or more portable toilets at a single construction site, natural gas or oil well drilling site, recreational or sporting activity, or seasonal facility.
- C. Permanent sewage holding tanks shall only be used in lieu of other methods of sewage disposal only when an acceptable on-lot system or public sewage disposal cannot be used (i.e. only after all other viable options are eliminated).
- D. Permanent sewage holding tanks shall only be permitted:
1. For institutions, recreational vehicle dump stations or commercial establishments with a sewage flow of less than 800 gallons per day; or
 2. When the use is necessary to abate a nuisance or public health hazard.
- E. Temporary sewage holding tanks shall only be permitted:
1. At a construction site, natural gas or oil well drilling site or recreational or sporting activity with a flow of 800 gallons per day or less; or
 2. When necessary to abate a nuisance or public health hazard.
- F. Four (4) or more portable toilets installed at a single construction site, natural gas or oil well drilling site, recreational or sporting activity, shall be covered by one sewage permit. ADA portable toilets are strongly recommended.
- G. Three (3) or less portable toilets installed at a construction site, natural gas or oil well drilling site, recreational or sporting activity, is exempt from sewage permit requirements.
- H. Sewage permits for permanent holding tanks shall expire and such tanks shall be abandoned and removed once public or community sewage facilities become available.

- I. Sewage permits issued for portable toilets or temporary holding tanks shall expire no later than eighteen (18) months from the date the permit was issued and are not renewable.
- J. To apply for a sewage permit, the applicant shall submit a complete sewage permit application to the Township, on a form provided by the Township. The Township may require the applicant to provide additional information to assure that the proposed sewage facilities, holding tank, and/or portable toilets will comply with the requirements of Act 537, the regulations, and standards promulgated by PADEP pursuant to Act 537, and the provisions of the ordinance.
- K. The applicant shall fully pay all application fees, as set by the Board of Supervisors by resolution and as amended from time to time, to the Township at the time the application is submitted to the Township.
- L. The sewage enforcement officer shall issue or deny a sewage permit within seven (7) days after receiving a complete application. If the sewage enforcement officer determines that the application is incomplete or that additional information is required, he shall communicate the nature of the deficiency or request supplemental information from the applicant in writing within seven (7) days of receipt of the application. When the required information is received, the sewage enforcement officer shall act upon the application within fifteen (15) days.
- M. The sewage enforcement officer shall be authorized to issue a permit for a sewage system utilizing a permanent holding tank only where the sewage enforcement officer has personally conducted, observed or otherwise confirmed in a manner approved by the PADEP all site tests and inspections necessary to determine the suitability of the site for the installation of a sewage holding tank. The sewage enforcement officer shall accept testing and inspections conducted by a prior sewage enforcement officer for the Township.
- N. The sewage enforcement officer shall be authorized to issue a permit for a sewage system utilizing a temporary holding tank only upon the finding that all of the following conditions have been met:
 1. The applicant has entered into a maintenance, inspection, and pumping agreement with a licensed company, acceptable to the Township, for the pumping, transportation, and disposal of sewage from the tank at a PADEP approved disposal site; and
 2. The applicant has provided the Township with a copy of written verification from the proposed disposal site that the facility has adequate capacity for disposal of the applicant's sewage; and

3. The applicant has entered into a maintenance agreement with the Township establishing the applicant's responsibilities regarding operation, maintenance, repair, and removal of the holding tank, and authorizing the Township to conduct random/periodic inspections of the site, sewage facilities and holding tank; and
 4. The applicant has promptly paid all fees, costs, and expenses related to the issuance of the sewage permit and posted financial security with the Township for the estimated costs associated with inspection, maintenance, repair, removal, pumping, transportation, and disposal of sewage from the holding tank, and remediation of the property resulting from any contamination of the site; and
 5. The plans for the installation, operation, maintenance, repair, and removal of the holding tank and the pumping, transportation and disposal of sewage from the holding tank meets all PADEP requirements.
- O. Failure of the sewage enforcement officer to finally act on an application for a sewage permit does not constitute permit approval. If the sewage enforcement officer does not finally act on a complete initial application within fifteen (15) days of receipt, or within thirty (30) days of receipt of all required supplemental information, the applicant may request a hearing before the Board of Supervisors.
- P. Denial of Permits – Written notice of denial of a sewage permit shall be provided by the sewage enforcement officer to the applicant. The notice shall include the reasons for denial and provide notice of the applicant's right to request a hearing before the Board of Supervisors. The sewage enforcement officer shall provide a copy of the notice of denial to PADEP within seven (7) days of issuance.
- Q. Revocation of Permits – The sewage enforcement officer may revoke a sewage permit at any time for one or more of the following reasons:
1. When a change has occurred in the physical conditions of any lands which will materially affect the sewage system; or
 2. When one or more tests material to the issuance of the permit has not been properly conducted; or
 3. When information relevant to the issuance of the permit has been falsified; or
 4. When the original decision of the Township otherwise failed to conform to Act 537 or the regulations and standards adopted pursuant to Act 537; or
 5. When the permit holder has violated Act 537, the regulations and standards adopted pursuant to Act 537, or the requirements of the permit; or

