

ORDINANCE NO. 2017-04

NEWLIN TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

**AN ORDINANCE OF NEWLIN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA,
GOVERNING MUNICIPAL MANAGEMENT
OF ON-LOT SEWAGE DISPOSAL FACILITIES.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Newlin Township as follows:

Section 1. Short title; introduction; purpose.

A. This Ordinance shall be known and may be cited as the “Newlin Township Sewage Management Ordinance.”

B. As mandated by the Pennsylvania Clean Streams Law (35 P.S., Section 691.1) and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. as amended, 35 P.S., Section 750.1 et seq., known as Act 537), municipalities have the power and the duty 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. Newlin Township has made a commitment to formulate and implement a Sewage Management Program for all lots within the Township utilizing on-lot sewage disposal systems.

C. The purpose of this Ordinance is to provide for the maintenance, inspection and repair of on-lot sewage disposal systems and to establish responsibilities for the proper administration of a Sewage Management Program.

Section 2. Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated below, unless the context indicates otherwise. For the purposes of this Ordinance, any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and regulations promulgated thereto.

ABSORPTION AREA - A component of an individual or community sewage system where liquid from a septic tank seeps into the soil; it consists of an aggregate filled area containing piping for the distribution of liquid and the soil or sand/soil combination located beneath the aggregate.

ACT 537 - The Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.1 et seq., known as the “Pennsylvania Sewage Facilities Act.”

AUTHORIZED AGENT - A person with demonstrated knowledge and experience regarding On-lot Sewage Disposal System design, operation, and maintenance who is

authorized to function within specified limits as an agent of the Township to administer and enforce the provisions of this Ordinance.

BOARD - The Board of Supervisors of Newlin Township, Chester County, Pennsylvania.

CERTIFIED SEPTIC SYSTEM INSPECTOR - An individual qualified to perform septic system inspections as evidenced by a Sewage Enforcement Officer license issued by the Commonwealth of Pennsylvania or successful completion of inspection training through the Pennsylvania Septage Management Association (PSMA).

COMMUNITY ON-LOT SEWAGE SYSTEM - A sewage system which serves two or more lots, or two or more equivalent dwelling units, and uses a system of piping, tanks or other facilities for collecting, treating, and disposing of sewage into a soil absorption area, retaining tank, or cesspool.

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

HOLDING TANK- A water tight receptacle which receives and retains sewage and is designed and constructed to facilitate the ultimate disposal of the sewage at another site. A holding tank shall not include a privy, chemical toilet or other facility designed to receive sewage where there is no water under pressure.

INDIVIDUAL RESIDENTIAL SPRAY IRRIGATION SYSTEM (IRSIS) - An individual sewage system which serves a single dwelling and which treats and disposes of sewage through use of a system of piping, treatment tanks, and soil renovation through spray irrigation.

INDIVIDUAL ON-LOT SEWAGE SYSTEM - A sewage system which serves a single lot and a single equivalent dwelling unit, and uses a system of piping, tanks, or other facilities for collecting, treating, and disposing of sewage into a soil absorption area, spray field, retaining tank, or cesspool.

LIQUID WASTE - Septage pumped from septic tanks, cesspools, holding tanks, privies, or chemical toilets which does not include any toxic, industrial, or hazardous wastes.

LOT - A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided. Whenever a lot is used for a multiple family dwelling or for commercial or industrial purposes, sewage flow shall be estimated based on an equivalent number of single family residential lots.

LICENSED SEWAGE HAULER - Any person engaged in the business of pumping and transporting liquid waste within Chester County. Each vehicle used for such purpose shall be licensed by the Chester County Health Department.

MALFUNCTION - A condition which occurs when a sewage disposal system discharges untreated sewage onto the surface of the ground, into ground waters of the Commonwealth, into surface waters of the 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.

MANUFACTURER CERTIFIED/QUALIFIED INSTALLER/INSPECTOR - a person certified by the manufacturer of a specific individual on-lot sewage system or community on-lot sewage system to install and inspect components of the system.

OFFICIAL SEWAGE FACILITIES ACT 537 PLAN - A comprehensive plan for the provisions of adequate sewage disposal systems, adopted by the Board and approved by the Pennsylvania Department of Environmental Protection, pursuant to the Pennsylvania Sewage Facilities Act.

ON-LOT SEWAGE DISPOSAL SYSTEM (OLDS) - Any system for disposal of sanitary sewage involving pretreatment and subsequent disposal of the clarified sewage into the soil through either a cesspool, an absorption area, or a sprayfield (Individual Residential Spray Irrigation Systems) for final treatment and disposal, including both individual on-lot sanitary sewage systems and community on-lot sanitary sewage systems.

