APPENDIX R-III-1a

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AN ORDINANCE GOVERNING MUNICIPAL MANAGEMENT OF ON-LOT SEWAGE DISPOSAL FACILITIES IN THE TOWNSHIP OF WEST PENN, SCHUYLKILL COUNTY, PA

The Board of Supervisors of the Township of West Penn, in the County of Schuylkill, and the Commonwealth of Pennsylvania, hereby ordains:

Section I - 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 West Penn Township."

B. In accordance with municipal codes, 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 West Penn 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 West Penn 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.

Section II - 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 West Penn Township to administer or enforce the provisions of this Ordinance.

C. Board: The Board of Supervisors, West Penn Township, Schuylkill County, Pennsylvania.

D. Community On-lot 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 On-lot 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, retaining 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 the Commonwealth of Pennsylvania. Each vehicle used for such purpose shall be licensed by the DEP.

K. Lot: A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided. Whenever a lot is used for a multiple family dwelling or for commercial or industrial purposes, the lot shall be deemed to have been subdivided into an equivalent number of single-family residential lots as determined by estimated sewage flows.

L. Maintenance Contractor: A private independent contractor who has been given training by the original equipment manufacturer 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 On-lot Sewage System or Individual On-lot 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 of 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, 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 West Penn Township as the Township SEO. 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.

V. Sewage Management District: Any area or areas of the Township designated in the Official Sewage Facilities Plan adopted by the Board as an area for which a Sewage Management Program is to be implemented.

W. 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.

X. Subdivision: The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

Y. Township: The Township of West Penn, Schuylkill County, Pennsylvania.

For the purposes of this ordinance, any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and Regulations promulgated thereto.

Section III - 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.

Section IV - Permit Requirements

A. No building permit shall be issued for a new building which will utilize an On-lot Sewage Disposal System until Act 537 Planning approval has been issued by the Department and the appropriate On-lot Sewage Disposal System permit has been issued by the Township 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 Township 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 Township 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 Township SEO.

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 Township 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 Township SEO that such a permit will not be required. The Township 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.

Section V - Inspections

A. Any On-Lot Sewage Disposal System may be inspected by the Township's Authorized Agent 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 On-lot Sewage Disposal 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 inspections described in this section.

D. Initial inspections.

1. An initial inspection shall be conducted by the Township's Authorized Agent within two (2) years of the effective date of this ordinance for the purpose of determining the type, condition,

and maintenance needs of each On-lot Sewage Disposal System in the Sewage Management District.

2. The Board may further define geographic subsets of the Sewage Management District and associated timing of initial inspections to facilitate administration.

3. A written inspection report signed by the Authorized Agent shall be furnished to the owner of each property inspected and a copy of each report shall be maintained in the Township records. All written inspection reports shall be on a form provided by the Township.

4. Initial inspection requirements may be waived if a person owning a lot served by an On-lot Sewage Disposal System has had a new system installed in accordance with DEP standards within one year prior to the effective date of this ordinance. Copies of all approved Township SEO permit data, including plot plan, design specifications, percolation test reports, and installation inspection reports must be submitted to the Township within 30 days of the effective date of this ordinance to qualify for a waiver from the initial inspection requirements.

E. Routine inspections.

1. Each person owning a building served by an On-Lot Sewage Disposal System shall employ a qualified Maintenance Contractor to complete routine inspections.

2. Routine inspections shall be completed every five (5) years after either the date of initial inspection or a new On-lot Sewage Disposal System installation pursuant to Section V.D.4, as applicable. Routine inspections shall also be completed every five (5) years after final installation approval by the Township SEO for all On-lot Sewage Disposal Systems constructed after the effective date of this ordinance.

3. Routine inspections may be conducted concurrently with the pumping requirements of Section VII.A or Section VII.B, as applicable.

4. A written inspection report signed by the Maintenance Contractor shall be furnished to the Township within thirty (30) days of the applicable period described in Section V.E.2. All written inspection reports shall be on a form provided by the Township.

<u>Section VI - Operation</u>

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 and french drains.
5. Wastewater resulting for hair treatment at multi-chaired beauty shops.

6. Any non-biodegradable materials.

B. The Township may require the installation of water conservation devices, and other operation or maintenance proceedures to improve On-Lot Sewage Disposal System performance.

Section VII - Maintenance

A. Each person owning a building served by an On-Lot Sewage Disposal System shall have that System pumped within two (2) years of the effective date of this ordinance by a DEP licensed Liquid Waste Hauler. Thereafter that person shall have the System pumped at least once every five (5) years or whenever an inspection reveals that the Initial Treatment Unit is filled with solids or with scum in excess of 1/3 of the liquid depth of the Tank. Liquid Waste Haulers are required to have a written record filed with the Sewage Management Program Administrator of each pumping conducted within the Township. These records may be utilized by the Township to document all pumping requirements described herein. Receipts from the DEP licensed Liquid Waste Hauler shall be submitted to the Township within the prescribed two year and five year pumping periods in the event said Hauler fails to electronically report an On-lot Sewage Disposal System pumping activity.

