ORDINANCE NO. 03 OF 2013

EAST BRADFORD TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF EAST BRADFORD, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 89 "SEWERS" OF THE EAST BRADFORD TOWNSHIP CODE, AT ARTICLE IV, "ON-LOT SEWAGE DISPOSAL FACILITIES," TO AMEND ON-LOT SEWAGE DISPOSAL FACILITY MANAGEMENT PROVISIONS.

AND NOW, this 10th day of September, 2013, it is hereby enacted and ordained by the Board of Supervisors of East Bradford Township, Chester County, Pennsylvania that the Sewers Chapter of the East Bradford Code shall be amended as follows:

Section 1. Chapter 89, "Sewers," is hereby amended by deleting Article IV, "On-Lot Sewage Disposal Facilities," in its entirety and replacing it with new Article IV to read as follows:

Article IV. On-Lot Sewage Disposal Facilities

§ 89-29. Short title; introduction; purpose.

A. This article shall be known and may be cited as "An Ordinance Providing for a Sewage Management Program for East Bradford Township."

B. In accordance with municipal codes, the Clean Streams Law (Act of June 27, 1937, P.L. 1987, No. 394 as amended, 35 P.S. §§ 691.1 to 691.1001), and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. § 750.1 et seq., known as Act 537), it is the power and the duty of East Bradford to provide for adequate sewage treatment facilities and for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage. The Official Sewage Facilities Plan for East Bradford Township indicates that it is necessary to formulate and implement a sewage management program to effectively prevent and abate water pollution and hazards to the public health caused by improper treatment and disposal of sewage.

C. The purpose of this article is to provide for the regulation, inspection, and maintenance of on-lot sewage disposal systems; to further permit intervention in situations which may constitute a public nuisance or hazard to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

§ 89-30. Definitions.

A. As used in this article, the following terms shall have the meanings indicated:

Aerobic sewage treatment tank: A mechanically aerated Treatment Tank that provides aerobic biochemical stabilization of sewage prior to its discharge to an absorption area.

Authorized Agent: The Township Code Enforcement Officer, Township Zoning Officer, Township Engineer, Township Manager or any other person or entity appointed by the East Bradford Township Board of Supervisors to administer this article; or any enforcement officer employed by the Chester County Health Department or the Pennsylvania Department of Environmental Protection (DEP).

Board: The Board of Supervisors, East Bradford Township, Chester County, Pennsylvania.

Cesspool or Seepage Pit – A covered hole or pit for receiving drainage or sewage. Cesspools typically are lined with loose, uncemented stone or block. They have a formed or poured top with a monitoring access incorporated into them, which also functions as the cleanout port. Seepage pits have septic tanks installed between them and the structure they serve. Cesspools are connected directly to the structure.

Community On-Lot Sewage System (COLDS): Any system, whether publicly or privately owned, for the collection of sewage of a liquid nature from two or more lots, and the treatment and/or disposal of the sewage on one or more lots or at any other location for final disposal in whole or in part into the soil.

Department: The Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).

Health Department: The Chester County Health Department.

Individual On-Lot Sewage Disposal System: A system of piping, Treatment Tanks or other facilities serving a single lot and collecting, treating, and disposing of sewage in whole or in part into the soil or into any waters of this Commonwealth.

Malfunction: A condition which occurs when an on-lot Sewage Disposal System discharges sewage onto the surface of the ground, into ground waters of this Commonwealth, into surface waters of this Commonwealth, backs up into a building connected to the system or in any manner causes a nuisance or hazard to the public health or pollution of ground or surface water or contamination of public or private drinking water wells. Systems shall be considered to be malfunctioning if any condition noted above occurs for any length of time during any period of the year.

Official Sewage Facilities Plan: A comprehensive plan for the provision of adequate Sewage Disposal Systems, adopted by the Board and approved by the Department, pursuant to the Pennsylvania Sewage Facilities Act.

Sewage Disposal System: Any system for disposal of domestic sewage involving pretreatment and subsequent disposal of the clarified sewage into a subsurface soil absorption area or retaining

tank; this term includes both individual on-lot sewage systems and community on-lot sewage systems.

Person: Any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation for profit or not for profit.

Sewage: Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply, or for recreation, or which constitutes pollution under the Act of June 22, 1936 (P.L. 1987, No. 394), known as the "The Clean Streams Law", as amended.

Sewage Enforcement Officer (SEO): An employee of the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection (DEP) certified under the Pennsylvania Sewage Facilities Act.

