

**WEST CALN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2 of 2021

AN ORDINANCE ESTABLISHING A SEWER MANAGEMENT PROGRAM FOR INDIVIDUAL AND COMMUNITY ON-LOT DISPOSAL SYSTEMS WITHIN WEST CALN TOWNSHIP.

WHEREAS, pursuant statutory authority granted the Township in the Pennsylvania Sewage Facilities Act, 35 P.S. 750. 1, et seq., ("the Act"), as implemented by and through the regulations issued by the Pennsylvania Department of Environmental Protection, Title 25, Chapters 71, 72 and 73, to take actions necessary to assure continued compliance of sewage facilities with the Act, the Clean Streams Law and regulations promulgated hereunder, the Board of Supervisors of West Caln Township have determined to update their Act 537 Plan which includes adopting of an updated ordinance; and

WHEREAS, the Board of Supervisors have also determined to repeal any and all sewage ordinances previously adopted by the Township which may conflict with the new ordinance provisions being adopted herein, including the previously adopted Waste Disposal Ordinance of West Caln Township of 1983.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of West Caln Township that the following ordinance entitled the "West Caln Township Sewage Management Program Ordinance" is adopted as follows:

**"WEST CALN TOWNSHIP
SEWAGE MANAGEMENT PROGRAM ORDINANCE"**

1. Purpose and Intent.

The purpose and intent of this Ordinance includes:

- a) Fulfilling the regulatory requirement for the Township to establish a routine observation, reporting and pumping program for all individual and community sewer systems within the Township;
- b) Fulfilling the regulatory requirement for the Township to develop an inventory of the individual and community sewer systems within the Township;

- c) The establishment of a continuing education program to promote the proper use, operation, and maintenance of all individual and community sewer systems;
- d) The establishment of proper operation and maintain requirements for all individual and community sewer systems;
- e) The establishment of a registration program for companies that perform the required pumping, observation and reporting of individual and community sewer systems within the Township;
- f) The establishment of enforcement and violation procedures to repair malfunctioning individual and community sewer systems within the Township; and
- g) To clarify that retaining tanks (holding tanks) are not governed under this Ordinance but rather are governed and regulated by West Caln Township Ordinance No. 1, 2008 enacted June 9, 2008.
- h) To clarify that the observations or pumping required by this ordinance does not replace or relieve the property owner of any other inspections required by other governmental bodies or licensing agencies.

2. Terms and Definitions.

The following words and terms when used in the Ordinance shall have the following meanings:

- a) Absorption Area – The component of the Sewer System where liquid from a treatment tank seeps into the soil; it consists of an aggregate-filled area containing piping for the distribution of the liquid and to the soil or sand/soil combination located beneath the aggregate.
- b) Authorized Agent – A person with demonstrated knowledge and experience regarding Individual and Community Sewer System design, operation and maintenance who is authorized to function within specified limits as an agent of the Township to administer and enforce the provisions of this Ordinance.
- c) Building Sewers - Pipe carrying liquid wastes from a building to the treatment tank or cesspool.
- d) 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.

- e) Individual Sewage System – A system of piping, tanks and other facilities 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 of conveyance to another site for final disposal.
- f) Local Agency – The Chester County Health Department.
- g) Malfunction – The condition that occurs when any individual and community sewer system pollutes ground or surface waters; contaminates private or public drinking water supplies; creates a nuisance or a hazard to public health.
- h) Owner – Any person, corporation, partnership, etc. holding deed, or title to lands within the Township.
- i) Onsite System Service Provider – Any Township registered individual, agent, or employee of any proprietorship, partnership, or corporation that performs the observation, reporting and pumpings of an Individual or Community Sewer Systems, and must be licensed by CCHD as Liquid Waste Haulers.
- j) PA DEP / the Department – The Department of Environmental Protection for the Commonwealth of Pennsylvania.
- k) Repair – Work done to modify, alter, rehabilitate or enlarge an Individual or Community Sewage System.
- l) Septage – The scum, sludge, liquid, and other material pumped from a septic tank, or any other treatment tank.
- m) Sewage – A substance that contains waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation. The term includes any substance, which constitutes pollution to the waters of the Commonwealth under the Clean Streams Law (35 P.S. §691.1 - 691.1001).
- n) 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 under this Ordinance or any other ordinance adopted by the Township or the Chester County Health Department.

