

ORDINANCE NO. 2018 - 1
ONLOT SEWAGE MANAGEMENT PROGRAM ORDINANCE

**AN ORDINANCE GOVERNING MUNICIPAL MANAGEMENT OF
ONLOT SEWAGE DISPOSAL FACILITIES IN THE TOWNSHIP OF
WEST NOTTINGHAM, CHESTER COUNTY, PA**

The Board of Supervisors of the Township of West Nottingham, in the County of Chester 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 Onlot Sewage Management Program for West Nottingham 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 Nottingham Township to provide for adequate sewage treatment 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 Nottingham 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 onlot sewage disposal systems which involve domestic sewage [including conventional systems, alternate systems, and experimental system, etc., from residential, commercial, or industrial uses]; to further permit 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.
- D. This ordinance does not apply to properties that generate industrial waste and/or agricultural waste.

Section II. Definitions

- A. "Authorized Agent" shall mean a Sewage Enforcement Officer, employee of the Township, professional engineer, plumbing inspector, or any other qualified or licensed person who is authorized to function within specified limits as an agent of West Nottingham Township to administer or enforce the provisions of this ordinance.
- B. "Board" shall mean the Board of Supervisors, West Nottingham Township, Chester County, Pennsylvania.

- C. "Department and DEP" shall mean the Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).
- D. "Health Department" shall mean the Chester County Health Department.
- E. "Malfunction" shall mean a condition which occurs when an onlot 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.
- F. "Official Sewage Facilities Plan" shall mean a comprehensive plan for the provision 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.
- G. "Onlot Sewage Disposal System" shall mean any system for disposal of domestic sewage [based upon currently accepted chemical composition] involving pretreatment and subsequent disposal of the clarified sewage into a subsurface soil absorption area or retaining tank; this term includes both individual sewage systems and community sewage systems. Refer to 'Sewage facilities' definition for additional clarification.
- H. "Person" shall mean 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.
- I. "Rehabilitation" shall mean work done to modify, alter, repair, enlarge or replace an existing onlot sewage disposal system.
- J. "Sewage" shall mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious 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.
- K. "Sewage facilities" shall mean a system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste. The term includes:

- a. "Individual Sewage System" shall mean a system of piping, tanks or 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. The term includes:
 - (A) "Individual Onlot Sewage System" shall mean an individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a soil absorption area or spray field or by retention in a retaining tank.
 - (B) "Individual Sewerage System" shall mean a system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.
- b. "Community Sewage System" shall mean 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.
 - (A) "Community Onlot Sewage System" shall mean a system of piping, tanks or other facilities serving two or more lots and collecting, treating and disposing of domestic sewage into a soil absorption area or retaining tank located on one or more of the lots or at another site.
 - (B) "Community Sewerage System" shall mean a publicly or privately owned community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area or retention in a retaining tank.

For both a and b, the following terms are also noted:

- (A) "Alternate Sewage System" shall mean a method of demonstrated onlot sewage treatment as described by DEP.
- (B) "Experimental Sewage System" shall mean a method of onlot sewage treatment and disposal as described by DEP which is proposed for the purpose of testing and observation and approval by DEP and CCHD.

- L. "Sewage Enforcement Officer (SEO)" shall mean a person certified by DEP who is employed by the County Health Department. Such person is authorized to conduct investigations and inspections, review permit applications, issue or deny permits 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.

- M. "Sewage Management District" shall mean 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. Refer to a map titled Exhibit "A". Onlot Sewer District Map, which divides the Township into three (3) areas for the purpose of administering the three (3) year septic tank pumping cycle.
- N. "Sewage Management Program" shall mean 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.
- O. "Subdivision" shall mean 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.
- P. "Township" shall mean the Township of West Nottingham Township, Chester County, Pennsylvania.
- Q. 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 in any portion of the Township identified in the Official Sewage Facilities Plan [the Component 2m and related items] as a sewage management district. Within such an area or areas, the provisions of this ordinance shall apply to all persons owning any property serviced by an onlot sewage disposal system and to all persons installing or rehabilitating onlot sewage disposal systems.

