

ORDINANCE 2013-3

AN ORDINANCE OF WESTTOWN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 132, SEWER SYSTEM COLLECTION AND CONVEYANCE REGULATIONS, BY ADDING NEW ARTICLE V, ON-LOT SEWAGE MANAGEMENT, OF THE CODE OF WESTTOWN TOWNSHIP.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that Chapter 132, Sewer System Collection and Conveyance Regulations, of the Code of Westtown Township, as amended, be amended as follows:

SECTION 1. Add new Article V, On-Lot Sewage Management, to read as follows:

§ 132-53. Short Title: Introduction; Purpose

- A. This Ordinance shall be known and may be cited as “An Ordinance providing for an On-Lot Sewage Management Program for Westtown Township.”
- B. In accordance with the Second Class Township Code (53 PS §65101, et seq.), the Clean Streams Law (Act of June 27, 1937, P.L. 1987, No. 394 as amended, 35 P.S. §§691.1 to 691.1001), and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. §750.1 *et seq.* known as Act 537), it is the power and the duty of Westtown Township to provide for adequate sewage treatment and disposal facilities and for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage. The Official Sewage Facilities Plan for Westtown Township indicates that it is necessary to formulate and implement a sewage management program to effectively prevent and abate water pollution and hazards to the public health caused by improper treatment and disposal of sewage.
- C. The purpose of this ordinance is to provide for the regulation, inspection, maintenance and rehabilitation of On-lot Sewage Disposal Systems; to further allow intervention in situations which may constitute a public nuisance or hazard to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

§ 132-54. Definitions

- A. Act 537: The Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.1 et seq., known as the “Pennsylvania Sewage Facilities Act.”
- B. Authorized Agent: A person with demonstrated knowledge and experience regarding On-lot Sewage Disposal System design, operation, and maintenance who is authorized to function within specified limits as an agent of Westtown Township to administer or enforce the provisions of this Ordinance.
- C. Board: The Board of Supervisors, Westtown Township, Chester County, Pennsylvania.

- D. Community Onlot Sewage System: A sewage system which serves two or more lots, or two or more equivalent dwelling units, and uses a system of piping, tanks, or other facilities for collecting, treating, and disposing of sewage into a soil absorption area, retaining tank, or cesspool.
- E. Department: The Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).
- F. Individual Residential Spray Irrigation System (IRSIS): An individual sewage system which serves a single dwelling and which treats and disposes of sewage through using a system of piping, treatment tanks, and soil renovation through spray irrigation.
- G. Individual Onlot Sewage System: A sewage system which serves a single lot and a single equivalent dwelling unit, and uses a system of piping, tanks, or other facilities for collecting, treating, and disposing of sewage into a soil absorption area, spray field, retaining tank, or cesspool.
- H. Initial Treatment Unit: Term used to describe the on-lot disposal system receiving unit to which sewage is delivered from a sewage generating facility. The term includes, but is not limited to, septic tanks, aerobic treatment units, and cesspools.
- I. Liquid Waste: Septage pumped from septic tanks, cesspools, holding tanks, privies, or chemical toilets which does not include any toxic, industrial, or hazardous wastes.
- J. Liquid Waste Hauler: Any person engaged in the business of pumping and transporting liquid waste within Chester County using vehicles licensed by the Chester County Health Department.
- K. Lot: A parcel of land, undivided by any street or dedicated future street right-of-way. Such parcel shall be separately described by metes and bounds, the description of which is recorded in the office of the Recorder of Deeds of Chester County by deed description or is described by an approved subdivision plan recorded in the office of the Recorder of Deeds of Chester County.
- L. Maintenance Contractor: A private independent contractor who has been given training by the original equipment manufacturer on the operations of applicable sewage system components, has been authorized by the manufacturer to service said components, or has demonstrated technical expertise in the field of on-lot sewage system maintenance. All Maintenance Contractors shall be approved by the Township to provide such maintenance services within the borders of the Township.
- M. Malfunction: A condition which occurs when an On-Lot Sewage Disposal System discharges sewage onto the surface of the ground, into ground waters of this Commonwealth, into surface waters of this Commonwealth, backs up into a building connected to the system or in any manner causes a nuisance or hazard to the public health

or pollution of ground or surface water or contamination of public or private drinking water wells. Systems shall be considered to be malfunctioning if any condition noted above occurs for any length of time during any period of the year.