6. The permit holder has failed or refuses to comply or to continue to comply with any of the provisions of this ordinance.
- R. **Written Notice of Revocation** – The sewage enforcement officer shall provide written notice of revocation of the sewage permit to the permit holder. The notice shall include the reasons for revocation, notice of the permit holder's right to request a hearing before the Board of Supervisors within (10) days of receipt of the revocation notice, and prohibit any further construction activity and/or use of the holding tank and/or the structure for which is it intended or portable toilets until a new permit is issued or the revocation is reversed on appeal.
- S. If the permit holder fails to file a written request for a hearing within ten (10) days after receipt of the notice of revocation, the revocation shall be final.
- T. **Transfer of Applications/Permits** – A sewage application or sewage permit may be transferred from the applicant or permit holder to a subsequent owner with the transfer of the property. Such transfers are not valid until approved in writing by the Board of Supervisors, and, in the case of sewage permits, until the subsequent owner receives a copy of the application under which the permit was issued.

§15-207. Holding Tank: Construction Standards

- A. All holding tanks shall be constructed to meet the specifications of Act 537 and the regulations and standards promulgated by the PADEP pursuant to Act 537 (24 Pa. Code § 73.62, relating to standards for holding tanks) as may be amended from time to time.
- B. The minimum capacity of a holding tank shall be 1,000 gallons or a volume equal to the quantity of waste generated in three (3) days per unit, whichever is larger.
- C. All holding tanks shall be equipped with a warning device to indicate when the tank is filled to within 75% of its capacity. The warning device shall create an audible and visual sign at a location frequented by the permit holder or responsible individual.
- D. The permit holder shall ensure that holding tanks and all related piping are properly winterized to protect the effluent from freezing.

§15-208. Holding Tank: Operation and Maintenance

- A. The permit holder shall, at all times:
 1. Operate and maintain sewage systems utilizing a holding tank so that the system will function in the manner in which it was designed; and
 2. Prevent the unlawful discharge of sewage; and
 3. Maintain the area around the holding tank so as to provide convenient access for cleaning, pumping, inspection, maintenance, repair, and removal of the tank.

- B. Pumping Receipts – Each time a holding tank is cleaned and/or pumped, the permit holder shall provide the sewage enforcement officer, within five (5) days of completion, a pumping receipt, which shall contain at a minimum the following information;
1. Name and address of the permit holder.
 2. Address of the tank location, if different from the permit holder's address.
 3. Name, business address, and telephone number of the pumper.
 4. Date of pumping.
 5. Amount or volume of material removed from the tank.
 6. Name, address, telephone number, and NPDES permit number of the facility treating the removed material.
 7. The name and signature of the pumper's employee performing the services.

The Township may, at its discretions, place additional operational and/or maintenance requirements on any sewage system utilizing a holding tank permitted by the township.

§15-209. Holding Tank: Maintenance Agreement and Bonding

- A. Pumping and Disposal Agreements – The permit holder is required to enter into a valid maintenance inspection and pumping agreement with an individual, firm, or corporation with experience in sewage holding tank maintenance and cleaning, and a letter of agreement with the proposed disposal site providing the facility's NPDES permit number and verifying the facility has adequate capacity for disposal of the material removed and transported to the facility.
- B. Bonding Requirements – The permit holder shall be required to post a cash bond with the Township in the amount of one dollar (\$1.00) per gallon of the holding tank capacity but not less than one thousand dollars (\$1,000.00), per unit.
- C. The cash bond or a portion of the bond shall be forfeited to the Township on the occurrence of any of the following:
1. In the event the holding tank is not maintained according to the terms of the maintenance, inspection, and pumping agreement, the Township may use the bond to pay to provide for the proper servicing of the holding tank and any related costs incurred by the Township.