Section IV. Permit Requirements

- A. No person shall install, construct or request bid proposals for construction, or alter an individual sewage system or community sewage system or construct or request bid proposals for construction or install or occupy any building or structure for which an individual sewage system or community sewage system is to be installed without first obtaining a permit from the Sewage Enforcement Officer which permit shall indicate that the site and the plans and specifications of such system are in compliance with the provisions of the Clean Streams Law (35 P.S. §§691.1-691.1001) and the Pennsylvania Sewage Facilities Act (35 P.S. 750.1 et seq.) and the regulations adopted pursuant to those Acts.
- B. The procedures for application for and granting of a permit shall be established, revised, promulgated and enforced by the Health Department (or DEP).

- C. No system or structure designed to provide individual or community sewage disposal shall be covered from view until approval to cover the same has been given by a Sewage Enforcement Officer. If seventy-two (72) hours have elapsed, excepting Sundays and Holidays, since the Sewage Enforcement Officer issuing the permit received notification of completion of construction, the applicant may cover said system or structure unless permission has been specifically refused by the Sewage Enforcement Officer.
- D. Applicants for sewage permits shall be required to notify the Sewage Enforcement Officer of the schedule for construction of the permitted onlot sewage disposal system so that inspection(s) in addition to the final inspection required by the Sewage Facilities Act may be scheduled and performed by a Sewage Enforcement Officer.
- E. No building or occupancy permit shall be issued for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from the Health Department Sewage Enforcement Officer or DEP.
- F. 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 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 a the Sewage Enforcement Officer that such a permit will not be required. The Sewage Enforcement Officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.
- G. Sewage permits may be issued only by a Sewage Enforcement Officer employed by the Health Department or DEP.
- H. In addition to compliance with any of the foregoing permitting requirements of this Section, any person owning a property served by an alternative or experimental on lot sewage disposal system, as defined by the DEP, which utilizes any components or technology deemed by the DEP and CCHD to require a more detailed operation and maintenance agreement than provided for in this Section shall be further subject to the maintenance responsibilities recommended by the DEP and CCHD for said system as well as any specific additional provisions detailed by the Township. These additional responsibilities shall be memorialized in an individual operation and maintenance agreement executed by the Township and property owner. The individual responsible for maintaining the system shall post sufficient security with the Township prior to the issuance of any required DEP, CCHD or Township permit to insure completion of the necessary maintenance and repairs. The amount of security shall be determined by the Township Engineer, shall be held by the Township in escrow, and shall be used by the Township only after the individual responsible has failed to perform the necessary maintenance and repairs.

Section V. Inspections

- A. Upon presentation of proper credentials, duly authorized officers or agents of the Township may enter at reasonable times upon any property to perform inspection of any on lot sewage disposal system [including an alternate system, experimental system, etc.] for compliance with any requirements of this ordinance.

Failure of the landowner or representative to grant access to the Township within seventy-two (72) hours of notification, verbal or written, will be considered a violation of this ordinance.

- B. Such inspection may include a physical tour of the property, inspection of the system and its components, the taking of samples from surface water, wells, other groundwater sources, the sampling of the contents of the sewage disposal system itself and/or the introduction of a traceable substance into the interior plumbing of the structure served to ascertain the path and ultimate destination of wastewater generated in the structure.
- C. An Authorized Agent shall have the right to enter upon land for the purposes of inspections described in this section.
- D. A schedule of routine inspections may be established to assure the proper functioning of the sewage systems in the sewage management district.
- E. An Authorized Agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the Township shall notify the SEO and, as required, the SEO shall order action to be taken to correct the malfunction. If total correction cannot be done in accordance with the regulations of DEP including, but not limited to, those outlined in Chapter 73 of Title 25 of Pennsylvania Code or, is not technically or financially feasible in the opinion of the Authorized Agent and a representative of DEP; then action by the property owner to mitigate the malfunction shall be required.
- F. If there arises a geographic area where numerous onlot sewage disposal systems are 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. If a DEP authorized Official Sewage Facilities Plan Revision has been undertaken, 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 will be compelled whenever a malfunction, as determined by Township officials and/or the SEO, represents a serious public health or environmental threat.
- G. The landowner or other Person shall be responsible for paying the fees for the inspection as prescribed by the Township's fee resolution.

