

Chapter 138

SEWERS AND SEWAGE DISPOSAL

[HISTORY: Adopted by the Board of Supervisors of the Township of West Earl as indicated in article histories. Amendments noted where applicable]

GENERAL REFERENCES

Sewer Authority – See Ch. 6, Art. II.

Mobile Homes and mobile home parks – see Ch. 118.

Sludge – See Ch. 143.

Stormwater mangament – See Ch. 149.

Streets and Sidewalks – See Ch. 152

Subdivision and land development – See Ch. 155.

Water – See Ch. 173.

Zoning – See Ch. 184.

ARTICLE I

Connection to Akron Borough Authority Sewer System

[Adopted 4-2-1974 by Ord. No. 26]

§ 138-1. Definitions and word usage.

A. The meanings of the terms used in this article shall be as follows:

BOROUGH - The Borough of Akron.

BUILDING SEWER That part of the main building, house drain or sewer line inside the walls of the building and extending through the walls to a point five feet outside the wall and connecting to the service line.

INDUSTRIAL WASTE Any solid, liquid or gaseous substance or waterborne wastes or form of energy ejected or escaping from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources, as distinct from sanitary sewerage.

OWNER – Any person vested with ownership, legal or equitable, sole or partial, of any property located in the sewered area.

PERSON - Any individual partnership, company, association, society or corporation or any other group or entity.

SANITARY SEWAGE – Spent waters, together with human and household wastes ordinarily removed by water carriage, and industrial waste. Such definition expressly excludes the effluent from septic tanks or cesspools and rain-, storm- and ground water, which could in any way enter the sewer system, as well as roof or surface drainage, drainage of percolating or seeping waters or accumulation thereof, whether underground or in cellars or basements.

SERVICE LATERAL or **LATERAL SEWER** All facilities located between the sewer main and the curb or, if there is no curb, the edge of the roadway abutting the property affected with sewage service.

SERVICE LINE or **HOUSE CONNECTION** – That part of the main house drain or sewer line extending from a point five feet outside the outer building wall or foundation wall to its connection with the service lateral.

SEWERED AREA – That portion of the Township in which, from time to time, there shall be or shall have been constructed a sewage collection system as modified or extended.

SEWER MAIN – All or any part of the sewer system as defined herein.

SEWER SYSTEM – Sewer mains, lateral sewers from the main to the point of house connection, sewer ejector and/or pumping stations, sewer force mains, sewage treatment plants and all appurtenant facilities owned by the Township or borough or by the Akron Borough Authority, or operated by any of them, in furnishing sewer service through facilities to the borough or the Akron Borough Authority.

TOWNSHIP – The Township of West Earl.

B. The meanings of the terms of any rules or regulations adopted by the Supervisors of the Township pursuant to this article shall be as defined in this section.

§ 138-2. Rules and regulations.

- A. The Supervisors of the Township reserve the right to promulgate such further rules and regulations governing standards and procedures with respect to the sewer system as are necessary for the implementation of this article.
- B. All persons shall comply with all rules and regulations of the Akron Borough Authority relating to the sewer system.

§ 138-3. Connections to sewer system.

- A. Tapping fee. The owner of each property connecting with the sewer system shall pay to the borough a tapping fee fixed by the borough.'
- B. Permits.
 - (1) No person shall uncover, connect with, make any opening in or use, alter or disturb in any manner any sewer of the sewer system without first obtaining a permit from both the Township and the borough.
 - (2) Before any permit for connection to the sewer system shall issue, the proposed connection shall have been inspected and approved by an authorized representative of the borough.
 - (3) No person shall make or cause to be made a connection of a property with the sewer system until the following conditions have been fulfilled:
 - (a) The required permit shall have been obtained.
 - (b) The tapping fee shall have been paid.
 - (c) Any required street opening permit shall have been obtained and paid for by the owner.
 - (d) The permit officer of the borough shall have been notified at least 24 hours in advance of the time when the connection will be made.
- C. Costs. All costs and expenses of constructing building sewers and all costs and expenses of connecting a building sewer to a lateral sewer shall be borne by the owner of the property to be connected.
- D. Order to connect.
 - (I) Each and every owner of improved property within the sewer area on which sanitary sewage is generated and whose principal building is within 150 feet from any sewer main shall, upon written notice from the Township Supervisors that sewer service is available and that connection is ordered, connect his property with the sewer system within 60 days from the date of such notice and shall thereafter rent and use the sewer system.

- (2) Such notice shall not constitute a permit. Such notice shall not be issued until plans for the proposed connection drawn by the Township shall have been reviewed and approved by an authorized representative of the borough.
 - (3) Sixty days after such notice shall have been given, it shall be unlawful for any property owner to operate or use any cesspool, vault, septic tank or similar receptacle for sanitary sewage, to connect any such receptacle to the sewer system or to construct, install or cause to be constructed or installed any such receptacle on such property.
- E. Inspection of new connection; authorizations. No closing of any excavation of a new connection to the sewer system shall be made without the connection having first been inspected by an authorized representative of the borough. The borough is hereby authorized to designate such representatives, and such representatives are hereby authorized to make such inspections as are mandated by this article.

§ 138-4. Septage and waste not received through pipes.

- A. Under the terms of this section, sanitary sewage, septage and industrial wastes, the discharge of which into the sewer system is not prohibited by § 138-5 of this article, may be discharged into the sewer system other than through pipes connected into the sewer system.
- B. Permits and terms.
- (1) Any person wishing to discharge such sewage into the sewer system shall first apply in writing to the borough for a permit. Such application shall be made to the borough. Such application shall include a description or analysis of the wastes to be discharged and shall constitute consent to all provisions of this section and all rules, rates and regulations applicable to such sewage.
 - (2) The approval of the application shall constitute the required permit, and the applicant shall secure prior, specific designation in each instance as to where and when the discharge shall be done from the appropriate officer of the borough before any such wastes are discharged into the sewer system.
 - (3) The discharge shall be accomplished so as not to cause any odor or interference with or nuisance to any resident of either the Township or the borough.
 - (4) If an applicant discharges prohibited waste into the sewer system, if the wastes discharged differ in any way from the wastes indicated by the application for a permit or if waste is dumped into the sewer system for which the applicant has not received prior designation as to the location of such dumping, such applicant's permission to discharge such wastes shall automatically cease. Such applicant shall be liable also for any and all damages caused to the sewer system or to the borough as a result of the unauthorized discharge, in addition to any penalties imposed by any other section of this article.
- C. Rates. The applicant shall pay a price per load for each truckload discharged in accordance with rates established from time to time by the borough.

§ 138-5. Prohibited wastes.

A. Dangerous wastes or harmful wastes. No waste of any kind which violates the following standards may be discharged into the sewer system:

- (1) Having a temperature in excess of 1500 F.
- (2) Having a pH level lower than six point zero (6.0) or higher than nine point zero (9.0) or having any other corrosive property capable of causing damage or hazard to the structures, equipment, pipes, conduits or personnel of the sewage treatment plant.
- (3) Containing more than 100 parts per million (ppm) by weight of fat, oil or grease.
- (4) Containing any gasoline, benzine, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (5) Containing any unground garbage.
- (6) Containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood or paunch manure or any other solid or viscous substance capable of causing obstruction or other interference with the sewer pipes or connections or with the proper operation of the sewage treatment plant.
- (7) Containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constituting a hazard to humans or animals, or to create any hazard in the receiving waters of the sewage treatment plants. Toxic wastes shall include wastes containing cyanide, copper and/or chromium ions.
- (8) Containing total solids in such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (9) Containing noxious or malodorous gas or any substance capable of creating a public nuisance.

B. Unauthorized water.

- (1) It shall be unlawful for any owner to discharge or permit the discharge into the sewer system of any roof, surface or ground water or to connect, construct, install or permit to be connected, constructed or installed any conduit or connection for the discharge of such waters into the sewer system.
- (2) Whenever any roof, surface or ground water shall be discharged into the sewer system, the owner of or user of water in such property from which such discharge occurs shall, within 60 days after written notice from the borough, cease such discharge or cause such discharge to cease and shall provide for the drainage of such water into storm sewers or other facilities.

