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WEST CALN TOWNSHIP
ORDINANCE NO. 11, 2008

**ORDINANCE PROVIDING FOR THE TERMS AND CONDITIONS TO PERMIT
A WASTEWATER COLLECTION AND HOLDING TANK TO SERVICE REAL
PROPERTY IN WEST CALN TOWNSHIP**

WHEREAS, because of physical limitations, certain buildings within West Caln Township are unable to be provided with conventional or other in-ground sanitary sewer systems;

AND WHEREAS, in certain circumstances it is appropriate to provide wastewater and sewage disposal facilities to such properties through the use of a holding tank;

AND WHEREAS, the Board of Supervisors desires to set forth the conditions upon which the Township will agree to the use of a holding tank as the means of wastewater and sewage collection for such properties;

AND WHEREAS, the Board of Supervisors believes and declares that the enactment of this Ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of the Township.

NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED, by the Board of Supervisors of West Caln Township, Chester County, Pennsylvania as follows:

1. Any property owner who desires to apply for a sanitary permit for the utilization of a holding tank or tanks in connection with real property within the Township of West Caln shall do so only upon the following conditions:
 - (a) A sewage disposal permit for on-site sewage disposal cannot be obtained pursuant to applicable sewage disposal regulations.
 - (b) The property to be served must be for existing uses and the disposal system has failed or the property is currently vacant and will be used only for a permitted use in accordance with current zoning. A community sewer system is not available to serve the property.
 - (c) The property conforms to the Zoning Ordinance, is nonconforming or a variance or special exception has been obtained.

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2. Subject to the foregoing conditions, the property owner shall utilize a holding tank only as set forth below:

- (a)
 - (i) The holding tank and its use shall comply with all applicable Statutes, Ordinances, rules and regulations of applicable authorities, including, but not necessarily limited to, the Chester County Health Department and the Pennsylvania Department of Environmental Protection.
 - (ii) The property owner shall receive a Holding Tank Permit from the Chester County Health Department. If not required by the terms of the Holding Tank Permit, the holding tank shall be equipped with an alarm system sufficient to notify the property owner when it is full and in need of pumping.
 - (iii) The effluent from the holding tank shall be disposed of only in accordance with all applicable Statutes, Ordinances, rules and regulations of applicable authorities, including, but not necessarily limited to, the Chester County Health Department and the Pennsylvania Department of Environmental Protection at sites as may be approved by the Pennsylvania Department of Environmental Protection.
- (b) A copy of the Holding Tank Permit shall be delivered to the Township when received from the Chester County Health Department.
- (c) The property owner shall enter into an agreement with a licensed holding tank pumper who shall be responsible for pumping out the holding tank when required and disposing of the waste in accordance with applicable law. In any event, and without limiting the foregoing, the holding tank shall be pumped out as aforesaid not less than once every six (6) months. Such agreement shall be maintained at all times. A current agreement shall be deposited with the Township by the property owner. In Addition, The receiving sewage treatment plant shall be designated and a letter from the receiving sewage treatment facility acknowledging the acceptance of sewage and setting forth the time of the approval shall be delivered to the Township prior to the commencement of pumping and hauling operations.
- (d) The property owner shall maintain the holding tank as required by applicable laws and regulations.

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- (e) The property owner shall properly maintain the holding tank by notifying the contracted licensed pumper to have the holding tank pumped out when the tank is full.
- (f) The property owner shall agree that at any time the holding tank is not maintained or pumped as necessary the Township or any designated officer thereof shall have the right upon 24 hours prior written notice to hire a service company or otherwise accomplish the emptying of the holding tank at the sole cost and expense of the property owner. The Township shall add to such cost a 10% additional charge for the administration of this section.
- (g) The property owner shall grant the Township or its employees, officers or agents the full right, license and authority to enter upon the property for inspection, pumping and transportation from such holding tank. The holding tank shall be inspected by a licensed pumper or other Township approved person or entity not less than annually. A copy of the annual inspection report shall be delivered to the Township promptly after completion. The cost of such inspection shall be paid by the property owner. The property owner shall be responsible to obtain such annual inspection and to deliver a copy of the inspection report to the Township.
- (h) For a period of 180 days after the initial use of the holding tank, after every pumping of the holding tank, the licensed pumper shall provide to the Township a written report ("Pumping Report") as follows:
 - (i) The name and address of the person responsible for servicing the holding tank.
 - (ii) The name of the owner of the property where the holding tank is located.
 - (iii) The location of the property on which the holding tank is located.
 - (iv) The dates on which the holding tank was serviced.
 - (v) The volume of the holding tank.
 - (vi) The volume in gallons of the contents pumped from the holding tank for each servicing.

