

**CLINTON TOWNSHIP
BUTLER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2011-06 ORD

AN ORDINANCE PROVIDING FOR THE LIMITED USE OF TEMPORARY HOLDING TANKS FOR THE COLLECTION OF SEWAGE AT OIL AND GAS EXTRACTION SITES

SECTION 1 – PURPOSE.

The purpose of this Ordinance is to provide for the use, maintenance and regulation of temporary holding tanks for sewage at oil and gas extraction sites so as to protect the residents and inhabitants of Clinton Township from danger of a public health hazard or an otherwise unsanitary condition caused by or arising out of uncontained sewage and/or faulty holding tanks.

SECTION 2 – DEFINITIONS.

A. Holding Tank: Shall mean a watertight receptacle, whether permanent or temporary, which receives and retains sewage and is designed and constructed to facilitate the ultimate disposal of the sewage at another site, as defined in the Commonwealth of Pennsylvania's Pennsylvania Code, Title 25, Environmental Protection. For the limited purposes of this Ordinance, holding tanks may be part of a system which utilizes portable toilets, also known as "job johnnies, port-a- potties" and the like.

B. Oil and Gas Extraction Site: The temporary living quarters ("man camp") established at or near the area of construction, drilling, hydraulic fracturing, (fracing) and/or site restoration associated with an oil and gas (or derivative product) well of any depth.

C. Sewage: Shall mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substance (including without limitation, 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 any substance which constitutes pollution under the Clean Stream Law (35 P.S. §§691.1 et seq.)

D. Sewage Enforcement Officer: The person or persons duly appointed by the Board of Supervisors to inspect and approve septic tank installation.

E. Temporary: 18 months or less

SECTION 3 – PERMITS.

A. It shall be unlawful for any individual, firm, association, corporation or other entity to install any holding tank of any kind at an oil and gas extraction site within the limits of Clinton Township, without first obtaining a permit issued by the Sewage Enforcement Officer under the Pennsylvania Sewage Facilities Act 35 P.S. §750.1 et. seq.

B. Any and all permits issued by the Sewage Enforcement Officer for holding tanks at an oil and gas extraction site shall be temporary. No subsequent permit shall be issued, except on good cause shown. Good cause shall be determined by the Clinton Township Board of Supervisors.

SECTION 4 – LOCATION AND DISTANCES.

A. The proposed holding tank shall be located at a place where there will be suitable access for vehicles necessary to remove the contents of the holding tank where required.

B. All holding tanks shall be not less than the stated distances from the following:

1. Property lines - ten feet (10')
2. Any water supply – fifty feet (50')
3. Streams – twenty-five feet (25')

C. Under no circumstances shall rain water from drains, roofing drains, french drains or similar drains be connected to a holding tank.

SECTION 5.

A. All applications for a permit under this Ordinance shall be made to the Clinton Township Sewage Enforcement Officer on forms provided by the Township. The application for a permit shall be signed by the owner or owners of the property and the oil and gas Lessee on which the holding tank is to be located.

B. The application shall be accompanied by an agreement executed on forms supplied by the Township and signed by the individual, firm, or corporation which is to be responsible for the removal of the contents of the holding tank and by the individual, firm, corporation or entity which is to be the ultimate point of disposition of the contents of the holding tank, agreeing that they will respectively remove and accept the contents of the holding tank described in the permit application.

C. To establish a relationship with a different holding tank pumping contractor than that identified in the then current permit, the landowner must contact the Sewage Enforcement Officer and provide proof of compliance with Section 5.B of this Ordinance.

D. The applicant shall submit with the permit application an application fee in an amount which shall be from time to time established by Resolution of the Board of Supervisors.

SECTION 6.

A. The applicant shall submit with the permit application an escrow payment in an amount which shall be from time to time established by Resolution of the Board of Supervisors. Said amount shall be held in escrow by the Township to be used by the Township to pump, repair or restore the system or its components to normal working order in the event that:

(1) the contracted pumper fails to pump the holding tank in a timely manner and when such failure results in a discharge of sewage to the surface of the ground or the waters of the Commonwealth; or

(2) the holding tank or any of its components is discovered, upon inspection, to be defective, unsafe or unsatisfactory.

B. In the event that the Township uses all or part of the escrow funds, the landowner shall, upon written notice from the Township, make such additional deposit as to restore the escrow account to full value and, if necessary, repay any amount expended by the Township in excess of the escrow amount.

C. Any sums remaining in the escrow shall be returned to the applicant upon the removal of the holding tank.

D. No interest shall be paid on escrow funds.

SECTION 7.

All holding tank systems shall have a minimum total liquid capacity of 2,000 gallons, and meet all requirements of PA Code, Title 25, Chapter 73 regarding construction, and must be installed in a manner which insures that they will not float when empty.

SECTION 8.

A. Every holding tank shall be equipped with an audible alarm system which will give warning when the tank is filled to seventy-five (75%) percent capacity.