Sewage Management District: Any area or areas of the Township designated in the Official Sewage Facilities Plan adopted by the Board as an area for which a Sewage Management Program is to be implemented. For East Bradford Township, said district shall include the entire Township except those areas specifically served by public sewers.

Sewage Management Program: A comprehensive set of legal and administrative requirements encompassing the requirements of this article, the Sewage Facilities Act, the Clean Steams Law, the regulations promulgated thereunder and such other requirements adopted by the Board or the Health Department to effectively enforce and administer this article.

Township: The Township of East Bradford, Chester County, Pennsylvania.

Treatment Tank – A water-tight tank designed to retain sewage long enough for satisfactory bacterial decomposition of the solids to take place. The term includes septic tanks and Aerobic Sewage Treatment Tanks.

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

§ 89-31. Requirements; applicability.

A. The provisions of this article shall apply in any portion of the Township identified in the Official Sewage Facilities Plan as a Sewage Management District.

B. Operation, maintenance, and repair.

(1) The operation, maintenance and repair of an individual on-lot sewage system shall be the responsibility of the lot owner, provided however, that maintenance and repair shall be subject to the continuing surveillance and inspection of the Township, its authorized agents, and/or a Sewage Enforcement Officer.

(2) It shall be the responsibility of the lot owner which utilizes an on-lot Sewage Disposal System to have it pumped in accordance with the schedule set forth in § 89-33 of this article and to make such other repairs or replacements as are necessary to prevent the malfunctioning of the system.

(3) Prior to the construction repair and/or replacement of an individual on-lot disposal system, a lot owner shall first obtain a permit from the Chester County Health Department.

(4) No building or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure, if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure to an Individual On-Lot Sewage Disposal System or COLDS until either the structure's owner receives a permit for alteration or replacement of the existing Sewage Disposal System or until the structure's owner and the appropriate officials of the Township receive written notification from the Sewage Enforcement Officer that such a permit will not be required. The Sewage Enforcement Officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

§ 89-32. Inspections.

A. Any on-lot Sewage Disposal System may be inspected by an Authorized Agent at any reasonable time as of **[the effective date of this Ordinance]**.

B. Such inspection may include a physical tour of the property.

C. A schedule of routine inspections may be established to assure the proper functioning of the Sewage Disposal Systems in the Sewage Management District.

D. An Authorized Agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the Authorized Agent shall order action to be taken to correct the malfunction. If total correction cannot be done in accordance with the regulations of the Department including but not limited, those outlined in Chapter 73 of Title 25 of the Pennsylvania Code or is not technically or financially feasible in the opinion of the SEO or a representative of the Department, then the property owner shall mitigate the malfunction.

E. There may arise geographic areas where numerous on-lot Sewage Disposal Systems are malfunctioning. A resolution of these area wide problems may necessitate detailed planning

and a revision to the portion of the Official Sewage Facilities Plan pertaining to areas affected by such malfunctions. Immediate corrective action may be compelled whenever a malfunction, as determined by the Authorized Agent and/or the Department, represents a serious public health or environmental threat.

§ 89-33. Maintenance.

A. The owner of a lot that is served by an on-lot Sewage Disposal System that uses a Treatment Tank shall have the Treatment Tank pumped by a Chester County Health Department licensed liquid waste hauler at least once every three years or whenever an inspection reveals that the Treatment Tank is filled with solids or scum in excess of 1/3 of the liquid depth of the tank. The lot owner shall submit proof of the pumping to the Township in the form of a receipt from the pumper/hauler within the prescribed three year pumping period. Alternatively, the pumper/hauler may report the pumping to a central electronic database, if available and applicable, within the prescribed three year pumping period.

B. The owner of a lot that is served by an on-lot Sewage Disposal System that uses an Aerobic Sewage Treatment Tank or another type of advanced treatment devise shall follow the operation and maintenance recommendations of the equipment manufacturer. A copy of the manufacturer's recommendations and a copy of the service agreement shall be submitted to the Township within six months of **[the effective date of this Ordinance]**. Thereafter, the lot owner shall submit service receipts to the Township or to a central electronic database, if available and applicable, at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for Aerobic Sewage Treatment Tanks exceed those required for Treatment Tanks.