- o) Sewage Facilities – Any method of sewage collection, conveyance, treatment, and disposal that is intended to prevent the discharge of untreated or inadequately treated sewage into the waters of this Commonwealth, or otherwise provide for the safe treatment and disposal of sewage or other waste. Sewage facilities include both Individual or Community Sewage Systems and those systems that convey sewage across municipal boundaries for ultimate treatment by others.
- p) Treatment Tank – A watertight tanks designed to retain sewage long enough for satisfactory bacterial decomposition of the solids to take place. The term includes the following:

Septic tank – A treatment tank that provides solids separation and anaerobic decomposition of sewage solids prior to discharge to the absorption area.

Aerobic sewage treatment tank / Aerobic treatment unit (ATU) – A mechanically aerated tank that provides aerobic biochemical treatment and solids separation of sewage prior to discharge to the absorption area.

3. Permit Requirements.

- a) No building permit shall be issued for a new building which will utilize an Individual or Community Sewer System until Act 537 planning approval or a waiver from planning has been issued by the Department and the appropriate permit has been issued by the Local Agency. Proof of sewage system permit issuance shall be presented to the Township in the form of a properly executed permit signed by the Local Agency.
- b) No occupancy permit shall be issued for a new building which will utilize an Individual or Community Sewer System until the sewage disposal system has been installed and the completed installation is approved by the Local Agency. 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 Local Agency.
- c) No building or occupancy permit shall be issued 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 Local Agency 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 Local Agency that such a permit will not be required. The Local Agency 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 the Local Agency.

4. Observations.

a) Any Individual or Community Sewer System may be observed by the Township's Authorized Agent, Onsite System Service Provider or the Local Agency at any reasonable time as of the effective date of this Ordinance.

b) Such inspection may include a physical tour of the property and examination of any or all Individual or Community Sewer System components for the purpose of identifying maintenance needs.

c) An Authorized Agent shall have the right to enter upon land for the purposes of observations described in this section, after notice to the property owners.

5. Operation.

a) Only normal domestic wastes shall be discharged into any Individual or Community Sewer System. The following shall not be discharged into the system:

1. Industrial waste.
2. Automobile oil and other nondomestic 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 water or groundwater, including water from roof or cellar drains, springs, basement sump pumps and french drains.
5. Wastewater resulting from hair treatment at a multi-chaired beauty shop.
6. Any nonbiodegradable materials.

b) The Township may require the installation of water-conservation devices and other operation or maintenance procedures to improve sewage disposal system performance.

6. Onsite System Service Providers Responsibilities.

- a) At least 7 days before offering services to homeowners, as described in the following sections of this Ordinance, the Onsite System Service Providers shall:
 - 1. Register with the Township and comply with all reporting requirements described herein;
 - 2. Unless prohibited by law, pay an annual registration fee of fifty dollars (\$50.00) which fee may be altered by future resolutions passed by the Board of Supervisors;
 - 3. Have successfully completed the On-lot Wastewater Treatment System Inspector program of the National Onsite Education and Research Foundation or the Pennsylvania Septage Management Association and be so certified;
 - 4. Have at least three (3) years of experience pumping and maintaining Individual or Community Sewage Systems and shall provide proof of professional liability insurance meeting the minimum Township standards;
 - 5. Identify all employees/owners and vehicles that will provide these services in the Township; and
 - 6. Provide a fee schedule for all services required under this Ordinance.
- b) In the event an Onsite System Service Provider detects conditions that indicate a malfunction they shall immediately notify the Sewage System Owner.
- c) Onsite System Service Providers shall upload reports within two (2) working days in a form acceptable to the Township after performing any type of service, installation, repair, maintenance, operation, or inspection.
- d) All Onsite System Service Providers who provide septage pumping services in the Township shall also be licensed by the Chester County Health Department.
- e) The pumping of Individual or Community Sewage Systems in the Township shall be done in accordance with the Pennsylvania Septage Management Association's Tank Pumping protocol.