- N. Retaining Tank: A watertight receptacle that receives and retains sewage and is designed and constructed to facilitate the ultimate disposal of the sewage at another site. This term is synonymous with the term Holding Tank.
- O. Official Sewage Facilities Act 537 Plan: A comprehensive plan for the provisions of adequate sewage disposal systems, adopted by the Board and approved by the Pennsylvania Department of Environmental Protection, pursuant to the Pennsylvania Sewage Facilities Act.
- P. On-Lot Sewage Disposal System: Any Community Onlot Sewage System or Individual Onlot Sewage System as defined herein.
- Q. 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 Commonwealth, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term "person" shall include 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.
- R. Rehabilitation: Work done to modify, alter, repair, enlarge or replace an existing On-Lot Sewage Disposal System.
- S. Septage: The residual scum, sludge, and other materials pumped from, but not limited to, Initial Treatment Units, other treatment tanks, Retaining Tanks, pump tanks, and the systems they serve.
- T. Sewage: 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 substances 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 Act of June 22, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law," as amended.
- U. Sewage Enforcement Officer (SEO): A person certified by DEP who is employed by the Chester County Health Department. Such person is authorized to conduct investigations and inspections, review permit applications, and do all other activities as may be provided for such person in the Sewage Facilities Act, the rules and regulations promulgated thereunder and this or any other ordinance adopted by the Township or Chester County Health Department.

V. Sewage Management Program: A comprehensive set of legal and administrative requirements encompassing the requirements of this ordinance, the Sewage Facilities Act, the Clean Streams Law, the regulations promulgated thereunder and such other requirements adopted by the Board to effectively enforce and administer this Ordinance.

W. Township: The Township of Westtown, Chester County, Pennsylvania.

The definition of any term defined herein is specific to this Article. Any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and Regulations promulgated thereto, also solely for the purposes of this ordinance.

§ 132-55. Applicability

A. From the effective date of this ordinance, its provisions shall apply to all portions of the Township served by On-Lot Sewage Disposal Systems. Within such an area or areas, the provisions of this ordinance shall apply to all persons owning any property serviced by an On-Lot Sewage Disposal System and to all persons installing or rehabilitating On-Lot Sewage Disposal Systems.

§ 132-56. Permit Requirements

A. No building permit shall be issued for a new building which will utilize an On-lot Sewage Disposal System until an On-lot Sewage Disposal System permit has been issued by the Chester County Health Department SEO. Proof of On-lot Sewage Disposal System permit issuance shall be presented to the Township in the form of a properly executed permit signed by the Chester County Health Department SEO.

B. No occupancy permit shall be issued for a new building which will utilize an On-lot Sewage Disposal System until the sewage disposal system has been installed and the completed installation is approved by the Chester County Health Department SEO. Proof of On-Lot Sewage Disposal System final installation approval shall be presented to the Township in the form of a properly executed permit signed by the Chester County Health Department SEO.

C. No building or occupancy permit shall be issued for and no work shall begin on any alteration or conversion of any existing structure if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure, until either the structure's owner receives a permit from the Chester County Health Department SEO for alteration or replacement of the existing sewage disposal system or until the structure's owner and the appropriate officials of the Township receive written notification from the Chester County Health Department SEO that such a permit will not be required. The Chester County Health Department SEO shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

D. Sewage permits may be issued only by a Sewage Enforcement Officer employed by the Chester County Health Department.

§ 132-57. Inspections

A. Initial inspections.

1. Each person owning a building served by an On-Lot Sewage Disposal System shall employ a Maintenance Contractor to complete an initial inspection for the purpose of determining the type, condition, and maintenance needs of each On-lot Sewage Disposal System. All such inspections shall be completed within three (3) years of the effective date of this ordinance, although the Board may define subsets of the Township where initial inspections shall be completed in shorter prescribed periods in order to facilitate administration.
2. Initial inspections may be conducted concurrent with the pumping requirements of §132-59.A or §132-59.B, as applicable.
3. A written inspection report signed by the Maintenance Contractor shall be furnished to the Township by the person owning the property served by the On-Lot Sewage Disposal System within thirty (30) days of the inspection. All written inspection reports shall be on a form provided by the Township.
4. Initial inspection requirements may be waived for the following conditions:
 - a. A new system has been installed in accordance with all Chester County Health Department and DEP standards within one year prior to the effective date of this ordinance. Copies of all approved Chester County Health Department permit data, including plot plan, as-built plot plan, design specifications, and installation inspection reports must be submitted to the Township by the property owner to qualify for a waiver from the initial inspection requirements.
 - b. A property owner has applied for a Chester County Health Department permit to repair a Malfunctioning On-Lot Sewage Disposal System but no repair was deemed possible by the Health Department. Copies of all Chester County Health Department documentation, including the permit application form, soils testing field reports, and a written determination from the Health Department that no repair is possible must be submitted to the Township by the property owner to qualify for a waiver from the initial inspection requirements. Any such waiver will not absolve the property owner from the responsibility to maintain the On-Lot Sewage Disposal System in a manner to prevent Malfunction, including frequent pumping, water conservation, or any other means deemed acceptable by the Chester County Health Department. The property owner shall further assume an ongoing responsibility to revisit options for repair of the On-Lot Sewage Disposal System with the Chester County Health Department at least annually in order to determine whether any new technologies may have approved by DEP which would allow for permit issuance to repair the On-Lot Sewage Disposal System.