2. In the event the permit holder does not reimburse the Township for the costs associated with municipal inspections and/or tests, as provided for in Section 10, below, the Township may use the bond to pay for such expenses and any related costs incurred by the Township.
 3. In the event the holding tank is removed by the Township either by consent of the permit holder or as a result of court action, the Township may use the bond to pay for the cost of removal and for any related costs, including but not limited to legal costs, incurred by the Township.
- D. In the event the funds from the cash bond fall below seventy-five percent (75%) of the original amount for any reason, the permit holder shall be required to replenish the cash bond to its original amount, within thirty (30) days of receipt of notice from the Township.

The existence or use of the bond or a portion thereof shall not relieve the permit holder of responsibility to fully reimburse the Township for any and all related fees, costs, or expenses in excess of the face amount of the bond.

§15-210. Holding Tank: Municipal inspections and Tests

- A. The permit holder shall notify the sewage enforcement officer of the installation or construction schedule for a sewage system utilizing a holding tank so the appropriate inspections and tests may be scheduled and performed by the Township.
- B. The permit holder shall notify the sewage enforcement officer when the installation or construction of a sewage system utilizing a holding tank is complete and ready for final inspection. Prior to the final inspection, the permit holder shall provide the sewage enforcement officer with three (3) full sized copies of the as-built plans for the system. No part of the sewage system may be covered until the final inspection is conducted and final written approval to cover the system is given by the Township. If the system has been covered prior to final inspection, the sewage enforcement officer may order the system to be uncovered at the expense of the permit holder.
- C. **Municipal Inspection and Test Requirements** - The permit holder and owner shall permit the Township and its authorized agents to inspect and test, at the owner's sole cost, any sewage system utilizing a holding tank at such times as the Township deems appropriate, or at least monthly inspections of temporary holding tanks. The permit holder shall reimburse the Township for the actual costs, fees, and expenses directly related to the inspections and tests.
- D. **Scope of Municipal Inspections and Tests** – Municipal inspections and testing may include but are not limited to a physical tour of the property, inspection of the sewage facilities, and all components of the sewage system, sampling surface

water, wells, ground water, and/or the contents of the system itself, and the introduction of a traceable substances into the interior plumbing of the structure, building served and/or the system itself to ascertain the path and ultimate destination of waste water (i.e. dye test)

- E. **Malfunctioning Systems** – The permit holder and Township shall notify the sewage enforcement officer of any sewage system utilizing a holding tank that is suspected or reported to be malfunctioning, operated improperly or causing a nuisance, water pollution, or public health hazard. The sewage enforcement officer shall inspect and/or test such system within two (2) days of receiving such information.
- F. **Inspection Reports** – The sewage enforcement officer or other authorized agent(s) of the Township shall make a written inspection report and provide a copy of the report to the permit holder and Township within seven (7) days of completion of the inspection. The report shall contain at a minimum the following information:
1. Date of inspection;
 2. Name and address of the permit holder;
 3. Description and location of the system;
 4. Indications of system malfunction;
 5. Required remedial action; and
 6. Any and all pumping receipts.
- G. The Township shall retain the inspection report for five (5) years.

§15-211. Notice of Violations

- A. Upon finding of the township that any provision of this ordinance has been violated; or that the terms of any permit or agreement have been violated; or that the use of the holding tank or portable toilets is creating a danger to the health, safety, and welfare of the inhabitants of the Township or to the environment, the sewage enforcement officer shall provide the permit holder with a written notice of violation and the use of the holding tank or portable toilets shall immediately cease and the permit holder shall take all steps required to remedy the violation (which may require but is not limited to removal of the holding tank). Notice shall be deemed given in accordance with this subsection by either mailing the notice by regular mail, postage prepaid, to the permit holder or posting of the notice on the premises.