7. Individual or Community Sewage System Owner's Responsibilities.

- a) General Responsibilities. The owner of a property served by an Individual or Community Sewage System shall be solely responsible for the following:
 - 1. For any and all costs associated with the operation of their Individual or Community Sewage System;

2. To assure that the Individual or Community Sewage System is operated in the manner for which it was designed and intended;
 3. To assure that there is no discharge or disposal of any material or substance into the system in any quantity or concentration that would cause the system harm or to otherwise not function as intended;
 4. To maintain the Individual or Community Sewage System in such a condition as will permit it to function and prevent the unlawful discharge of sewage;
 5. To maintain the area around such system to provide convenient access for inspection, maintenance, and pumping, and divert surface water and downspouts away from the Absorption Area, Treatment Tanks and other system components and;
 6. In the event a landowner detects or becomes aware of conditions that indicate or could reasonably be interpreted to indicate a malfunction, the landowner shall contact the Local Agency and, if repair or replacement is necessary, apply for a permit to repair or replace the malfunctioning system. Landowners who disclose to the Local Agency the presence of a malfunction upon their lands shall not be penalized for the disclosure. If a landowner who has disclosed the presence of a malfunction fails to make voluntary repairs, the Township may seek injunctive or other relief to compel the repair of the malfunction or cause the repair to be effectuated and file a lien against the property to recoup costs incurred if necessary.
- b) Minimum operation and maintenance requirements shall include but are not limited to:
1. The observation of the Sewage Facilities within one growing season of receiving notification as described in Paragraph 8 unless it can be shown that the Sewage Facilities were observed and septage removed as detailed in this ordinance not more than three years prior to the effective date of this ordinance.
 2. The removal of septage or other solids from treatment and other storage tanks once every three (3) years, or when notified after an observation that it appears that settled or floatable solids are in excess of 1/3 the storage capacity of the tank.
 3. The recommendations of the manufacturer of any system component.
 4. For holding tank requirements, refer to West Caln Township Ordinance No. 1, 2008 enacted June 9, 2008.

8. Notification of Required Observation.

- a) Within three (3) months after of the adoption of this Ordinance the Township will notify all property owners with Individual or Community Sewage Systems in the Township to have their Individual or Community Sewage System observed and pumped in accordance with the SMP Districting Map on file at the Township.
- b) Property owners shall be notified by U.S. Mail at the address indicated on the records from the County Tax Assessment Office or Township address records, that they have one (1) year to have their Individual or Community Sewage Systems observed.
- c) Observations of Individual or Community Sewage Systems shall be completed by an Onsite System Service Provider of the property owner's choosing, at the property owner's sole expense.
- d) Observation of the Individual or Community Sewage System shall include all items listed on the Township approved checklist, and recording and reporting of:
 - 1. Defective Treatment Tank components (lids, baffles, dividers, etc.);
 - 2. Defective dosing and distribution components (laterals, distribution boxes, pumps, etc.);
 - 3. Defective Absorption Areas (trenches, beds, subsurface sand filters, sand mounds, etc.);
 - 4. Before pumping note the water-level above outlet pipe;
 - 5. Following or during pumping note backflow from the Absorption Area;
 - 6. Inflow from buildings(s) served to verify connection to buildings;
 - 7. Surface discharge, ponding or other signs of malfunction in the vicinity of the Absorption Area; and
 - 8. Surface contouring around Treatment Tanks and Absorption Areas.

9. Observation Requirements.

All Onsite System Service Providers shall upload the completed Township approved checklist into the Township approved database within two (2) business days upon completion of such service. The report shall contain, at a minimum, the following:

- a) The weather and soil condition at the time of observation;
- b) Information regarding the lot and dwelling size;

- c) Information regarding the condition and functioning of the Treatment Tanks, distribution system and Absorption Area. Identify and report if any untreated or partially treated sewage is being discharged into waters of the Commonwealth, onto the ground, or backing up into a structure;
- d) Verification and recording that surface contouring and other measures are consistent with 25 Pa. Code Chapter 73, to divert stormwater away from Treatment Tanks and Absorption Areas and to protect Absorption Areas from physical damage. Identify and report any inconsistency; and
- e) The recording of any other observations made associated with the proper operation and maintenance of the Individual or Community Sewer System.