C. Cesspools and septic tanks.

- (1) Cesspools and septic tanks may not be connected to the sewer system.
 - (2) Effluent from cesspools or septic tanks shall not be allowed to enter the sewer system by seeping, drainage or percolation.
- D. Damages. Whenever it is found that effluent from septic tanks or cesspools, rain-, storm-and ground water, as well as roof or surface drainage, drainage of percolation or seeping waters or accumulation thereof, whether underground or in cellars or basements, has in any way entered the sewer system, the owner of the property from which the same has entered the sewer system shall be billed, as soon as the computations can be made by the borough's Engineer of the estimated amount of water involved, for sewer service improperly used, together with the penalty of 10% and interest upon said bill from the date of said penalty at the maximum legal rate authorized by law for each and every quarter during which it has been determined by the borough's Engineer that such condition has existed. The borough's Engineer shall add to each such bill his reasonable costs for making such computations, and additional bills will be presented from time to time thereafter until such condition shall be completely remedied. The provisions of this subsection shall in no way affect the right of the Township or the borough to enforce or effect any other provisions of this article. The purpose of this subsection is to reimburse the borough for the damage it has suffered as a result of such a violation of this article, but the Township and the borough reserve the right to enforce or effect any and all other provisions of law, ordinance or regulation concurrently with said billing or subsequent thereto. The property owner will immediately cease and desist such improper practice as soon as being notified thereof by the Township or the borough or as soon as the property owner has any knowledge thereof, whichever is earlier.

§ 138-6. Rents, charges and inspections.

- A. The owner of each property connected to the sewer system shall pay to the borough quarter-annual rentals, which rentals shall be based upon the amount of water consumed. This amount shall be determined by water meters or similar devices, which shall be read quarterly. If no meter is available or operable to measure an amount of water consumed, that amount shall be determined by estimate by the borough's Engineer.
- B. The quarterly sewer rentals shall be payable on or before the 15th day of the month next succeeding the month in which bills are delivered. If the full amount of the bill shall not be paid on or before that day, a penalty of 10% of the face amount of the bill shall be added thereto. Failure of any owner to pay his bill for sewer services, together with the penalty thereon, within one month after the same shall become due shall be cause for termination of sewer service.
- C. Inspections.
 - (1) Accessibility for inspection. All premises shall be kept and maintained so that at all times the water system of such premises shall be clearly observable in order to enable a proper inspection to be made easily to ascertain the amount of water consumed and to ascertain that the meter or similar device properly records all water being used upon the premises.

- (2) Authorization to inspect.
- (a) Authorized representatives of both the Township and the borough are authorized to inspect meters and reading devices pursuant to this article.
- (b) The application for a permit to connect with the sewer shall include the granting by the owner of a right-of-way to authorized representatives of both the Township and the borough for access at all times to such property serviced by the sewer system for the purpose of inspection of the water system of the owner and all meters or similar devices, as well as for the purposes of inspection, measurement, sampling and testing and for other functions relating to service rendered to the sewer system. Such right-of-way shall be recorded in the office of the Recorder of Deeds and shall remain in effect so long as the property is connected to the sewer system and the water supply is not from the borough or some other municipality furnishing water service, which municipality requires that its water service be used for all purposes by the premises.
- D. It shall be unlawful for any person to discharge into the sewer system any water or effluent not metered, except as provided otherwise by this article.

Water service other than from borough.

- (1) When a property has a water supply in addition to or other than a water system of the borough, the borough shall be granted access to such property to install a water meter on all such sources of water supply. Readings of such meters by the borough will be quarterly and shall be used in computing sewer rentals.
- (2) The owner of any property receiving water in addition to or other than from the borough's water system shall be bound by all provisions of this article.
- F. Exemptions. Under the following terms and conditions, a sewer rental charge shall not be made for water consumed on a property in a manner in which the same cannot possibly be discharged into the sewer system:
- (1) An additional water meter or meters shall be installed by the owner of such property at full cost to the owner, which meter shall measure the water which will not be discharged into the sewer system.
- (2) An application for service under this exemption shall be made to the borough, and the owner shall grant a right-of-way in the same manner as one under a permit for connection.
- (3) In addition to any other penalty imposed by this article, an owner of any property which has consumed water through a meter installed under this Subsection F, but which water has actually been discharged into the sewer system, shall pay as a penalty of 300% of the normal rate for such sewer service.
- (4) Each owner subject to the provisions of this exemption (this Subsection F) shall be charged by the borough an additional fee of \$1 per quarter to cover the additional

expense of reading an additional meter, additional charges in computing the bill, the cost of any and all inspections and the cost of processing the application.

G. Rates. Rents shall be payable by all owners to the borough as charged by the borough.

§ 138-7. Time and method of payments.

A. Rentals.

- (1) Bills will be rendered directly to property owners from the borough. Bills shall be payable directly to the borough.
- (2) Bills for sewer rentals shall be payable on or before the 15th day of the month succeeding the month in which bills are delivered.
- (3) The Township or the borough shall identify owners who fail to pay rentals when due, and the borough or the Township shall institute proper proceedings against those who fail to pay, according to the terms of this article.

B. Tapping fees. Tapping fees shall be due not later than 45 days after the owner is given notice to connect to the sewer system by the Township under § 138-3D(I) or at the time when the owner applies to the Township for a permit to make such connection. Bills for tapping fees shall be payable to the borough.

C. Discharge of wastes not received through pipes. Bills for such discharge shall be rendered quarterly. Payment shall be made directly to the borough. Should any bill not be paid within 15 days of its mailing, permission for any additional or further discharge shall automatically cease.

D. Owners obligations.

- (1) Every owner shall keep the borough advised of his correct address. Failure to receive any quarterly bill shall not be an excuse for nonpayment on the date due, nor shall failure result in an extension of the time during which the net bill is payable.
- (2) Whenever a property is vacated, the owner shall give notice to the borough of such fact. An allowance for the period of such vacancy shall be made if it is demonstrated to the satisfaction of the borough that the water system of such property is secured against use.
- (3) Each property owner shall give the borough written notice of any change of ownership of any improved property in the sewered area which is connected to the sewer system.

E. Liens. Sewer rentals, charges and fees imposed by this article shall be a lien on the property served by the sewer system. Such rentals, charges and fees shall be filed as a lien in the appropriate manner in the office of the Prothonotary of Lancaster County and shall be collected by the borough in the manner provided for municipal claims or by an action in assumpsit against the owner, or both. Should any statutory or case law or other law, regulation or applicable provision of the Commonwealth of Pennsylvania or

otherwise prevent the filing of such a lien by the borough, the Township will immediately file that lien and will assign the benefits thereof to the borough.

§ 138-8. Refusal of use of system.

- A. If any person shall fail, for 30 days after written notice from the borough, to remedy any unsatisfactory condition with respect to a building sewer, the borough may refuse to permit such person to use the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of the borough.
- B. The borough shall have the right to refuse any person the use of the sewer system or to compel the pretreatment of industrial wastes in order to prevent discharges into the sewer system of harmful wastes.

§ 138-9. Right of borough to adopt and amend regulations.

The borough shall have the right to and may, from time to time, adopt, revise, amend and readopt such rules and regulations as it deems necessary and proper for the use and operation sewer system.

§ 138-10. Violations and penalties; interest.

- A. General penalty. Any person who has violated or who has permitted the violation of any provision of this article (including but not limited to the rules and regulations of the Akron Borough Authority) shall be liable, upon conviction thereof in a summary proceeding, to pay a fine of not less than \$200 nor more than \$1,000 for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this article, and each section of this article which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable to imprisonment for a period not exceeding 30 days. **[Amended 8-9-1993 by Ord. No. 101; 6-24-1996 by Ord. No. 116; 4-28-1997 by Ord. No. 129]**
- B. Penalty for damage to sewer system. Should any person violate any provision of this article so as to cause injury, harm or damage to any portion of the sewer system, he shall, upon conviction thereof before any Magistrate or Judge of competent jurisdiction, pay such costs as are equal to the amount of injury, harm or damage caused by his acts, in addition to any other penalty prescribed by this article.
- C. Discharge of unmetered water. Should any property discharge into the sewer system any water not metered, except as authorized under this article, such owner shall pay for such sewer service 300% of the normal rates, in addition to any other penalties prescribed by this article. Should this Subsection C be violated more than once, the borough may sever the connection of that premises to the sewer system and forever refuse service to that property.
- D. Late payments of rentals, fees or charges. If the full amount of any bills for rents, fees or charges shall not have been paid on or before the due date, a penalty of 10% shall be

added to the face amount of such bill, together with interest on the amount unpaid from the due date.