- B. If the permit holder fails to comply with the notice, the Township shall have the right to perform such necessary work or contract to have such necessary work performed to remedy the violation (which may include but is not limited to removal of the holding tank). All costs incurred by the Township, together with additional 10% thereof, shall be chargeable to and paid by the permit holder within thirty (30) days of receipt of an invoice from the Township.

§15-212. Administration

- A. The Township shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of the ordinance.
- B. The Township shall employ qualified individuals to carry out the provisions of this ordinance. Such employees may include a sewage enforcement officer, code enforcement officer, secretary, administrator, or other persons as required. The Township may also contract with other private qualified persons or firms, as necessary, to carry out the provisions of this ordinance.
- C. The sewage enforcement officer shall maintain and provide to the Township, within seven (7) days of completion of such activity, copies of all sewage permits, records, reports, files, and other written material relating to the installation, operation, maintenance, alteration, repair, replacement, or removal of holding tanks and portable toilets in the Township.
- D. The Township's sewage records shall be available for public inspection, upon request, during normal business hours at the Township office. except as may be restricted by the Right to Know Act.
- E. The Township may establish additional administrative procedures necessary to properly carry out the provisions of this ordinance.

§15-213. Fees

- A. The Board of Supervisors, by properly enacted ordinance or resolution, may establish and set a schedule of fees, and collect such fees, to cover the costs to the Township of administering and enforcing this ordinance. The fee schedule may establish different charges for various activities consistent with the administrative and personnel costs necessary to support the permit application and planning module review process, and maintenance, inspection, testing and enforcement programs.
- B. When engineering or consulting services are required by the Township to administer this ordinance, the review fees charged for such services shall be reasonable and in accordance with the ordinary and customary charges by the engineer or consultant for similar service in the community, and in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the Township when fees are not reimbursed by or imposed on applicants.

§15-214. Appeals and Hearings

- A. Any person aggrieved by an action of the sewage enforcement officer in issuing or denying a sewage permit, or issuing a notice of violation or order, other than a permit revocation, shall have the right, within thirty (30) days after receipt of the notice of the action, to submit a written request for a hearing before the Board of Supervisors.
- B. Any person aggrieved by an action of the sewage enforcement officer in revoking a permit, shall have the right, within ten (10) days after the receipt of the notice of such action, to submit a written request for a hearing before the Board of Supervisors, or the revocation action shall become final.
- C. The hearing application fee, set by the Board of Supervisors by resolution and as amended from time to time, shall be fully paid to the Township at the time the written request for a hearing is submitted to the Township.
- D. Hearing requests shall state concisely all reasons for the appeal.
- E. The Board of Supervisors shall hold a public hearing within thirty (30) days after receipt of the timely and complete written request for a hearing.
- F. The Township shall notify PADEP of the hearing at least three (3) days prior to the hearing date. The notification shall include a statement of the reasons for the appeal.
- G. Hearing under this section shall be conducted pursuant to the Local Agency Law, 2 Pa.C.S. §§551, *et seq.*
- H. Any party aggrieved by the decision of the Board of Supervisors may, within thirty (30) days after such decision, file an appeal to the Court of Common Pleas of Butler County.
- I. The Township shall defend its actions during the course of a subsequent appeal to the Court of Common Pleas of Butler County.

§15-215. Enforcement Procedures and Penalties

- A. Any person who shall violate any provision of this ordinance or who is the owner of a property on which a condition exists which constitutes a nuisance under this ordinance or who resists or interferes with any employee, officer, or agent of the Township in the performance of his or her duties under this ordinance, shall be guilty of a summary offense. Upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, such person shall be sentenced to pay a fine of not less than five hundred dollars (\$500.00) and not more

than five thousand dollars (\$5,000.00), plus costs, each violation shall be a per day violation, and attorney fees and costs, or to imprisonment not to exceed thirty (30) days, or both.

- B. A violation of any provision of this ordinance or the discharge of untreated or partially treated sewage to the surface of the ground or into the waters of the Commonwealth, except as approved by the PADEP or permitted by the Township, shall constitute a nuisance and shall be abatable in the manner by law or equity.
- C. In addition to or in lieu of criminal or civil action, the Township may institute suits in equity to restrain or prevent violations of this ordinance.
- D. Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than the Township the right to commence an action for enforcement pursuant to this ordinance.