B. Routine inspections.

1. Each person owning a building served by an On-Lot Sewage Disposal System shall employ a Maintenance Contractor to complete routine inspections for the purpose of evaluating ongoing condition and maintenance needs of each On-lot Sewage Disposal System in the Township.
2. Routine inspections shall be completed every three (3) years after the date of initial inspection, the date of a new On-lot Sewage Disposal System installation pursuant to §132-57.A.4.a, or the date of any waiver granted pursuant to §132-57.A.4.b, as applicable. Routine inspections shall also be completed every three (3) years after final installation approval by the Chester County Health Department SEO for all On-lot Sewage Disposal Systems constructed after the effective date of this ordinance.
3. Routine inspections may be conducted concurrent with the pumping requirements of §132-59.A or §132-59.B, as applicable.
4. A written inspection report signed by the Maintenance Contractor shall be furnished to the Township by the Person owning the property served by the On-Lot Sewage Disposal System within thirty (30) days of the inspection. All written inspection reports shall be on a form provided by the Township.

§ 132-58. Operation

- A. Only normal domestic wastes shall be discharged into any On-Lot Sewage Disposal System. The following shall not be discharged into the System:
1. Industrial waste.
 2. Automobile oil and other non-domestic oil.
 3. Toxic or hazardous substances or chemicals, including but not limited to, pesticides, disinfectants (excluding household cleaners), acids, paints, paint thinners, herbicides, gasoline and other solvents.
 4. Clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps, french drains, air conditioner condensate discharges, and dehumidifier discharges.
 5. Wastewater resulting from hair treatment at a multi-chaired beauty shops.
 6. Any non-biodegradable materials.
- B. The Township may require other operation or maintenance procedures to ensure proper On-Lot Sewage Disposal System performance.

§ 132-59. Maintenance

- A. Each person owning a building served by an On-Lot Sewage Disposal System shall have the Initial Treatment Unit pumped within three years of the effective date of this ordinance by a Chester County Health Department licensed Liquid Waste Hauler. Thereafter, the property owner shall have the System pumped at least once every three

years. Receipts from the Chester County Health Department licensed Liquid Waste Hauler shall be submitted by the property owner to the Township within the prescribed pumping periods.

- B. The required pumping frequency may be modified at the discretion of the Board of Supervisors or the Township's Authorized Agent if the Initial Treatment Unit is undersized, if an inspection reveals solids or scum in excess of 1/3 of the liquid depth of the Tank, if the hydraulic load on the system increases significantly above average, if a garbage grinder is used in the building, if the system malfunctions or for other good cause shown.
- C. All On-lot Sewage Disposal System pumping shall be performed in accordance with Chapter 504 of the Chester County Health Department regulations and shall also conform to the following minimum standards, unless other standards are specified by an equipment manufacturer:
 - 1. At all times, the pumper truck operator's personal safety, as well as protection of the environment and the landowner's property, shall receive the highest priority.
 - 2. Initial Treatment Units shall only be pumped from or through the manhole or access port (i.e., the largest tank opening).
 - 3. Initial Treatment Units shall not be pumped from or through the observation or inspection port.
 - 4. When necessary to break up solids, backwashing with clean water or material of a similar nature already on board the pumper truck may be employed. Mechanical means (scraping, raking, etc.) are not necessary but may be employed, provided that appropriate safeguards are taken to prevent injury.
 - 5. When backwashing, care shall be taken not to fill or refill the Initial Treatment Units to a level greater than 12 inches below the elevation of the outlet pipe, where applicable.
 - 6. No liquids or solids are to be discharged into or through the outlet pipe, where applicable.
 - 7. Initial Treatment Units shall be deemed to be cleaned when all organic solids are removed and the total average liquid depth remaining is less than one inch.
 - 8. At all times, and in all phases of operations, the Liquid Waste Hauler shall comply with all laws and regulations regarding the activities associated with On-Lot Sewage Disposal System maintenance and disposal of materials removed therefrom.
- D. Any person owning a building served by an On-Lot Sewage Disposal System which utilizes any components or technologies deemed by DEP to require more detailed operation and maintenance requirements than provided for in this ordinance, including but not limited to Individual Residential Spray Irrigation Systems (IRSIS), Alternate Systems, or Experimental Systems shall be further subject to the maintenance responsibilities recommended by DEP for said system. The Township may impose additional requirements as deemed necessary to provide for the increased oversight inherent in these cases, including but not limited to collection of an annual fee and additional financial security.

