

**TOWNSHIP OF WINFIELD
BUTLER COUNTY, PENNSYLVANIA
ORDINANCE NO. 09-04 - 2009**

BE IT ORDAINED AND IT IS HEREBY ORDAINED AND ENACTED BY THE SUPERVISORS OF WINFIELD TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA AS FOLLOWS:

Section 1. Title.

This ordinance may be known and may be cited as the "Winfield Township Holding Tank Ordinance."

Section 2. Purpose.

The purpose of this ordinance is to establish requirements and procedures for the use and maintenance, by permit only, of holding tanks designed to receive and retain sewage:

- A. As an interim measure, pending construction of permanent public sewage facilities under the proposed sewerage system and facilities project, and
- B. When the local agency, Winfield Township, or the PA Department of Environmental Protection determines that the use is necessary to abate a nuisance or public health hazard, and
- C. When the use is for institutions, recreational vehicle dump stations or commercial establishments with a sewage flow of less than 800 gpd, and
- D. Further, it is declared that the purpose of this ordinance is to establish requirements and procedures for the protection, benefit and preservation of health, safety and welfare of the inhabitants of Winfield Township.

Section 3. Definitions.

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this ordinance shall be as follows. Terms not defined herein shall be as defined in 25 Pa. Code § 71.1.

HOLDING TANK -- A watertight receptacle 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.

IMPROVED PROPERTY -- Any property within the Township upon which there is erected a structure intended for habitation or occupancy or use by human beings, from which structure sewage shall or may be discharged.

OWNER -- Any person vested with ownership, legal or equitable, sole or partial, of any property located in Winfield Township.

PERSON -- Any individual, partnership, company, association, corporation or other group or entity.

SEWAGE -- Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings, any noxious or deleterious substance 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 recreational use.

TOWNSHIP -- Winfield Township, Butler County, Pennsylvania.

TOWNSHIP SEWAGE ENFORCEMENT OFFICER -- The person officially appointed by the Township of Winfield's Board of Supervisors to fulfill the functions ordained by the Township and all other applicable laws and regulations regarding the regulation of sewage collection and disposal.

Section 4. Rights and privileges granted.

The Township is hereby authorized and empowered to undertake within the Township the establishment of control and methods of holding tank use, and the sewage disposal and sewage collection and transportation therefrom. The Township shall require that all holding tanks be installed, used and maintained only in conformity with permits for same issued by the Township in conformity herewith.

Section 5. Rules and regulations.

- A. The Township is hereby authorized and empowered to adopt such rules and regulations concerning holding tank use, and sewage disposal, collection, and transportation therefrom, which it may deem necessary from time to time to effect the purposes herein.
- B. All such rules and regulations adopted by the Township shall be in conformity with the provisions herein, all other ordinances of the Township and all applicable laws and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania.

Section 6. Rates and changes.

The Township shall have the right and power to fix, alter, change and collect rates, assessments, and other charges for holding tank use, and sewage disposal, collection, and transportation therefrom, in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

Section 7. Township Authorization and Holding Tank Construction Standards.

That the Township is hereby authorized and empowered to undertake within the Township the control and methods of holding tank use, sewage disposal and sewage collection and transportation thereof. Because holding tanks require service and maintenance to prevent their malfunction and overflow, they shall be used in lieu of other methods of sewage disposal only when an acceptable on-lot system, public sewage disposal or private sewage treatment plant cannot be used, and the following conditions are met:

- A. A holding tank shall be constructed to meet the specifications of the Sewage Facilities Act and Rules and Regulations (25 Pa. Code § 73.62) thereof relating to standards for holding tanks, as may be amended from time to time.
- B. The minimum capacity of a holding tank shall hold 1,000 gallons or a volume equal to the quantity of waste generated in three days, whichever is larger.
- C. The holding tank 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 homeowner or responsible individual.
- D. Disposal of waste from a holding tank shall be at a site approved by the Department.
- E. The Township may enter into agreements, with the owner of any improved property, proposing the use of holding tanks. Such agreement may contain conditions imposed on the owner by the Township with respect to construction, usage, payment of fees, posting of security, and maintenance of the holding tank.
- F. Holding tanks shall be abandoned once public or community sewage facilities become available.