Section VI. Operation

- A. It shall be the property owner's responsibility to ensure that only normal domestic wastes shall be discharged into any onlot 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 groundwater, including water from roof or cellar drains, springs, basement sump pumps and french drains.

Section VII. Maintenance

- A. Each person owning a building served by an onlot sewage disposal system [including an alternate system, experimental system, etc.] which contains a septic tank shall have the septic tank pumped by a Chester County Health Department Licensed Liquid Waste Hauler within three (3) years of the effective date of this ordinance. The Township will be divided into three (3) areas for the purpose of managing the pumping of septic tanks. Septic tanks within Area 1 must be pumped between January 1, 2019 and December 31, 2019. Septic tanks located within Area 2 must be pumped between January 1, 2020 and December 31, 2020. Septic tanks located within Area 3 must be pumped between January 1, 2021 and December 31, 2021. Refer to the attached Exhibit "A" titled "Onlot Sewer District Map". Thereafter that person shall have the tank pumped at least once every three (3) years or whenever an inspection reveals that the septic tank is filled with solids or with scum in excess of 1/3 of the liquid depth of the tank.
- B. The required pumping frequency may be increased at the discretion of an Authorized Agent if the septic tank is undersized, if solids buildup in the tank is above average, if the hydraulic load on the system increases significantly above average, and other aspects that may negatively impact proper system functioning.

If any person can prove that such person's septic tank had been pumped within three (3) years of the schedule outlined above in Section A, then that person's initial required pumping may be delayed at the discretion of the Township. Written evidence of pumping must be provided to the Township.

- C. Any person owning a property served by a septic tank shall submit evidence of pumping to the Township from a Chester County Health Department Licensed Liquid Waste Hauler, in a manner to be specified by the Township.

- D. Any person owning a building served by an onlot 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 (6) 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. In no case may the service or pumping intervals for aerobic treatment tanks exceed those required for septic tanks.
- E. Additional maintenance activity may be required as needed including, but not necessarily limited to, cleaning and unclogging of piping, servicing and the repair of mechanical equipment, leveling of distribution boxes, tanks and lines, removal of obstructing roots or trees, the diversion of surface water away from the disposal area, etc.
- F. Any person or persons owning a lot served by an alternate or experimental sewage system shall be responsible for any and all maintenance and repairs required to ensure the proper functioning of the system.
- G. Any person or persons owning a community sewage system or property owner served by a community sewage system which contains a septic tank shall have the system's septic tank pumped by a Chester County Health Department Licensed Liquid Waste Hauler at least once every three (3) years or whenever an inspection reveals that the septic tank is filled with solids or scum in excess of 1/3 of the liquid depth of the tank. Any person or person owning a community sewage system or property owner served by a community sewage system shall execute a sewage management agreement approved by the Township and requiring all such property owners serviced by such system to maintain, operate and inspect the system in conformance to all rules and regulations of the DEP, Health Department and Township.
- H. Any person owning a building served by a cesspool or dry well, shall have that system pumped according to the schedule prescribed for septic tanks to mitigate potential pollution. The cesspool or dry well may be pumped to aid operating efficiency.
- I. In the event any person or landowner desires an exemption from pumping/maintenance requirements because they believe the tank to be filled with solids less than 1/3 of the liquid depth of the tank or with scum less than 1/3 of the liquid depth of the tank, they may hire a qualified professional to inspect the tank for a determination in accordance with this section and 25 Pa. Code § 71.73(2)(1).
- Upon receipt of the determination, the Township's Authorized Agent has the discretion to establish a reduced inspection and pumping schedule for the system.
- K. The landowner or other Person shall be responsible for paying the fees for the Township's Authorized Agent as prescribed by the Township's fee resolution.