E. Interest. All interest authorized by this section shall be at the rate of 1/2% per month, computed monthly.

§ 138-11. Notices.

Notices to property owners under this article may be given either by personal service or by certified mail sent to the last known address of such owner.

ARTICLE II Connection to Leola Sewer Authority System [Adopted 11-6-1984 by Ord. No. 46]

§ 138-12. Purpose.

It is declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Township.

§ 138-13. Definitions.

Unless the context specifically and clearly indicates otherwise, the meanings of the terms and phrases used in this article shall be as follows:

AUTHORITY – The Leola Sewer Authority, a Pennsylvania municipal authority.

BUILDING SEWER The extension from the sewage drainage system of any structure to the lateral of a sewer or to a sewer, as appropriate.

IMPROVED PROPERTY Any property located within this Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

INDUSTRIAL WASTES Any solid, liquid or gaseous substance or form of energy ejected or escaping in the course of any industrial, manufacturing, trade or business process or in the course of the development, recovery or processing of natural resources, as distinct from sanitary sewage.

LATERAL – That part of the sewer system extending from a sewer to the curblineline or, if there shall be no curblineline, to the property line or, if applicable, to a grinder pump unit; or if no such lateral shall be provided, then ‘lateral shall mean that portion of or place in a sewer which is provided for the connection of any building sewer.

OWNER – Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

PERSON – Any individual, partnership, company, association, society, corporation or other group or entity.

SANITARY SEWAGE – Normal water-carried household and toilet wastes from any improved property.

SEWER – Any pipe, conduit or grinder pump unit constituting a part of the sewer system, used or usable for sewage collection purposes.

SEWER SYSTEM – All facilities, as of any particular time, for collecting, pumping, transporting and/or disposing of sanitary sewage and/or industrial wastes, situate in or adjacent to this Township and owned, maintained and operated by the Authority or its agent.

TOWNSHIP – The Township of West Earl, Lancaster County, Pennsylvania, a political subdivision, acting by and through its Board of Supervisors or, in appropriate cases, by and through its authorized representatives.

§ 138-14. Use of public sewers required; restrictions.

- A. The owner of any improved property which is located in this Township and is accessible to and whose principal building is within 150 feet of the sewer system shall connect such improved property therewith, in such manner as this Township and the Authority may require, within 60 days after notice to such owner from this Township to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property, subject to the limitations and restrictions as shall be established by this Township or the Authority from time to time.
- B. All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer shall be required under Subsection A, shall be conducted into a sewer, subject to such limitations and restrictions as shall be established herein or as otherwise shall be established by this Township and the Authority from time to time.
- C. No person shall place or deposit or permit to be placed or deposited upon public or private property within this Township any sanitary sewage or industrial wastes in violation of Subsection A.
- D. No person shall discharge or permit to be discharged to any natural outlet within this Township any sanitary sewage or industrial wastes in violation of Subsection A, except where suitable treatment has been provided which is satisfactory to this Township.
- E. Privy vaults, cesspools, sinkholes, septic tanks and similar receptacles.

(1) No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or maintained at any time upon any improved property which has been connected to a sewer or which shall be required under Subsection A to be connected to a sewer. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of this Township, shall be cleansed and filled at the expense of the owner of such improved property and under the direction and supervision of this Township, and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if

required by this Township, cleansed and filled shall constitute a nuisance, and such nuisance may be abated as provided by law, at the expense of the owner of such improved property.

(2) No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.

- F. The notice by this Township to make a connection to a sewer, referred to in Subsection A, shall consist of a copy of this article, including any amendments at the time in effect, and a written or printed document requiring such connection in accordance with the provisions of this article and specifying that such connection shall be made within 60 days from the date such notice is given. Such notice may be given at any time after a sewer is in place which can receive and convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be served upon the owner either by personal service or by registered mail or by such other method as at the time may be provided by law.

§ 138-15. Building sewers and connections.

- A. Except as otherwise provided in this section, each improved property shall be connected separately and independently with a sewer through a building sewer. Groupings of more than one improved property on one building sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown and then only after special permission of this Township and the Authority, in writing, shall have been secured.
- B. All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to a sewer shall be borne by the owner of the improved property to be connected, and such owner shall indemnify and save harmless this Township and the Authority from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a building sewer or of connection of a building sewer to a sewer.
- C. A building sewer shall be connected to a sewer at the place designated by the Authority or where the lateral is provided. The invert of a building sewer at the point of connection shall be at the same elevation as or a higher elevation than the invert of the sewer. A smooth, neat joint shall be made, and the connection of a building sewer to the lateral or a sewer shall be made secure and watertight.
- E. If the owner of any improved property located in this Township and accessible to and whose principal building is within 150 feet of the sewer system, after 60 days' notice from this Township, in accordance with § 138-14, shall fail to connect such improved property, as required, this Township may make such connection and may collect from such owner the costs and expenses thereof. In such case, this Township shall forthwith, upon completion of the work, send an itemized bill of the cost of the construction of such connection to the owner of the improved property to which connection has been so made, which bill shall be payable forthwith. In case of neglect or refusal by the owner of such improved property to pay said bill, this Township shall file a municipal lien for said construction within six months of the date of the completion of the construction of said

connection, the same to be subject in all respects to the general law provided for the filing and recovery of municipal liens.

§ 138-16. Rules and regulations governing building sewers and connections to sewers.

- A. Where an improved property, at the time connection to a sewer is required, shall be served by its own sewage disposal system or device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or device and attachment shall be made, with proper fittings, to continue such house sewer line as a building sewer.
- B. No building sewer shall be covered until it has been inspected and approved by this Township and the Authority. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to a sewer.
- C. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.
- D. Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and all other public property disturbed in the course of installation of a building sewer shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to the Township.
- F. If any person shall fail or refuse, upon receipt of a notice from this Township or the Authority, in writing, to remedy any unsatisfactory conditions with respect to a building sewer within 60 days of receipt of such notice, this Township or the Authority may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory conditions shall have been remedied to the satisfaction of this Township and the Authority.
- F. This Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and the sewer system, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as a part of this article.

§ 138-17. Violations and penalties.

- A. General penalty. Any person who has violated or who has permitted the violation of any provision of this article (including but not limited to the rules and regulations of the Leola Sewer Authority) shall be liable, upon conviction thereof in a summary proceeding, to pay a fine of not less than \$200 nor more than \$1,000 for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this article, and each section of this article which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable to imprisonment for a period not exceeding 30

days. [Amended 8-9-1993 by Ord. No. 101; 6-24-1996 by Ord. No. 116; 4-28-1997 by Ord. No. 129]

- B. Fines and costs imposed under the provisions of this article shall be enforceable and recoverable in the manner and at the time provided by applicable law.

ARTICLE iIL
Connection to West Earl Sewer Authority System
[Adopted 6-4-1985 by Ord. No. 49]

§ 138-18. Definitions.

Unless the context specifically and clearly indicates otherwise, the meanings of terms and phrases used in this article shall be as follows:

AUTHORITY – West Earl Sewer Authority, a Pennsylvania municipal authority.

BUILDING SEWER – The extension from the sewage drainage system of any structure to the lateral of a sewer or to a sewer, as appropriate.

IMPROVED PROPERTY – Any property located within this Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

INDUSTRIAL WASTES – Any solid, liquid or gaseous substance or form of energy ejected or escaping in the course of any industrial, manufacturing, trade or business process or in the course of the development, recovery or processing of natural resources, as distinct from sanitary sewage.

LATERAL – That part of the sewer system extending from a sewer to the curblineline or, if there shall be no curblineline, to the property line or, if applicable, to a grinder pump unit, or if no such lateral shall be provided, then “lateral” shall mean that portion of or place in a sewer which is provided for connection of any building sewer.

OWNER – Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

PERSON – Any individual, partnership, company, association, society, corporation or other group or entity.

SANITARY SEWAGE – Normal water-carried household and toilet wastes from any improved property.

SEWER – Any pipe or conduit constituting a part of the sewer system, used or usable for sewage collection purposes.

SEWER SYSTEM – All facilities, as of any particular time, for collecting, pumping, transporting and/or disposing of sanitary sewage and/or industrial wastes, situate in this Township and owned, maintained and operated by the Authority or its agent.

TOWNSHIP – The Township of West Earl, Lancaster County, Pennsylvania, a political subdivision, acting by and through its Board of Supervisors or, in appropriate cases, by and through its authorized representatives.