Section 8. Permits and requirements.

- A. Permit required.

It shall be unlawful for any person to install, construct, use or maintain a holding tank in the Township of Winfield without first obtaining a permit from the municipality, paying a permit fee in an amount as may be established from time to time by resolution of the Board of Supervisors, and executing an agreement with the Township regarding the operation and maintenance of the tank.

- B. Application procedure and requirements.

Prior to the construction or installation of a holding tank, the Township shall require an application for permit be submitted to the Township Sewage Enforcement Officer. The Township Sewage Enforcement Officer shall be authorized to issue a permit for a holding tank only upon the following conditions having been met:

- 1. All applications for construction and installation of holding tanks shall be made to and permits issued by the Township; and
- 2. An application shall include the following information:

- a. Name, address and phone number of the property owner and person responsible for use and maintenance of holding tank.
 - b. Location and description of property to be served by the holding tank and a description of existing and proposed uses of the property.
 - c. A statement why the holding tank use is being requested.
 - d. A description of the design and construction of the holding tank.
2. Public sewage facilities shall be constructed to the improved property at such time they are extended, so that such will eliminate the need for the continued use of the holding tank; and when public sewage service becomes available said property shall be subject to the payment of applicable rates to the public sewage system provider; and
 3. The design and construction of the holding tank(s) meets the requirements of the Department of Environmental Protection and more specifically the Pa. Code Title 25, Chapters 71 and 73, as they relate to holding tanks; and
 4. The application is not in violation of any other statutes, ordinances, rules and regulations of the Commonwealth, Butler County, Winfield Township, their agencies, departments and boards; and
 5. The maintenance and disposal of the sewage from the holding tanks meets the approval of the Township and the Pennsylvania Department of Environmental Protection; and
 6. The approval of the requested permit would be in the best interests of the health, safety and welfare of the inhabitants of Winfield Township as determined by the Township; and
 7. That all holding tanks permitted shall be abandoned and discontinued and the structure on the improved property served by the holding tank shall be connected to the public sanitary sewer system within 60 days of the public sanitary sewer service being made available.

C. Duties of Improved Property Owner.

The owner of an improved property that utilizes a holding tank shall:

1. Maintain the holding tank in conformance with this or any Ordinance of Winfield Township, the provisions of any applicable law, and the rules and regulations of the Department of Environmental Protection.
2. Permit the Township or its designated agent to inspect holding tanks and to collect, transport, and dispose of the content of the holding tank in accordance with Section 12.
3. Provide the Township with all pumping receipts, inception reports, and maintenance reports.

4. Provide the Township with current information about any change in ownership of the property or persons responsible for use and maintenance of the holding tank.
5. Report leaks, spills, overflows, and malfunctions to the Township immediately and take immediate corrective action in accordance with the regulations of the Department of Environmental Protection.

Section 9. Notification and remedy of violations.

- A. Upon finding of the Township Sewage Enforcement Officer that any provision of this ordinance has been violated; or that the terms of any issued permit have been violated; or that the use of the holding tank is creating a danger to the health, safety and welfare of the inhabitants of Winfield Township or to the environment, the Township Sewage Enforcement Officer shall so notify the Township and the use of the holding tanks shall immediately cease and the Township shall take all steps required by this ordinance to remedy the use of the system or to remove it entirely.
- B. The Township shall have the right to contract for the proper disposal of any sewage, to abate any nuisance or danger to the health, safety and welfare of the inhabitants of the Township or to the environment and to remove the system. All costs of same incurred by the Township shall be chargeable to and paid by the surety.

Section 10. Violations and penalties.