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- (vii) Any evidence of overflow of the contents of the holding tank.
 - (viii) The disposal sites, (including dates and times) to which the contents from the holding tank were delivered.
 - (ix) The tax parcel number of the property on which the holding tank is located.
- (i) After the termination of the 180 day time period as provided in Section (2) (h) above, the licensed pumper shall provide a Pumping Report to the Township every 6 months thereafter.
 - (j) The property owner shall connect the subject lot to public sewers within ninety (90) days after they become available unless an extension of such time period is granted by the Board of Supervisors upon a showing of reasonable cause by the property owner.
 - (k) The property owner shall not subdivide or construct any additional units requiring wastewater or sewage collection on the property serviced by a holding tank.
 - (l) The obligations of the property owner shall be secured by the posting of a bond, escrow account or other financial security satisfactory to Township in a form satisfactory to Township, (the "Financial Security") which shall be established and delivered to Township prior to the issuance of a permit for the use of the holding tank. The amount of the Financial Security shall be based upon the cost of pumpings of the holding tank for not less than one (1) year plus ten percent (10%) of the cost of such pumpings for administrative expenses. The cost of pumpings for one (1) year shall be established by the agreement entered into between the Property Owner and licensed holding tank pumper subject to review and modification by the Township engineer.
 - (m) The Financial Security shall be used by the Township to cover the costs of repair or future operation and/or maintenance and/or pumping of the holding tank. The property owner shall be responsible for any deficiency in the Financial Security to cover all costs and expenses of Township. In the event Township shall utilize the Financial Security, the property owner shall reestablish the full amount of the Financial Security. The Financial Security

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shall be reevaluated by Township from time to time and Township shall have the right to require the Property Owner to deposit additional Financial Security yearly to cover increased costs.

- (n) The property owner shall indemnify and hold harmless the Township from any and all claims, including attorneys' fees, which may be brought against the Township as a result of the use of the holding tank, the pumping, hauling and disposal of sewage from same or any other cause related to the purpose of this Ordinance. Township shall have no obligation to operate the holding tank under any circumstances. However, the Financial Security posted with the Township may, at the discretion of Township, be used to cure Developer's default and to reimburse Township for any costs and expenses (including, but not necessarily limited to, attorneys fees, engineering fees, pumping fees and expert's fees) incurred in connection with the exercise of Township's rights under this Ordinance.

3. Any money owed to the Township under the terms of this Ordinance shall be paid within 30 days or the Township may pursue collection by any applicable action at law or in equity or by filing a Municipal Claim or Lien for collection in accordance with applicable statutes.

4. The Township shall have the power by Resolution to fix, alter, charge and collect reasonable fees in connection with the administration of this Ordinance.

5. Any person who violates any provisions of this Ordinance shall upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000), and in default of said fine and costs undergo imprisonment for a period of not more than ninety (90) days.

6. In addition to any other remedies provided in this Ordinance, any violation of any section of this Ordinance; (i) requiring the maintenance of the holding tank; (ii) requiring the inspection of the holding tank, or any disposition of the contents of the holding tank in violation of the requirements of this Ordinance shall constitute a nuisance and may be abated by the Township by either seeking mitigation of the nuisance or appropriate equitable or judicial relief from a court of competent jurisdiction.

7. 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 of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been

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adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included therein.

8. This Ordinance shall become effective from and after the date which is five (5) days after its passage.

Enacted and Ordained as an Ordinance by the Board of Supervisors of West Caln Township, Chester County, Pennsylvania at a regular meeting this 9TH day of June 2008.

ATTEST:

Secretary

BOARD OF SUPERVISORS
WEST CALN TOWNSHIP

Chairman

Supervisor

Supervisor