B. The required pumping frequency may be modified at the discretion of the Township 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. If any person can prove that such person's tank had been pumped within one year of the effective date of this ordinance, then that person's initial required pumping may be delayed to conform to the general five (5) year frequency requirement except where an inspection reveals a need for shorter pumping intervals.

C. All On-lot Sewage Disposal System pumping shall be performed in accordance with DEP 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. Tanks shall only be pumped from or through the manhole or access port (i.e., the largest tank opening).
3. Tanks 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 tank to a level greater than 12 inches below the elevation of the outlet pipe.
6. No liquids or solids are to be discharged into or through the outlet pipe.
7. Tanks shall be deemed to be cleaned when all organic solids are removed and the total average liquid depth remaining in the tank is less than one inch.
8. Every pumping shall include a visual inspection, by the Maintenance Contractor, to determine the presence and condition of treatment tank baffles and the physical condition of

the treatment tank. All resulting observations shall be submitted as a written record to the Sewage Management Program Administrator.

9. At all times, and in all phases of operations, the Maintenance Contractor 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 contains an aerobic treatment tank shall follow the operation and maintenance recommendations of the equipment manufacturer. A copy of the manufacturer's recommendations and a copy of the service agreement shall be submitted to the Township within six months of the effective date of this ordinance. Thereafter, service receipts shall be submitted to the Township at the intervals specified by the manufacturer's recommendations.

E. 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 responsibilites recommended by DEP for said system. These responsibilities shall be memorialized in individual operation and maintenance agreements for each such 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 an annual fee and additional financial security.

F. Surface contouring shall be required as necessary to direct surface water and drainageways away from all components of On-Lot Sewage Disposal Systems.

G. 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.

Section VIII - System Rehabilitation

A. Whenever any inspection reveals a suspected Malfunction, the Township shall convey all pertinant information to the Township 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 Township SEO shall perfom all corrective measures required by the SEO to abate the Malfunction. The Township 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 lieu of, or in combination with, the remedies described in this Section, the Township SEO 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 SEO may require whatever action is necessary 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 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 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 Township SEO and/or DEP, represents a serious public health or environmental threat.

Section IX - 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 Township SEO and the Township that no other remedy is viable.

B. Retaining Tank installation and use shall be subject to all the requirements of Pa Code Title 25, Chapter 71.63 (relating to Retaining Tanks), the requirements of the West Penn Township Ordinance No. _____ (relating to Holding Tanks).

C. Any person owning a building served by a Retaining Tank shall annually provide to the Township a copy of a maintenance contract with an authorized Maintenance Contractor. For the purposes of this section, a Maintenance Contractor shall be a DEP licensed Liquid Waste Hauler. The contract shall provide for regular removal of the Retaining Tank contents in accordance with Section XI and with a frequency sufficient to prevent the contents from overflowing on the ground surface, and shall further specify the DEP license number of the Maintenance Contractor.

Section X - Liens

A. The Township, upon written notice from an Authorized Agent or from the Township Sewage Enforcement Officer that an imminent health hazard exists due to failure of property owner to maintain an On-Lot Sewage Disposal 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 Township Sewage Enforcement Officer. The owner shall be charged for the work performed and, if necessary, a lien shall be entered therefore in accordance with law.

Section XI - 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. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites, and approved farm lands.

B. Pumper/haulers operating within the Sewage Management District 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 DEP regulations.

Section XII - 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 qualified individuals to carry out the provisions of this ordinance. Those employees 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. All records, reports, files and other written materials relating to the inspection, operation and maintenance of On-Lot Sewage Disposal Systems in the Sewage Management District shall become the property of, and be maintained by, the Township. Existing and future records shall be available for public inspection during regular business hours at the official office of 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 Pennsylvania Department of Environmental Protection.

D. The Board shall establish all administrative procedures necessary to properly carry out the provisions of this Ordinance.

E. The Board 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.

Section XIII - Appeals

A. Appeals from final decisions of the Township or any of its Authorized Agents under this Ordinance shall be made to the Board of Supervisors 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 of Supervisors 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 next regularly scheduled meeting. The municipality shall thereafter affirm, modify, or reverse the aforesaid decision. The hearing may be postponed for a good cause shown 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".

Section XIV - 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 or permit issued by 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 XV - Repealer

A. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section XVI - Severability

A. If any section or clause of this ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions which shall be deemed severable therefrom.

Duly Enacted and Ordained this _____day of _____ , 20_____ by the Board of Supervisors of the Township of West Penn, Schuylkill County, Pennsylvania, in lawful sessions duly assembled.

ATTEST: BY:

_____ _____

Secretary

_____ _____

Chairman of the Board of Supervisors