- E. Surface contouring shall be required as necessary to direct surface water and drainageways away from all components of On-Lot Sewage Disposal Systems.
- F. Additional maintenance activity may be required as needed including, but not limited to, providing reasonable access to Initial Treatment Unit, cleaning and unclogging of piping, servicing and the repair of mechanical and electrical equipment, leveling of distribution boxes, tanks and lines, removal of obstructing roots or trees, etc.

§ 132-60. System Rehabilitation

- A. No person shall operate or maintain an On-lot Sewage Disposal System in such a manner to constitute a Malfunction. Any suspected Malfunction shall be reported to the Chester County Health Department SEO, who shall make a final determination as to functional status and rehabilitation measures required. Any person owning a building served by an On-lot Sewage Disposal System determined to be in a state of Malfunction by the Chester County Health Department SEO shall perform all corrective measures required by the SEO to abate the Malfunction. The Chester County Health Department SEO shall have the authority to require abatement of any Malfunction by the following methods: cleaning, repair or replacement of components of the existing system, adding capacity or otherwise altering or replacing the system's Initial Treatment Unit, expanding the existing disposal areas, replacing the existing disposal area, replacing the system with a Retaining Tank, frequent pumping, or any other alternative appropriate for the specific site.
- B. In the event other remedies described in this Section fail to abate a Malfunction, the Chester County Health Department's Sewage Enforcement Officer and/or the Township's Authorized Agent may require the installation of water conservation equipment and the institution of water conservation practices in structures served. Water using devices and appliances in the structure may be required to be retrofitted with water saving appurtenances or they may be required to be replaced by water conserving devices.
- C. Should none of the remedies described in this Section be totally effective in eliminating the Malfunction of an existing On-Lot Sewage Disposal System, the property owner is not absolved of responsibility for that Malfunction. The Township and the Chester County Health Department may require action by the property owner to lessen or mitigate the Malfunction to the extent necessary.
- D. There may arise geographic areas where numerous On-Lot Sewage Disposal Systems are known or are suspected to be in a state of Malfunction. A resolution of these area-wide problems may necessitate detailed planning and a revision to the portion of the Sewage Facilities Plan pertaining to areas affected by such Malfunctions. When a DEP authorized Official Sewage Facilities Plan Revision has been undertaken, mandatory repair or replacement of individual malfunctioning sewage disposal systems within the area affected by the revision may be delayed, pending the outcome of the plan revision process. However, immediate corrective action may be compelled whenever a Malfunction, as determined by the Chester County Health Department and/or the Department, represents a serious public health or environmental threat.

§ 132-61. Retaining Tanks

- A. Retaining Tanks shall only be utilized as a remedy for a Malfunctioning On-Lot Sewage Disposal System when it has been determined by the Chester County Health Department SEO and the Township that no other remedy is viable.
- B. Where no On-Lot Sewage Disposal System Malfunction has been identified by the Chester County Health Department, the use of Retaining Tanks shall be subject to approval by the Board, the Chester County Health Department, and DEP. Board approval shall be further predicated upon a satisfactory operation and maintenance agreement specific to each use, to which both the Township and the property owner shall be party. The Township may impose additional requirements as deemed necessary, including but not limited to collection of financial security and an annual fee.
- C. Retaining Tank installation and use shall be subject to all the requirements of Pa Code Title 25, Chapter 71.63 (relating to Retaining Tanks) and the requirements of the Chester County Health Department.
- D. Any person owning a building served by a Retaining Tank shall annually provide to the Township a copy of a maintenance contract with a Liquid Waste Hauler licensed by the Chester County Health Department. The contract shall provide for regular removal of the Retaining Tank contents in accordance with Section 11 and with a frequency sufficient to prevent the contents from overflowing on the ground surface. The contract shall also specify the Chester County Health Department license number of the Liquid Waste Hauler and the disposal site(s) of the Retaining Tank contents.
- E. Retaining tank use shall be further subject to the provisions of the Code of the Township of Westtown, Chapter 132, Article II which governs holding tank use.