§ 138-19. Use of public sewers required; restrictions.

- A. The owner of any improved property which is located in this Township and is accessible to and whose principal building is within 150 feet of the sewer system shall connect such improved property therewith, in such manner as this Township and the Authority may require, within 60 days after notice to such owner from this Township to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property, subject to the limitations and restrictions as shall be established by this Township or the Authority from time to time.
- B. All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer shall be required under Subsection A, shall be conducted into a sewer, subject to such limitations and restrictions as shall be established herein or as otherwise shall be established by this Township and the Authority from time to time.
- C. No person shall place or deposit or permit to be placed or deposited upon public or private property within this Township any sanitary sewage or industrial wastes in violation of Subsection A.
- D. No person shall discharge or permit to be discharged to any natural outlet within this Township any sanitary sewage or industrial wastes in violation of Subsection A, except where suitable treatment has been provided which is satisfactory to this Township.
- F. Privy vaults, cesspools, sinkholes, septic tanks and similar receptacles.
 - (1) No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or maintained at any time upon any improved property which has been connected to a sewer or which shall be required under Subsection A to be connected to a sewer. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of this Township, shall be cleansed and filled at the expense of the owner of such improved property and under the direction and supervision of this Township, and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by this Township, cleansed and filled shall constitute a nuisance, and such nuisance may be abated as provided by law, at the expense of the owner of such improved property.
 - (2) No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.
- F. The notice by this Township to make a connection to a sewer, referred to in Subsection A, shall consist of a copy of this article, including any amendments at the time in effect, and a written or printed document requiring such connection in accordance with the provisions of this article and specifying that such connection shall be made within 60 days from the date such notice is given. Such notice may be given at any time after a

sewer is in place which can receive and convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be served upon the owner either by personal service or by certified mail or by such other method as at the time may be provided by law.

§ 138-20. Building sewers and connections.

- A. Except as otherwise provided in this section, each improved property shall be connected separately and independently with a sewer through a building sewer. Groupings of more than one improved property on one building sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown and then only after special permission of this Township and the Authority, in writing, shall have been secured.
- B. All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to a sewer shall be borne by the owner of the improved property to be connected, and such owner shall indemnify and save harmless this Township and the Authority from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a building sewer or of connection of a building sewer to a sewer.
- C. A building sewer shall be connected to a sewer at the place designated by the Authority or where the lateral is divided. The invert of a building sewer at the point of connection shall be at the same elevation as or a higher elevation than the invert of the sewer. A smooth, neat joint shall be made, and the connection of a building sewer to the lateral or a sewer shall be made secure and watertight.
- D. If the owner of any improved property located in this Township and accessible to and whose principal building is within 150 feet of the sewer system, after 60 days' notice from this Township, in accordance with §138-19, shall fail to connect such improved property, as required, this Township may make such connection and may collect from such owner the costs and expenses thereof. In such case, this Township shall forthwith, upon completion of the work, send an itemized bill of the cost of the construction of such connection to the owner of the improved property to which connection has been so made, which bill shall be payable forthwith. In case of neglect or refusal by the owner of such improved property to pay said bill, this Township shall file a municipal lien for said construction within six months of the date of the completion of the construction of said connection, the same to be subject in all respects to the general law provided for the filing and recovery of municipal liens.

§ 138-21. Rules and regulations governing building sewers and connections to sewers.

- A. Where an improved property, at the time connection to a sewer is required, shall be served by its own sewage disposal system or device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or device, and attachment shall be made, with proper fittings, to continue such house sewer line as a building sewer.

- B. No building sewer shall be covered until it has been inspected and approved by this Township and the Authority. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to a sewer.
- C. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.
- D. Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and all other public property disturbed in the course of installation of a building sewer shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to the Township.
- E. If any person shall fail or refuse, upon receipt of a notice from this Township or the Authority, in writing, to remedy any unsatisfactory conditions with respect to a building sewer within 60 days of receipt of such notice, this Township or the Authority may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory conditions shall have been remedied to the satisfaction of this Township and the Authority.
- F. This Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and the sewer system, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as a part of this article.

§ 138-22. Violations and penalties. [Amended 8-9-1993 by Ord. No. 101; 6-24-1996 by Ord. No. 116; 4-28-1997 by Ord. No. 129]

Any person who has violated or who has permitted the violation of any provision of this article (including but not limited to the rules and regulations of the West Earl Sewer Authority) shall be liable, upon conviction thereof in a summary proceeding, to pay a fine of not less than \$200 nor more than \$1,000 for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this article, and each section of this article which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable to imprisonment for a period not exceeding 30 days.

§ 138-23. Purpose.

It is declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Township.

ARTICLE IV
Sewage Disposal Systems
[Adopted 6-22-1992 by Ord. No. 95]

§ 138-24. Title.

This article shall be known and may be cited as the “West Earl Township Sewage Disposal System Ordinance.”

§ 138-25. Legislative intent.

- A. The Board of Supervisors recognizes that individual on-lot sewage disposal systems constitute a valid and approved manner of conserving the quality of the water and other natural resources of the Township through proper treatment of wastes generated by development within the Township. The use of individual on-lot sewage systems must be regulated in accordance with the regulations promulgated by the Department of Environmental Resources which pertain to the location and permitted types of on-lot sewage disposal systems. In addition, the Township has determined that, should the on-lot sewage system installed by a landowner fail, the water quality and other natural resources of the Township may be polluted. It is especially of concern to the Board that such pollution may occur when a system fails and there is no suitable area on the lot for the installation of a replacement system. Therefore, in order to protect the water quality and other natural resources of the Township, thereby protecting the health and welfare of residents and visitors, the Board of Supervisors desires to require that all landowners provide and set aside areas for the installation of replacement individual on-lot sewage disposal systems.
- B. It is the further intent of the Board of Supervisors to ensure that on-lot sewage disposal systems are properly maintained. Failure to maintain on-lot sewage disposal systems results in malfunctions which in turn result in the pollution of the water quality and other natural resources of the Township. On-lot sewage disposal systems should be pumped out on a regular basis, and it is the responsibility of all landowners to ensure that such maintenance is performed. In order to promote the proper maintenance of on-lot sewage disposal systems within the Township, the Township shall develop a public education program.

§ 138-26. Adoption of standards by reference.

A certain document, three copies of which have been and are presently on file in the office of the Secretary of the Township of West Earl, being marked and designated as “Chapters 71, 72 and 73 of Title 25 of the Pennsylvania Code,” being promulgated by the Department of Environmental Resources of the Commonwealth of Pennsylvania, be and is hereby adopted as the sewage permit application and installation procedure of the Township, and each and all of the regulations contained in said chapters are hereby adopted by the Township except as modified by this article. It is the intent of the Board of Supervisors to adopt all subsequent amendments and revisions to said chapters as permitted by law and in accordance with the provisions of I Pa.C.S.A. § 1937(a). If such an intent is found invalid by a court of competent

jurisdiction, it is the intent of the Board to adopt said chapters as they existed on the effective date of this article.

§ 138-27. Word usage and definitions.

- A. Word usage. In the interpretation of this article, the singular shall include the plural, and the masculine shall include the feminine and the neuter.
- B. Definitions. As used in this article, the following terms shall have the meanings indicated:

ACT – The Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. (1965) 1535, No. 537, as amended, 35 P.S. § 750.1 et seq.

BOARD – The Board of Supervisors of the Township.

COMMUNITY SEWAGE SYSTEM Any system, whether publicly or privately owned, for the collection of sewage or industrial wastes of a liquid nature from two or more lots and the treatment and/or disposal of the sewage or industrial waste on one or more of the lots or at any other site and which shall comply with all applicable regulations of the Department.

DEPARTMENT – The Department of Environmental Protection of the Commonwealth of Pennsylvania or any successor agency. **[Amended 6-24-1996 by Ord. No. 117]**

INDIVIDUAL ON-LOT SEWAGE DISPOSAL SYSTEM (OLDS) Any system of piping, tanks or other facilities serving on a single lot and collecting and disposing of sewage, in whole or in part, into the soil and any waters of the Commonwealth of Pennsylvania or by means of conveyance to another site for final disposition and which is located upon the lot which it serves.

LAND DEVELOPMENT – A land development as defined in the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted, 53 P.S. § 10101 et seq.