10. System Rehabilitation.

- a) Whenever any inspection or observation reveals a suspected malfunction, the Township shall convey all pertinent information to the Local Agency, who shall make a final determination as to functional status and rehabilitation measures required. Any person owning a building served by an Individual or Community Sewer System determined to be in a state of malfunction by the Local Agency shall perform all corrective measures required by the SEO to abate the malfunction. The Local Agency 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 lieu of, or in combination with, the remedies described in this section, the Local Agency and/or the 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 whatever action is necessary to lessen or mitigate the malfunction to the extent necessary.

- d) There may arise geographic areas where numerous Sewer Systems are known or are suspected to be malfunctioning. 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 PA 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 PA DEP, represents a serious public health or environmental threat.

11. Continuing Education.

- a) The Township shall maintain a website dedicated to community affairs. The website shall provide educational materials related to Individual or Community Sewage Systems, their operation and related maintenance. Information will be updated annually.
- b) The Township shall hold public meetings, annually, for three (3) years after the adoption of this Ordinance to educate the public with regard to the operation and maintenance of Individual or Community Sewage Systems.
- c) The Township shall annually publish and post on the Township's website a list of all registered Onsite System Service Providers.

12. Administration.

- a) The Township shall fully utilize those powers it possesses through enabling statutes and ordinances to affect the purposes and intent of this Ordinance.
- b) The Township shall use qualified individuals to carry out the provisions of this Ordinance. Those qualified individuals may 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) All records, reports, files and other written materials relating to the inspection, operation and maintenance of Individual or Community Sewer Systems in the Township shall become the property of, and be maintained by, the Township. All records pertaining to sewage permits, building permits, occupancy permits

and all other aspects of the sewage management program shall be made available, upon request, for inspection by representatives of the Department.

- d) The Board of Supervisors shall establish all administrative procedures necessary to properly carry out the provisions of this Ordinance.
- e) The Board of Supervisors may establish a fee schedule, and authorize the collection of fees, to cover the cost to the Township of administering this Ordinance, consistent with local municipal code.

13. Liens.

- a) The Township, upon written notice from an Authorized Agent or from the Local Agency that an imminent health hazard exists due to failure of the property owner to maintain an Individual or Community Sewer System as provided under the terms of this Ordinance, shall have the authority to perform, or contract to have performed, the work required by the Authorized Agent or 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 law.

14. Violations – Penalties – Suspensions.

- a) It shall be illegal for any Onsite System Service Provider to fail to file the necessary reports in the manner previously specified.
- b) Any person who violates or permits the violation of any provision of this Ordinance shall, upon conviction thereof in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be found guilty of a summary offense, and shall be subject to a fine of not less than \$600 and not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term of not more than thirty (30) days. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of a violation may be punished as provided above for each separate offense. All fine and penalties collected for violation of this Ordinance shall be paid to the Township Treasurer.
- c) Any business which has been convicted on two (2) previous occasions for violations of this Ordinance, or which fails to comply with any of the provisions of this Ordinance, or which violates the conditions of its DEP permit relating to the handling, treatment or disposition of septage materials, or of any State law or municipal ordinance governing its operation, shall be barred from operating

within the Township for a period of not less than six (6) months nor more than two (2) years, as determined by the Board of Supervisors or their authorized agent.

- d) In addition to any other actions to obtain compliance, the Township may assess civil penalties as described in the PA Sewage Facilities Act.

15. Severability.

The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect the validity of any of the remaining provisions of the Ordinance.

16. Repealer.

All other ordinances or articles of ordinances inconsistent herewith are hereby repealed, including the previously adopted Waste Disposal Ordinance of West Caln Township of 1983.

ENACTED AND ORDAINED this 14th day of April, 2021.

ATTEST:

**WEST CALN TOWNSHIP
BOARD OF SUPERVISORS**

Township Manager

Allen R. Martin, Chairman

Donald W. Martz, Vice Chairman

Joseph G. Hutton, Member