The Township at its discretion may enforce this Ordinance as follows:

A. Civil Enforcement

The Township may commence a civil proceeding before a District Judge or an action in equity before the Court of Common Pleas. Any person who shall violate any provision of this ordinance shall, for each and every such violation, pay a penalty of not less than One Hundred (\$100) Dollars or no more than maximum penalty of \$600.00 per violation as permitted by Section 1601(c.1)(1) of the Second Class Township Code, 53 P.S. § 66601 (c.1)(1), as may be amended, following adjudication by a District Judge or Judge of the Court of Common Pleas, plus court costs and reasonable attorney fees incurred by the Township. Each day during which any person violates any provision of this ordinance shall constitute a separate offense.

B. Criminal Enforcement.

The Township may file and commence a summary offense proceeding. Any person who shall violate any provision of this ordinance shall, for each and every such violation, be sentenced to pay a fine of not less than One Hundred (\$100) Dollars or no more than the maximum penalty of \$1000.00 per violation as permitted by Section 1601(c.1)(2) of the Second Class Township Code, 53 P.S. § 66601(c.1)(2), as may be amended, plus costs of prosecution, following adjudication and conviction by a District Judge or Judge of the

Court of Common Pleas. Each day during which any person violates any provision of this ordinance shall constitute a separate offense.

- C. A violation of any provision of this ordinance shall also constitute a nuisance and may be abatable in the manner provided by law.
- D. Nothing in this ordinance shall be construed as stopping the Township from proceeding in courts of law or in equity to abate nuisances forbidden under this ordinance or abate nuisances under existing law. Nothing in this ordinance shall in any way abridge or alter rights of actions or remedies now or hereafter existing in equity or under the common law or statutory law, criminal or civil.
- E. All actions hereunder shall be prosecuted in the name of Winfield Township.

Section 11. Abatement of nuisances.

In addition to any other remedies provided in this ordinance, any violations of any provision of this ordinance shall constitute a nuisance and may be abated by the Township by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

Section 12. Tank maintenance and bonding.

A. Agreements and Bonds

In accordance with the Sewage Facilities Act of 1996, as amended, the Township will require a valid maintenance and pumping agreement between the property owner and an individual, firm, or corporation who has experience with holding tank maintenance and cleaning, a letter of agreement with the proposed disposal site verifying adequate capacity for disposal exists and providing the facilities NPDES permit number, and the property owner to post a bond or other acceptable form of financial security with the Township in the amount of \$1.00 per gallon of tank size and but not less than \$1,000.00. Said bond shall be forfeited to the Township on the occurrence of any or all of the following:

1. In the event said holding tank is not maintained according to the terms of this contract and pumped in accordance with Paragraph B, the Township shall use said bond to maintain the holding tank according to the terms of this contract.
2. In the event the annual holding tank inspection, as provided for in Paragraph C, is not completed within 30 days of the anniversary of the holding tank permit date, said bond shall be used by the Township to pay for the cost of the annual inspection and any related costs incurred by the Township.
3. In the event said the holding tank is removed by the Township either by consent of the owner or as a result of court action, said bond shall be used by the Township to pay for the cost of said removal and for any legal costs incurred by the Township.

B. Pumping

The property owner shall be responsible for maintaining the tank and providing for regular pumping. Pumping receipts for permitted holding tanks shall be held on file at the property and a copy shall be transmitted to Winfield Township within 15 days of the pump activity. The pumping receipt shall include the name and address of the pumper/hauler; name, address, and NPDES number of the disposal facility; date pumped; and volume pumped.

C. Inspections

The property owner shall have their holding tank inspected annually by an individual, firm, or corporation who has experience with holding tank maintenance and a written inspection report shall be provided to the Township within 15 days of the inspection.

ORDAINED AND ENACTED as an Ordinance of Winfield Township, Butler County, Pennsylvania, this 27th day of August, 2009.

ATTEST:

Victoria Schmeidler
Secretary

WINFIELD TOWNSHIP
BOARD OF SUPERVISORS

By: [Signature]
Chairman

By: [Signature]
Supervisor

By: _____
Supervisor