LOT A parcel of land used or intended to be used as a building site or a separate parcel to be created as a result of approval of a subdivision or land development application or a condominium unit. The term “lot” shall include a parcel equal to or greater than 10 acres in size where the “lot” may be occupied by one or more persons or families.

MALFUNCTION – The condition which occurs when an OLDS or community sewage system discharges sewage onto the surface of the ground, into ground waters of the Commonwealth, into surface waters of the Commonwealth, backs up into the building connected to the OLDS or community sewage system or otherwise causes a nuisance hazard to the public health or pollution of groundwater or surface water or contamination of public or private drinking water wells. An OLDS or a community sewage system shall be considered to be “malfunctioning” if any of the conditions set forth in this definition occur for any length of time during any period of the year. **[Added 6-24-1996 by Ord. No. 117]**

MANIFEST – A written report made to the Township by a septage hauler providing service to an OLDS or community sewage system within the Township which at a minimum contains the name and address of the septage hauler, the name of the property owner, the address of the property upon which the OLDS or community sewage system is located, a description of all services performed by the septage hauler, the location at which any sewage or solids removed from the OLDS or community sewage system will be disposed, a description of the condition of the OLDS or community sewage system, a statement noting whether any malfunctions of the OLDS or community sewage system were observed and a statement noting all maintenance or repairs to the OLDS or community sewage system performed. **[Added 6-24-1996 by Ord. No. 117]**

NONSTANDARD SYSTEM – An OLDS which has a denitrification unit or any other equipment which is not commonly found on OLDS within Lancaster County or an OLDS which has been modified to address groundwater contamination or other environmental issues or any OLDS which requires additional approvals from the Department or a modification or amendment to the Township’s Official Plan. **[Added 12-11-2006 by Ord. No. 194]**

OFFICIAL PLAN – A comprehensive plan for the provision of adequate sewage disposal systems adopted by the Township and approved by the Department in accordance with the Act and with applicable Department regulations.

OLDS – An individual on-lot sewage disposal system.

PERMIT – A permit issued by the Sewage Enforcement Officer, after the performance of tests to determine suitability, to authorize the initial installation of an OLDS or the repair, replacement or enlargement of an existing OLDS.

PERMIT, USE – The permit issued by the Township to authorize the initial use of an OLDS or community sewage system upon the installation of such system or the continued use of an OLDS or community sewage system for which a permit has been issued to authorize the repair or modification of such OLDS or community sewage system.

PERSON – Any individual, association, partnership, public or private corporation, whether for profit or not for profit, trust, estate or other legally recognized entity. Whenever the term “person” is used in connection with any clause providing for the imposition of a fine or penalty or the ordering of the action to comply with the terms of this article, the term “person” shall include the members of an association, partnership or firm and the officers of any public or private corporation, whether for profit or not for profit.

PLANNING MODULE FOR LAND DEVELOPMENT – A revision to the Township Official Plan submitted in connection with the request for approval of a subdivision or land development in accordance with Department regulations.

PUBLIC SEWER SERVICE PROVIDER – West Earl Sewer Authority, Leola Sewer Authority, or any other political subdivision or municipal authority which provides or may in the future provide public sewer service within the Township. **[Added 12-11-2006 by Ord. No. 194]**

REHABILITATION – Work done to modify, alter, repair, enlarge or replace an existing OLDS. [**Added 12-11-2006 by Ord. No. 194**]

REPLACEMENT LOCATION – A location designated as the future location of an OLDS or community sewage system that shall be installed should the OLDS or community sewage system installed or to be installed fail or otherwise become inoperable and which shall meet all the regulations of the Department and all applicable Township ordinances for an OLDS or community sewage system, as applicable.

SEPTAGE HAULER – Any person licensed by the Lancaster County Solid Waste Management Authority, the Department or other governmental agency to remove septage or other solids from treatment tanks of OLDS, community sewage systems, holding tanks or privies within the Township. [**Added 6-24-1996 by Ord. No. 117**]

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 animals 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.² [**Added 6-24-1996 by Ord. No. 117**]

SEWAGE ENFORCEMENT OFFICER – The Sewage Enforcement Officer of the Township.

SINGLE AND SEPARATE OWNERSHIP – The ownership of a lot by one or more persons, which ownership is separate and distinct from that of any abutting or adjoining lot.

SUBDIVISION – A subdivision as defined by the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted, 53 P.S. § 10101 et seq.

TOWNSHIP – The Township of West Earl, Lancaster County, Pennsylvania.

§ 138-28. Permit requirements and procedures. [Amended 12-11-2006 by Ord. No. 194]

All landowners, developers and contractors who desire to install, repair, modify, rehabilitate, or alter an OLDS in the Township shall obtain a permit from the Sewage Enforcement Officer prior to the commencement of such work. All landowners, developers and contractors who desire to repair, modify, rehabilitate, alter or replace any OLDS or component of an OLDS which is or may be malfunctioning shall obtain a permit from the Sewage Enforcement Officer prior to commencement of any work. All work performed under any permit shall comply with the following regulations:

- A. The holder of a permit and the contractor performing work under such permit shall notify the Sewage Enforcement Officer at least three working days before commencing installation, repair, modification, rehabilitation or alteration of the OLDS in order that

2. Editor's Note: See 35 P.S. § 691.1 et seq.

one or more inspections in addition to the final inspection required by the Department may be scheduled and performed by the Sewage Enforcement Officer.

- B. Any OLDS permit providing for the installation or repair of a septic tank shall require that the septic tank contain septic solid retainers of the type as specified by the Department's regulations. This is to obtain the highest quality effluent.
- C. If construction or installation of the OLDS and of any building or structure for which such OLDS is to be installed has not commenced within three years after the issuance of the permit for such OLDS, the permit shall expire. The landowner and/or contractor shall obtain a new permit prior to commencement of the installation, repair, modification, replacement or alteration of the OLDS.
- D. The holder of the permit and the contractor performing work under a permit to repair, modify, alter, rehabilitate or replace an OLDS which is malfunctioning or which may be malfunctioning shall notify the Sewage Enforcement Officer within 24 hours after completion of the work. The Sewage Enforcement Officer shall inspect the repaired, modified, altered or rehabilitated OLDS to insure compliance with the Regulations and this article.
- F. Any person who shall install new or rehabilitated systems shall provide a marker or markers at ground level locating the subsurface waste disposal tank, tank access, and other important components of the system requiring periodic inspection and maintenance. Requirements for marker types and locations will be determined by the Sewage Enforcement Officer. In addition, a riser or manhole extension shall be constructed to finished grade or to not more than 12 inches below grade when the location is identified by ground marker. If access is extended to grade, the access cover shall be airtight and shall be secured by bolts or locking mechanisms, or have sufficient weight to prevent unauthorized access in accordance with Department Regulations.
- F. All landowners, developers and contractors who desire to install a non-standard OLDS in addition to all requirements of §§138-28 through 138-31 of this article shall also meet all of the following requirements:
 - (1) The record owner of the lot on which such system is to be installed and, if different, the applicant, shall enter into an agreement with the Township, in recordable form, providing for the long-term maintenance of the system which grants the Township the right to enter upon the property; to inspect such system not less than once each year and, in addition, whenever the Township receives a complaint or otherwise has reason to believe that such system is not functioning properly; to maintain such system if the landowner fails to do so; and to recover the cost of any maintenance performed plus a penalty from the landowner. The agreement shall specifically authorize the Township to file a municipal claim against the property to recover costs and fees and shall specifically state that its provisions are binding upon the landowner executing the agreement and upon all successive owners of the property until the system is removed and the property 15 connected to a public sewer service provider sewer system.
 - (2) The applicant shall post financial security with the Township to secure the future maintenance of the system and payment of costs of annual inspection of such

WEST EARL CODE

system. The amount of the financial security shall be based upon the estimated cost to maintain the particular nonstandard system chosen by the applicant. The financial security shall be posted through an irrevocable letter of credit in a form acceptable to the Township Solicitor or in a cash escrow which the Township shall maintain in a non-interest bearing account. The Township shall not release such financial security until the Township is provided with alternate financial security or until the system is removed and the property is connected to a public sewer system owned and operated by a governmental entity.

- (3) The applicant shall demonstrate to the Township that the proposed nonstandard system meets all applicable Department regulations and that the applicant has obtained all necessary approvals and permits.
- (4) The applicant shall provide the Township with a complete set of as-built plans for the nonstandard system after its installation.
- (5) The applicant shall reimburse the Township for all costs incurred in the preparation of the agreement and its recording.
- (6) The applicant shall pay all costs associated with the yearly inspection of the nonstandard system.