C. The owner of a lot that is served by an on-lot Sewage Disposal System that uses a Cesspool or Seepage Pit is not required to pump their system in accordance with the prescribed schedule unless the system is located in an area of numerous malfunctions or in an area where a repair is not technically feasible. The owner of a lot that is served by such a system shall have that system pumped according to the schedule prescribed for Treatment Tanks to mitigate potential pollution. As an alternative to this scheduled pumping of the Cesspool or Seepage Pit, and pending any scheduled replacement of the substandard system as identified in the Official Sewage Facilities Plan, the lot owner may apply for a sewage permit from the Sewage Enforcement Officer for a Treatment Tank to be installed preceding the Cesspool or Seepage Pit. For this interim repair system consisting of a Cesspool or Seepage Pit preceded by an approved Treatment Tank, only the Treatment Tank must be pumped at the prescribed interval. The Cesspool or Seepage Pit may be pumped to aid operating efficiency.

D. Retaining tanks. The owner of a lot utilizing a retaining tank(s) or a sewage treatment system designed or operated as a retaining tank on **[the effective date of this Ordinance]** shall enter into a written contract with a Chester County Health Department licensed treatment tank contractor requiring the periodic pumping and disposal of the tank's contents in accordance with the schedule required by the permit which authorized the installation and use of the retaining system. A copy of the contract shall be filed by the owner with the Township within six months of **[the effective date of this Ordinance]** and annually

thereafter and shall be in effect and valid for a period of at least one year. The owner of a system installed after the effective date of this chapter shall submit the required contract to the Township within one year of the installation and annually thereafter.

E. Stream discharge systems. The owner of a lot on which a stream discharge sewerage system is approved and permitted by the Department has been installed shall register the system with the Township within six months of **[the effective date of this Ordinance]** by filing a copy of the current DEP permit, together with any other information required by the tests verifying the system's operational integrity performed during the 12 months immediately preceding the registration. The owner of a system installed after the effective date of **[the effective date of this Ordinance]** shall register the system with the Township within six months of such installation.

F. The required pumping frequency may be increased at the discretion of an Authorized Agent if the Treatment Tank is undersized compared to the current standard, if the solid build up in the tank is above average, if the hydraulic load on the system increases significantly above design capacity, if the system malfunctions or for other good cause shown.

G. If the pumping records submitted to the Township indicate that an on-lot sewage system is malfunctioning or in need of repair or replacement, the Township shall notify the lot owner and advise the lot owner to contact the Health Department.

H. If, upon inspection, the pumper/hauler determines that a system does not require pumping, the pumping requirement may be extended for a period defined by the pumper/hauler. The pumper/hauler must submit a report to the Township stating that pumping is not required and provide a date (year) when the system should be reexamined or pumped. In all circumstances, every household must be pumped no less that once every five years.

I. If an on-lot Sewage Disposal System is practically inaccessible for pumping due to structures/improvements that were constructed prior to **[the effective date of this Ordinance]**, the lot owner may submit a written request for an exemption from the proscribed pumping schedule for the Board of Supervisors' consideration.

J. If any person can prove (e.g. pumping certificate, invoice) that such person's Treatment Tank had been pumped within three years of **[the effective date of this Ordinance]**, then that person's initial required pumping shall conform to the general three year frequency requirement except where an inspection reveals a need for more frequent pumping.

K. Classification. If the type of on-lot sewage system is unknown, it shall be classified as a Treatment Tank system.

L. Promulgation of regulations and required proof. In addition to the requirements specific in this article, the Board may, by resolution, promulgate such forms and regulations for the administration and enforcement of this article as it shall determine necessary. Failure of a lot owner to receive or secure any required form shall not constitute a defense to the enforcement or penalty provisions of this article.

§ 89-34. Violations and penalties.

Any person failing to comply with any provisions of this article may be subject to a civil penalty of not less than three hundred dollars ($300) and not more than two thousand five hundred dollars ($2,500) for each violation and in addition, may be assessed the cost of damages caused by such violation and the cost of correcting such violation. Each day of noncompliance shall constitute a separate offense.

§ 89-35. Fee schedule.

The Board shall, by resolution, adopt a fee schedule for the administration of this article. Said schedule shall be kept on file by the Township Secretary and shall be reviewed and revised as necessary.

Section 2.

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

This Ordinance shall become effective five (5) days after enactment as by law provided.

ENACTED AND ORDAINED this 10th day of September, 2013.

ATTEST:

SECRETARY

BOARD OF SUPERVISORS
EAST BRADFORD TOWNSHIP

By: _____
Vincent M. Pompo, Chairman

By: _____
Dr. Thomas A. Egan, Vice-Chairman

By: _____
John D. Snook, Member