§ 132-62. Liens

- A. The Township, upon written notice from the Chester County Health Department's Sewage Enforcement Officer that an imminent health hazard exists due to failure of property owner to maintain an On-Lot Sewage Disposal System, shall have the authority to perform, or contract to have performed, the work required by the Chester County Health Department's Sewage Enforcement Officer. The owner shall be charged for the work performed and, if necessary, a lien shall be entered therefor in accordance with applicable law.

§ 132-63. Disposal of Septage

- A. All Septage originating within the Sewage Management District shall be disposed of in accordance with the requirements of the Solid Waste Management Act (Act 97 of 1980, 35 P.S. §§6018.101 et seq.) and all other applicable laws and at sites or facilities approved by DEP.

- B. Pumper/haulers operating within the Township shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35 P.S. §§6018.101–6018.1003), all other applicable laws, and Chester County Health Department regulations.

§ 132-64. Administration

- A. The Township shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this ordinance.
- B. The Township shall employ or contract with qualified individuals to carry out the provisions of this ordinance. Those employees and/or contractors shall include an Authorized Agent and may include an administrator and such other persons as may be necessary. The Township may also contract with private qualified persons or firms as necessary to carry out the provisions of this ordinance.
- C. The Township's Authorized Agent shall have the right to enter upon land for the purpose of administering the provisions of this ordinance. The Township shall provide a written notice to the property owner no less than fourteen (14) days prior to any entry upon property for these purposes, unless the Township, Chester County Health Department or DEP has determined that potential an imminent public health hazard exists, in which case the Township may conduct such actions at any reasonable time. The Township's Authorized Agent shall have a photographic proof of identification and shall present same to the property owner upon request whenever entering upon land to administer the provisions of this ordinance.
- D. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the Sewage Management Program shall be made available for inspection consistent with the provisions of the Open Records Law.
- E. The Board shall establish all administrative procedures necessary to properly carry out the provisions of this Ordinance.
- F. The Board may by resolution establish a fee schedule, and authorize the collection of fees, to cover the cost to the Township of administering this Ordinance.

§ 132-65. Appeals

- A. Appeals from final decisions of the Township or any of its Authorized Agents under this Ordinance shall be made to the Board in writing within thirty (30) days from the date of written notification of the decision in question.
- B. The appellant shall be entitled to a hearing before the Board at its next regularly scheduled meeting, if a written appeal is received at least fourteen (14) days prior to that meeting. If the appeal is received within fourteen (14) days of the next regularly scheduled meeting, the appeal shall be heard at the following regularly scheduled meeting. The Board shall thereafter affirm, modify, or reverse the aforesaid decision. The hearing may be postponed

for a good cause shown in writing by the appellant or the Township. Additional evidence may be introduced at the hearing provided that it is submitted with the written notice of appeal.

- C. A decision shall be rendered in writing within thirty (30) days of the date of the hearing.
- D. Hearings under this subsection shall be conducted pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353) known as the "Pennsylvania Local Agency Act".

§ 132-66. Penalties

A. In addition to a proceeding under any other remedy available to the Township at law or in equity for a violation of any provision of this Ordinance or any rule or regulation promulgated under this Ordinance or any order issued by the Township or any permit issued by the Chester County Health Department and/or the Township pursuant to this Ordinance, the Township, after notices and hearing, may assess a civil penalty against any person for that violation. All proceedings by the Township to impose civil penalties pursuant to this section shall be governed in all respects by the provisions of §13.1 of Act 537 (35 P.S. §750.13a) which are incorporated herein by reference in their entirety.

SECTION 2. If any sentence, clause, section or part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 3. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

SECTION 4. This amendment shall take effect and be in full force and effect 5 days from and after the date of its final passage and adoption.

ENACTED AND ORDAINED this _____ day of _____, 2013.

WESTTOWN TOWNSHIP
BOARD OF SUPERVISORS

Attest:

Thomas F. Haws, Chair

Secretary

Carol R. DeWolf, Vice-Chair

Charles P. Barber