§ 138-29. Sewage testing and hydrogeologic studies required for all proposed lots. [Amended 12-11-2006 by Ord. No. 194]

- A. No requests for approvals of planning modules for land development and no revisions or supplements to the Official Plan shall be granted unless the applicant presents to the Board evidence that each lot or lot to be created contains a suitable location for the installation of an initial OLDS except when such lots or lots to be created are to be served by a community sewage system. All tests required by the Department and this article for the location of an OLDS to confirm the suitability of the location shall be performed as approved by the Department.
- B. All planning modules for land development except planning modules for land development which propose sewer service by means of a public sewer service provider sewer system shall be accompanied by hydrogeologic tests performed in accordance with all applicable Department regulations. The Board shall not approve any planning module for land development which does not contain hydrogeologic studies which demonstrate that the proposed sewage disposal facilities will not adversely affect the groundwater or that measures will be utilized, such as the installation of denitrification systems or dispersion plume easements, which will address the impacts of the proposed sewage disposal facilities.
- C. Well test results submitted with planning modules will be compared with the Official Plan well test data. If the results vary from the Official Plan well test data, the Township may require additional testing to verify any discrepancies.

§ 138-30. Replacement location for on-lot sewage disposal systems and community sewage disposal systems required.

After the effective date of this article, a replacement location for an OLDS shall be required for all lots or lots to be created which are not serviced or to be serviced by a community sewage system or for which a valid permit for an OLDS has not been issued. A replacement location shall be required for all community sewage systems which are proposed to provide sewage disposal to a proposed development. The replacement location provided shall comply with the Act and with all regulations issued by the Department as incorporated into this article concerning OLDS and community sewage systems, including isolation distances, and with the terms of this article and any other applicable Township ordinances.

§ 138-31. Identification of replacement location.

- A. Each person who shall apply for a permit under Chapter 184, Zoning, or a permit for an OLDS or who shall request approval of a planning module for land development or the adoption of a revision or supplement to the Official Plan shall demonstrate to the satisfaction of the Sewage Enforcement Officer that a suitable area exists on the lot or on each lot to be created for an initial OLDS and for the replacement location. The Sewage Enforcement Officer shall perform or observe all tests required by this article for the location of any OLDS to confirm the suitability of the replacement location. Allowance of open land for the replacement location without testing performed or observed by the Sewage Enforcement Officer shall not constitute compliance with the requirements of this section.
- B. Each person who shall apply for a permit under Chapter 1 84, Zoning, or a permit for a community sewage system or who shall request approval of a planning module for land development or the adoption of a revision or supplement to the Official Plan shall demonstrate to the satisfaction of the Sewage Enforcement Officer that a suitable area exists for an initial community sewage system and for the replacement location. The Sewage Enforcement Officer shall perform or observe all tests required by this article for the location of any community sewage system to confirm the suitability of the replacement location. Allowance of open land for the replacement location without testing performed or observed by the Sewage Enforcement Officer shall not constitute compliance with the requirements of this section.
- C. The location of the initial OLDS or community sewage system and the replacement location as confirmed by the Sewage Enforcement Officer shall be identified on the plot plans and diagrams submitted as a part of the permit application.
- D. If the application has been submitted as a part of an application for subdivision or land development approval or as part of a request that the Township approve a planning module for land development or amend its Official Plan, the location of each OLDS or community sewage system and each replacement location shall be noted upon the plans. If the application is for subdivision or land development approval, a note shall be added to the plans stating that no improvements shall be constructed upon the replacement location, and the deed to each lot created as a part of the subdivision or land development shall contain language reflecting this limitation.

- E. Any revisions to a permit or plan affecting a replacement location which previously has been approved pursuant to the provisions of this article shall be approved by the Board or its authorized representative.

§ 138-32. Construction of improvements upon replacement location prohibited.

No permanent or temporary improvements of any character other than the planting of trees, shrubs or other plant matter shall be constructed or installed upon the replacement location unless the person who desires to construct or install such improvements shall demonstrate to the satisfaction of the Sewage Enforcement Officer that an alternate replacement location which complies with all applicable regulations of the Department, this article and all other applicable Township ordinances exists upon the lot. If such an alternate replacement location shall be identified, the alternate replacement location may be considered to be the replacement location required by this article and shall be designated as the replacement location. The newly designated replacement location shall thereafter be considered the replacement location for the purposes of this article.

§ 138-33. Relief from requirement of designation of replacement location.

If any lot held in single and separate ownership as of the effective date of this article shall not contain land suitable for a replacement location, the applicant for a permit under Chapter 184, Zoning, or a permit for an OLDS may request that the Board grant an exception to the requirement of providing a replacement location. The applicant for such an exception shall present credible evidence to the Board demonstrating that the lot was held in single and separate ownership on the effective date of this article, the size of the lot, the inability of the applicant to acquire adjacent land or the unsuitability of adjacent land which might be able to be acquired and the testing conducted to determine that the lot is not suitable to provide a replacement location. At all times the burden to present credible evidence and the burden of persuasion shall be upon the applicant for an exception from the terms of this article.

§ 138-34. Environmental impact assessment.

- A. After the effective date of this article, no requests for approvals of planning modules for land development and no revisions or supplements to the Official Plan shall be considered by the Board unless the applicant presents to the Board data sufficient to determine the impact upon the environment of the proposed development. This information shall be used by the Board in assessing the planning module for land development and any requested revision or supplement to the Official Plan. Each applicant shall submit the following information to the Board for review by the Board, the Township Engineer and such other persons as the Board may determine:
- (1) A location map showing the entire tract and its relation to the surrounding area, drawn on a scale of 1,000 feet to the inch.
 - (2) Types of soils based upon the United States Department of Agriculture Soil Survey for Lancaster County.

- (3) Sufficient elevations and/or contours to determine the general slope and natural drainage of the land. Contours shall ordinarily be shown at intervals of five feet but may be at lesser intervals in the case of relatively level tracts.
 - (4) Data to which contour elevations refer. Where practicable, such data shall refer to known established elevations.
 - (5) The location of all existing floodplains, wetlands, watercourses, railroads, areas of subsidence, wooded areas (marking all wooded areas to be cleared), bridges, culverts and other significant natural features on the tract and within 200 feet of the tract.
 - (6) The location of all streets, adjoining tracts and buildings within 200 feet of the tract.
 - (7) Plans for the treatment and disposal of sewage and for the provision of a water supply.
 - (8) The location of all proposed land uses, including residential and nonresidential uses, by types.
 - (9) Data on size and intensity of use, including the number of residential and commercial lots, lot sizes and the number and type of dwelling units.
 - (10) Data relevant to the occurrence of flooding, subsidence, landslides and other geological hazards within and adjacent to the tract.
 - (11) A preliminary erosion and sedimentation control plan pursuant to the rules and regulations of the Department.
 - (12) Where slopes in excess of 10% occur within the tract, a preliminary grading plan indicating the general location and magnitude of the proposed cuts and fills.
- B. Submission of a preliminary plan prepared in accordance with the requirements of Chapter 155, Subdivision and Land Development, shall be considered compliance with this section.

§ 138-35. Repair or modification of OLDS or community sewage systems.

A permit shall be required for the repair or modification of any OLDS or community sewage system. Such repair or modification permit shall be issued by the Sewage Enforcement Officer in accordance with the rules and regulations of the Department. Upon completion of the repair or modification of the OLDS or community sewage system, the owner of the lot upon which the repaired or modified OLDS is located or the person who owns or is responsible for the maintenance of the community sewage system shall ensure that the OLDS or community sewage system is inspected by the Sewage Enforcement Officer and shall obtain a use permit in accordance with the requirements of § 138-38 of this article.

§ 138-36. Maintenance responsibilities.

All OLDS and community sewage systems which have been or which shall be installed within the Township shall be properly maintained.

- A. The owner of the lot upon which an OLDS is installed shall be responsible for the proper maintenance of such OLDS.
- B. If a community sewage system serves multiple dwellings or units of occupancy owned by a single person, such person shall be responsible for the maintenance of the community sewage system.
- C. If a community sewage system serves multiple dwellings or units of occupancy which are not owned by a single person, a homeowners' association, condominium unit owners association or similar entity shall be responsible for the maintenance of the community sewage system. Such entity shall have the power to assess the lots or units served by the community sewage system for the cost to maintain such system and shall establish a fund for the maintenance of the community sewage system prior to its installation and use. The entity shall present evidence of such powers of assessment and establishment of a fund for maintenance to the Township for its review and approval prior to final inspection of the community sewage system by the Sewage Enforcement Officer.