B. Every holding tank shall be equipped with a visible alarm system which will give warning when the tank is filled to seventy-five (75%) percent capacity.

C. It shall be a violation of this Ordinance to shut off, tamper with or render an audible or visible alarm inoperative.

D. In the event the Sewage Enforcement Officer finds that either the alarm system on any holding tank has been tampered with or rendered inoperative, within three (3) days of the notice of discovery he shall notify the landowner, in writing, of the need to restore the system to proper working condition.

E. If the repairs are not completed within three (3) days of receipt of said notice, the Sewage Enforcement Officer shall use the escrow funds to cause the system to be restored.

SECTION 9.

The holder of a permit issued pursuant to this Ordinance shall:

- A. Notify the designated individual, firm or corporation responsible for the removal of holding tank contents at such time that the tank is filled to within seventy-five (75%) percent of capacity.
- B. Permit only the individual, firm or corporation designated in the application to remove holding tank contents.
- C. Cause the individual, firm or corporation designated in the application to remove holding tank contents to report to the Township, on Township supplied forms, a record of each pumping activity.

SECTION 10.

- A. Following the issuance of a permit pursuant to this Ordinance, the Sewage Enforcement Officer shall, from time to time, inspect the holding tank but not less frequently than once a year.
- B. In the event the Sewage Enforcement Officer finds the holding tank to be filled in excess of seventy-five (75%) percent of capacity, the permittee shall within ten (10) days after being billed therefore, pay to the Township an inspection fee in an amount periodically set from time to time by Resolution of the Board of Supervisors.
- C. In the event the Sewage Enforcement Officer finds that the holding tank is filled to more than eighty-five (85%) percent of capacity, he shall promptly make arrangements to have the holding tank pumped, and the cost of such removal shall be paid from the fund held in escrow. In the event the permit holder fails to pay the above referred inspection fee within the ten (10) day period, the Sewage Enforcement Officer may, in addition, revoke the permit issued pursuant to this Ordinance, and all amounts remaining in the escrow fund after payment of the inspection fee and payment of the cost of removal of the contents of the holding tank shall be forfeited to the Township.
- D. In the event that the permit issued pursuant to this Ordinance is revoked, the holding tank shall be removed within ten (10) days from the date of revocation notice of the permit.

SECTION 11.

- A. Whenever a holding tank's contents are pumped out, it shall be the responsibility of the individual, firm, or corporation designated in the application to provide pumping receipts to the Township.

SECTION 12.

- A. Permits issued under this Ordinance are not transferable.
- B. If the ownership of a property served by a holding tank is transferred, the subsequent (new) owner shall obtain a permit under this Ordinance prior to the transfer of title.
 - (1) Until such time as a permit is issued in the name of the new owner, the previous owner shall be responsible and liable for the operation and maintenance of the holding tank on the property in question.
 - (2) When the new owner makes the necessary application and escrow payments, and after transfer of title, any positive escrow account balance shall be refunded to the previous owner.
 - (3) Until any negative escrow account balance is paid, no new permit shall be issued and the previous owner shall be responsible and liable for the operation and maintenance of the holding tank.
 - (4) Prior to issuing a permit under this Ordinance to a new owner, the Sewage Enforcement Officer shall inspect the holding tank in the usual and customary manner, and any deficiencies found shall be corrected before the structure can be occupied or a new permit issued.

SECTION 13.

- A. Any individual, firm, association, corporation or entity violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a penalty in the amount of not less than one thousand dollars (\$1,000.00) for each and every offense. Each and every day that a violation of any of the provisions of this Ordinance occurs and each and every day that a holding tank remains erected, constructed, or installed without a permit having been issued pursuant to this Ordinance or after a permit has been revoked,

shall be considered a separate and distinct offense and shall be subject to separate and distinct penalties hereunder.

B. In addition to any other actions to obtain compliance, the Township may assess civil penalties as described in the Pennsylvania Sewage Facilities Act.

C. In addition to any other remedies provided in this Ordinance, any violation of this Ordinance shall constitute a nuisance and may be abated by the municipality or the Authority by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction.

SECTION 14.

No individual, firm, association, corporation or entity which owns property which is in violation of any of the provisions of this Ordinance shall be issued a permit to erect, construct, install or maintain a holding tank on a different property until any existing violation has been cured.

SECTION 15.

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect; and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 16.

The effective date of this Ordinance shall be five (5) days after the enactment.

ORDAINED AND ENACTED this 21st day of November, 2011.

CLINTON TOWNSHIP SUPERVISORS:

D. Mary Zerkel
Chairman

James B. Harbelaad
Vice-Chairman

[Signature]
Supervisor

ATTEST: I, Maggie Nelson, Secretary of the Township of Clinton, certify that the foregoing Ordinance 2011-06ORD, was adopted at the meeting of the Board of Supervisors of the Township of Clinton held at a special meeting held on November 21, 2011.

[Signature]
Maggie Nelson, Secretary