Section VIII. System Rehabilitation

- A. No person shall operate or maintain an onlot sewage disposal system (including an alternate system, experimental system, etc.) in such a manner that it malfunctions. All liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment tank. No sewage system shall discharge untreated or partially treated sewage to the surface of the ground or into the waters of the Commonwealth unless a permit for such discharge has been obtained from DEP.
- B. A written notice of violation shall be issued to any person who is the owner of any property which is found to be served by a malfunctioning onlot sewage disposal system or which is discharging sewage without a permit. The Health Department Sewage Enforcement Officer shall be notified of all violations.
- C. Within thirty (30) days of notification by the Township that a malfunction has been identified, the property owner shall make application to the Sewage Enforcement Officer for a permit to repair or replace the malfunctioning system. Within sixty (60) days of issuance of a permit by the Sewage Enforcement Officer, construction of the permitted repair or replacement shall commence. Within sixty (60) days of the start of construction, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case the Township SEO shall set an extended completion date.
- D. In the event that the rehabilitation measures in Subsections A through E are not feasible or effective, the owner may be required to apply for a permit to install an individual spray irrigation treatment system or to DEP for a single residence treatment and discharge system. Upon receipt of said permit the owner shall complete construction of the system within thirty (30) days.
- E. Should none of the remedies described in this Section be totally effective in eliminating the malfunction of an existing onlot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. The Township may require whatever action is necessary to lessen or mitigate the malfunction to the extent necessary. If no onlot solutions can be established for a property upon which a public health hazard exists, the Health Department may issue a holding tank permit to abate the public health hazard.

Section IX. Liens

The Township, upon written notice from a Sewage Enforcement Officer that an imminent health hazard exists due to failure of property owner to maintain, repair or replace an onlot 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 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.

Section X. 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 of septage 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) and all other applicable laws.
- C. Only Chester County Health Department Licensed Liquid Waste Haulers may be utilized for disposal of septage originating in the Township. The current listing of approved haulers will be based upon the County website.

Section XI. 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 ensure the provisions of this ordinance are met, with the primary duties falling with the County Health Department. The Township may also contract with private qualified persons or firms as may be required to carry out the provisions of this ordinance.
- C. All permits, records, reports, files and other written materials relating to the installation, operation and maintenance and malfunction of onlot sewage disposal systems in the sewage management district shall become the property of, and be maintained by, the Township [unless and until the County establishes a database and will manage the pumping records]. 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 DEP.
- D. The Township Board shall establish all administrative procedures necessary to properly carry out the provisions of this ordinance.
- E. The Township Board may establish a fee schedule, and authorize the collection of fees to cover the cost to Township of administering this program.

Section XII. 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. Any appeal received less than fourteen (14) days before a regularly scheduled meeting shall be heard at the next regularly scheduled meeting that follows said meeting. The Township 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.

Section XIII. Penalties

- A. Any person violating or permitting the violation of the provisions of this Ordinance shall be subject to a fine of not more than \$1,000 for each violation, recoverable with costs. The establishment of a violation for purposes of setting fines or penalties for such violation shall be in accordance with a citation to a magisterial district judge with jurisdiction and venue over the location of the violation and such an action will be subject to the procedures provided for the enforcement of summary offenses under the Pennsylvania Rules of criminal Procedure. A separate offense shall arise for each day or portion thereof a violation is found to exist and may be determined for each section of this Ordinance which is found to have been violated.
- B. In addition, West Nottingham may, through its solicitor, institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other legal or equitable forms of remedy or relief. Such relief may include the costs, fees, and charges, including West Nottingham Township's attorney's fees [charged at the hourly rate approved by the Governing Body of West Nottingham Township] and costs, as may be permitted by law.
- C. Notwithstanding any other provision of this Ordinance, West Nottingham Township shall have the right at any or all times deemed necessary by the Municipal Engineer or designee to enter upon any property within West Nottingham Township to inspect and, upon determination of a violation of this Ordinance, to correct the violation, with all expenses associated with correcting the violation to be charged to the property owner responsible for the violation.

Section XIV. Repealer

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

Section XV. Severability

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 27th day of March, 2018 by the Board of Supervisors of the Township of West Nottingham, Chester County, Pennsylvania, in lawful sessions duly assembled.

ATTEST:

Candace M. Miller
Candace Miller, Township Secretary

BOARD OF SUPERVISORS OF THE
TOWNSHIP OF WEST NOTTINGHAM

Tiffany L. Bell
Tiffany L. Bell, Chair

William R. Winand
William R. Winand, Vice Chair

Candace M. Miller
Candace M. Miller, Member