§ 138-37. Operation of community sewage systems.

All community sewage systems shall be operated in full compliance with the requirements of this article and with all applicable requirements of the Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. § 691.1 et seq., and the regulations of the Department. The owner of a community sewage system shall post financial security with the Township to secure the proper operation and maintenance of the community sewage system.

- A. Such financial security shall be in the form of an irrevocable letter of credit or other financial security acceptable to the Board of Supervisors in an amount equal to 110% of the estimated cost of operation of the community sewage system for one year.
- B. The amount of financial security required by the Township shall be based upon an estimate of the cost of the operation of the community sewage system, submitted by the developer and/or owner of the community sewage system and prepared by a professional engineer licensed as such in this commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the developer and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this commonwealth and chosen mutually by the Township and the developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid by the developer and/or owner of the community sewage system.
- C. Annually the Township may adjust the amount of required financial security by redetermining the estimated cost of the operation of the community sewage system. Subsequent to said adjustment, the Township may require the owner of the community

sewage system to post additional security in order to insure that the financial security equals 110% of the estimated cost of operation of the community sewage system. Any additional security shall be posted by the owner of the community sewage system within 30 days after being notified of the same.

§ 138-38. Maintenance requirements. [Amended 8-9-1993 by Ord. No. 101; 6-24-1996 by Ord. No. 117; 12-11-2006 by Ord. No. 194]

Any person owning a lot served by an OLDS shall have the OLDS inspected and the tank pumped by a septage hauler registered with the Township within 90 days of receiving official notice. This requirement shall include OLDS which utilizes an aerobic treatment tank, cesspools and drywells. Thereafter, that person shall have the tank pumped at least every three years, upon notice to do so, or whenever an inspection reveals that the tank is filled with solids or scum in excess of 1/3 of the liquid depth of the tank. The septage hauler shall submit a manifest to the owner and to the Township as set forth below. The owner shall be responsible to insure that the septage hauler submits the manifest to the Township.

- A. If any person provides a receipt or other written evidence showing that their tank had been pumped within one year prior to the effective date of this Section, the Township may delay that person's initial required pumping to conform to the general three-year frequency requirement.
- B. The Township Sewage Enforcement Office may require that the required pumping frequency be increased if the septic tank is undersized, if solids buildup in the tank is greater than 1/3 of the liquid depth of the tank, if the hydraulic load on the OLDS increases significantly above average, if a garbage grinder is used in the building, if the OLDS malfunctions or for other good cause shown.
- C. The septage hauler shall conduct an inspection at the time of pumping for the purpose of determining the type and functional status of each OLDS.
 - (1) The septage hauler shall include an inspection of the baffles within the tank. If the baffles are in a deteriorated condition, the owner is responsible to replace the baffles with sanitary tees. No permit shall be required to replace deteriorated baffles with sanitary tees.
 - (2) If the OLDS is a cesspool or drywell, the septage hauler shall inspect the sidewalls of the cesspool or drywell. If the sides are in need of cleaning, the septage hauler shall perform said cleaning.
- D. Upon completion of each required pumping and inspection, the septage hauler shall fill out and submit a signed copy of the manifest form to the Township and to the owner. The Township shall provide copies of the approved forms to all registered septage haulers. The septage hauler shall submit the copies to the Township and the owner within 30 days of the date of inspection and pumping of the OLDS along with the required administrative fee.
- E. Any owner of a lot served by an OLDS which utilizes 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 section. 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 exceed those required for septic tanks.

- F. The Sewage Enforcement Officer may require additional maintenance activity 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. Repair permits issued by the Sewage Enforcement Officer may be required for these activities, as applicable.

§ 138-39. Violations and penalties. [Amended 6-24-1996 by Ord. No. 117]

- A. It shall be a violation of this article to commit or permit any other person to commit any of the following acts:
 - (1) To install, repair, modify or alter an OLDS or community sewage system prior to obtaining a permit or in a manner which violates the terms and conditions of any permit.
 - (2) To misuse or fail to maintain an OLDS or community sewage system.
 - (3) To fail to remedy a malfunctioning OLDS or community sewage system in accordance with §§183-35 and 138-38.
 - (4) To construct any improvements upon, grade or take any other action which will render a replacement location unsuitable for installation of an OLDS unless the Sewage Enforcement Officer has approved an alternate replacement location in accordance with § 1 38-32.
 - (5) To fail to obtain or renew a use permit as required by § 138-38.
 - (6) To place false information on or omit relevant information from an application for a permit or a use permit or upon a manifest.
 - (7) To occupy or permit the occupancy of any structure served by an OLDS or community sewage system for which a valid permit and use permit have not been obtained as required by this article.
 - (8) To fail to comply with any other provision of this article.
- B. Any person who has violated or permitted the violation of any provision of this article shall, upon being found liable thereof in a civil enforcement proceeding commenced by the Township, pay a judgment of not less than \$100 and not more than \$1,000, plus all court costs, including the reasonable attorneys fees incurred by the Township as a result thereof. No judgment shall be imposed until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the

Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation.

§ 138-40. Remedies.

In case any improvement is constructed or any lot maintained in violation of this article, in addition to the other remedies provided by law, any appropriate action or proceedings in equity may be instituted or taken to prevent such unlawful construction of improvements or such unlawful maintenance of such lot or the continued use of such OLDS or community sewage system.

§ 138-41. Declaration of nuisance.

- A. The discharge of sewage on the surface of the ground, the failure to properly maintain an OLDS or community sewage system, the use of an OLDS or community sewage system for which no permit has been issued and the replacement, repair, modification or installation of an OLDS or community sewage system without a permit are hereby declared to be nuisances and abatable as such in accordance with the provisions of the Second Class Township Code, Act of May 1, 1933, P.L. 103, § 702, cl. XII and LI, as amended, 53 P.S. §~ 65712 and 65751. The actual expenses of the Township in the abatement of such nuisances, plus an additional 25% of such expenses, shall be filed as a municipal claim against the property and shall be collectible as provided by law.
- B. Construction of improvements on the replacement location renders the replacement location useless and therefore jeopardizes the water quality and other natural resources of the Township. This harm to the water quality and other natural resources of the Township is a danger to the health, safety and welfare of the residents of the Township and is hereby declared to be a nuisance and abatable as such in accordance with the provisions of the Second Class Township Code, Act of May 1, 1933, P.L. 103, § 702, cl. XII and LI, as amended, 53 P.S. §~ 65712 and 65751. The actual expenses of the Township in the abatement of such nuisances, plus an additional 25% of such expenses, shall be filed as a municipal claim against the property and shall be collectible as provided by law.

§ 138-42. Public education program.

The Board of Supervisors hereby declares that the Township shall commence a public education program directed at owners and residents of lots which are served by OLDS or community sewage systems. The public education program of the Township shall encourage the proper maintenance of the OLDS or community sewage system, the conservation of water to lessen the possibility of hydrologic overloading and the necessity to pump out the OLDS at regular intervals.

§ 138-43. Waiver of liability.

Although this article is intended to provide guidelines for the installation and maintenance of a replacement location for OLDS and community sewage systems, nothing contained herein

shall be interpreted as a guaranty or warranty to applicants or other Township residents that systems installed under the provisions of this article will function as intended. The Township assumes no responsibility for the location and/or maintenance of OLDS within the Township.

§ 138-44. Scope.

This Article shall not apply to any sewerage facilities for which a permit is required from the Pennsylvania Department of Environmental Resources pursuant to the Act of June 22, 1937, P.L. 1987, No. 394, known as the "Clean Streams Law."³ Any sewage facilities owned and/or operated by the West Earl Sewer Authority are specifically exempted from the requirements of this article.

§ 138-45. Construal of provisions.

Nothing in this article shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred, any permit issued or approval granted or any cause or causes of action arising prior to the enactment of this article.

§ 138-46. Disposal of septage. [Added 12-11-2006 by Ord. No. 1941

- A All septage haulers operating within the Township shall register with the Township and shall comply will all reporting requirements established by the Township. A septage hauler may register by completing the registration form and filing the completed registration form with the Township.
- B. All septage originating within the Township shall be disposed of at sites or facilities approved by the Department. Approved sites or facilities may include the following:
septage treatment facilities, wastewater treatment plants, composting sites, and approved farm lands.
- C. Septage haulers operating within the Township shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35

§ 138-47. (Reserved)

§ 138-48. (Reserved)

§ 138-49. (Reserved)

§ 138-50. (Reserved)

3. Editor's Note: See 35 P.S. § 691.1 et seq.

ARTICLE V
Holding Tanks and Privies
[Adopted 2-23-1998 by Ord. No. 1 354j]

§ 138-51. Title.

This article shall be known as the “West Earl Township Holding Tank and Privy Ordinance.”

§ 138-52. Legislative intent.

The purpose of this article is to establish procedures for the use and maintenance of existing and new holding tanks and existing and new privies designed to receive and retain sewage, whether from residential or commercial uses, and it is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of the Township of West Earl.

§ 138-53. Definitions.

Unless the context specifically and clearly indicates otherwise, the meanings of terms used in this article shall be as follows:

BOARD OF SUPERVISORS The Board of Supervisors of the Township of West Earl, Lancaster County, Pennsylvania.

DEPARTMENT The Department of Environmental Protection of the Commonwealth of Pennsylvania or any agency successor thereto.

HOLDING TANK – A watertight receptacle, whether permanent or temporary, which receives and retains sewage where water under pressure or piped wastewater is available and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.

IMPROVED PROPERTY – Any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

OWNER Any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

PERSON – Any individual, partnership, company, association, corporation, trust or other group or entity and the officers of such corporation and the members of such partnership.

PRIVY A watertight receptacle, whether permanent or temporary, which receives and retains sewage where water under pressure or piped wastewater is not available or where other methods of sewage disposal cannot be used and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.

4. Editor’s Note: This ordinance also provided for the repeal of former Art. V, Holding Tanks, adopted 7.13.1992 by Ord. No. 96, as amended.

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 substance 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 any substance which constitutes pollution under the Clean Streams Law, 35 P.S. § 691.1 et seq.

SEWAGE ENFORCEMENT OFFICER – The Sewage Enforcement Officer of the Township.

TOWNSHIP – The Township of West Earl, Lancaster County, Pennsylvania.

§ 138-54. Rights and privileges granted.

The Board of Supervisors is hereby authorized and empowered to undertake within the Township the control and methods of holding tank and privy use, sewage disposal and sewage collection and transportation thereof.

§ 138-55. Authority to adopt rules, regulations and agreements.

The Board of Supervisors is hereby authorized and empowered to adopt by resolution such rules and regulations concerning holding tank and privy installation, use and maintenance and to enter into such agreements as it may deem necessary from time to time to effect the purposes herein.

§ 138-56. Applicability of rules and regulations.

All such rules and regulations adopted by the Board of Supervisors shall be in conformity with the provisions herein, all other ordinances of the Township and all applicable laws and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania. The Board of Supervisors hereby adopts the regulations of the Department found in Title 25, Chapters 71 and 73, of the Pennsylvania Code governing holding tanks and privies as the regulations governing the design, installation and use of holding tanks and privies within the Township.

§ 138-57. Rates and charges.

The Board of Supervisors shall have the right and power to fix, alter, charge and collect rates, assessments and other charges relating to the use and maintenance of holding tanks and privies at reasonable and uniform rates as authorized by applicable law.

§ 138-58. Exclusiveness of rights and privileges.

The collection and transportation of all sewage from any improved property utilizing a holding tank or privy shall be done solely by or under the direction and control of the Board of Supervisors, and the disposal thereof shall be made only at such site or sites as may be approved by the Department.

§ 138-59. Conditions for holding tank use.

- A. No person shall install or use a holding tank prior to entering into an agreement with the Township concerning the maintenance of the holding tank after installation, in a form acceptable to the Township Solicitor, posting financial security to secure the maintenance of the holding tank, if required by the Township, and obtaining a permit authorizing such installation and use from the Sewage Enforcement Officer.
- B. Special conditions for holding tanks shall be incorporated in the permit application and permit for the proposed use of a holding tank.
- C. The Township shall be provided with the opportunity to inspect the holding tank for proper operation, maintenance and content disposal on an annual basis or more frequently if, in the determination of the Township, more frequent inspections are required.

§ 138-60. Conditions for privy use.

- A. In a revision to the official plan or an exception to the need to revise the official plan (Title 25, Chapter 71, § 71.55) submitted to the Township and subsequently approved by the Department, the property owner must demonstrate that site and soil suitability testing of the lot has been conducted by the Sewage Enforcement Officer and that the site meets the requirements of Title 25, Chapters 71 and 73, Standards for Sewage Disposal Facilities, of the Pennsylvania Code, for the ultimate sewage disposal by an approved on-lot system if water under pressure or piped wastewater becomes available to the lot.
- B. At such time that water under pressure becomes available, the property owner must remove the privy and replace the privy with an approved on-lot system.
- C. The conditions of use described in Subsections A and B above do not apply to:
 - (1) A privy to be used on a lot of record in existence prior to May 15, 1972, which is one acre or larger and is not nor will not be served by water under pressure in the future.
 - (2) Temporary use of portable retention tanks where their use is proposed at construction sites or at the site of public gatherings and entertainment.
 - (3) Such other temporary or permanent uses of privies as may be authorized by the Department and the Township.
- D. Special conditions for privies shall be incorporated in the permit application and permit for the proposed use of a privy.
- F. The Township shall be provided with the opportunity to inspect the holding tank for proper operation, maintenance and content disposal.

§ 138-61. Duties of property owner.

The owner of an improved property that utilizes a holding tank and privies shall:

- A. Maintain the holding tank or privy in conformance with this or any ordinance of this Township, the provisions of any applicable law and the rules and regulations of the Township and any administrative agency of the Commonwealth of Pennsylvania.
- B. Permit only the Township or its agent to collect, transport and dispose of the contents therein.
- C. Abandon the privy consistent with applicable public health and environmental standards and obtain a permit for and install an approved on-lot system meeting Chapter 73 standards in the event that water under pressure or piped wastewater becomes available to the property.
- D. Abandon the holding tank consistent with applicable public health and environmental standards and obtain a permit for and connect to the public sewer system in the event that public sanitary sewer service is provided.
- F. Permit the Township to enter upon lands to inspect the holding tank or privy for proper operation, maintenance and contents disposal as required by the Township.
- F. Arrange with the Township for an annual inspection of the holding tank or privy for proper operation, maintenance and contents disposal and pay to the Township the fee for such annual inspection as established by the Board of Supervisors by ordinance or resolution. The Township shall retain written inspection reports which shall be available for review by the Department.

§ 138-62. Violations and penalties.

- A. It shall be a violation of this article to commit or to permit any other person to commit any of the following acts:
 - (1) To install, repair, modify or alter a holding tank or privy prior to obtaining a permit or in a manner which violates the terms and conditions of any permit.
 - (2) To misuse or fail to maintain a holding tank or privy.
 - (3) To collect, transport and dispose of the contents of a holding tank or privy or to permit any person to collect, transport or dispose of the contents of a holding tank or privy in violation of the conditions of a permit, this article or the regulations of the Department.
 - (4) To fail to abandon a holding tank consistent with applicable Department standards if public sewer service becomes available.
 - (5) To fail to abandon a privy consistent with applicable Department standards if water under pressure becomes available.
 - (6) To place false information on or omit relevant information from an application for a permit.
 - (7) To fail to comply with any other provision of this article.

- B. For each violation of the provisions of this article, the owner, agent or contractor performing construction upon a lot where such violation shall exist and/or the owner, agent, lessee or contractor or any other person who commits, takes part in or assists in any such violation shall be liable, on conviction thereof in a summary proceeding, to pay a fine of not less than \$200 nor more than \$1,000 for each offense, together with the costs of prosecution. Each day or portion thereof which a violation exists shall be considered a separate violation of this article, and each section of this article which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable to imprisonment for a period not exceeding 30 days.

§ 138-63. Abatement of nuisances.

In addition to any other remedies provided in this article, any violation of this article shall constitute a nuisance and shall be abated by the Township by either seeking appropriate equitable or legal relief from a court of competent jurisdiction. The Board of Supervisors of the Township shall collect the cost of such abatement together with a penalty of 25% of the cost of the abatement from the property owner in the manner provided for the collection of municipal claims or by any other legal measures.