PERSON - Any individual, company, 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 having rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine, 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.

RETAINING TANK - A watertight receptacle that receives and retains sewage and is designed and constructed to facilitate the ultimate disposal of the sewage at another site. This term is synonymous with the term Holding Tank.

SEPTAGE - The residual scum, sludge, and other materials pumped from, but not limited to, Initial Treatment Units, other treatment tanks, Retaining Tanks, pump tanks, and the systems they serve.

SEWAGE - Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation or which constitutes pollution under the Act of June 22, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law", as amended.

SEWAGE ENFORCEMENT OFFICER-(SEO) — A person certified by the Department of Environmental Protection who is employed by the Chester County Health Department. Such person is authorized to conduct investigations and inspections, review permit applications, and do all other activities as may be provided for such person in the Sewage Facilities Act, the rules and regulations promulgated thereunder and this or any other ordinance adopted by the Township or Chester County Health Department.

SEWAGE MANAGEMENT PROGRAM - A comprehensive set of legal and administrative requirements encompassing the requirements of this Ordinance, the Sewage Facilities Act, the Clean Streams Law, the regulations promulgated thereunder and such other requirements adopted by the Board to effectively enforce and administer this Ordinance.

SMALL FLOW SEWAGE TREATMENT FACILITIES (SFSTF) – A sewer facility that serves single family residences, duplexes and small commercial establishments with domestic type sewage not exceeding 2,000 gallons per day. These facilities ultimately discharge treated wastewater directly to surface waters.

TREATMENT TANK - A tank that provides for aerobic or anaerobic decomposition of sewage to take place prior to discharge to an absorption area. This term shall also include all types of cesspools.

Section 3. Applicability.

The requirements of this Ordinance shall be effective throughout the municipal limits of Newlin Township and shall apply to all portions of the Township served by On-Lot Sewage Disposal Systems. Within such an area or areas, the provisions of this Ordinance shall apply to all persons owning any property serviced by an On-Lot Sewage Disposal System and to all persons installing or rehabilitating On-Lot Sewage Disposal Systems.

Section 4. Permit Requirements.

A. No building permit shall be issued for a new building which will utilize an On-lot Sewage Disposal System until Act 537 Planning approval has been issued by the Department and the appropriate On-lot Sewage Disposal System permit has been issued by the Chester County Health Department. Proof of On-lot Sewage Disposal System permit issuance shall be presented to the Township in the form of a properly executed permit signed by the Chester County Health Department.

B. No occupancy permit shall be issued for a new building which will utilize an On-lot Sewage Disposal System until the sewage disposal system has been installed and the completed installation is approved by the Chester County Health Department. Proof of On-Lot Sewage Disposal System final installation approval shall be presented to the Township in the form of a properly executed permit signed by the Chester County Health Department.

C. No building or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure, until either the structure's owner receives a permit from the Chester County Health Department 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 Chester County Health Department that such a permit will not be required. The Chester

County Health Department shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

D. Sewage permits may be issued only by a Sewage Enforcement Officer employed by the Chester County Health Department.

Section 5. Responsibilities of persons who own properties served by On-Lot Sewage Disposal Systems (OLDS) and/or Small Flow Sewage Treatment Facilities (SFSTF).

A. Consistent with Ordinance No. 2014-02, adopted by the Board on November 10, 2014, each person owning a building served by an OLDS or SFSTF, shall have their system pumped by a Licensed Sewage Hauler on or before September 1, 2017 and on or before September 1 of each third year thereafter. If any person can prove that their tank had been pumped within two years of September 1, 2017, then that person's initial required pumping may be delayed to conform to the general three-year frequency requirement.

B. Removal of septage or other solids from treatment tanks shall be performed at least once every three (3) years or whenever an inspection program reveals that the treatment tank is filled with solids or with scum in excess of 1/3 of the liquid depth of the tank.

C. The required pumping frequency may be increased at the discretion of either the Board, the Chester County Health Department, or DEP if the septic tank is undersized, if solids buildup in the tank is above average, if the hydraulic load on the system increases significantly above average, if a garbage grinder is used in the building, if the system malfunctions, or for other good cause shown.

D. Any person owning a building served by an OLDS or SFSTF shall:

- (1) Have the system on their property inspected during the pumping activities in accordance with the Septic System Inspection Checklist as prepared by the Pennsylvania Septage Management Association, a copy of which is attached hereto as an appendix and incorporated herein.
- (2) Provide the Township with a receipt documenting the date that the system was inspected and a copy of the inspection checklist. Such receipt and checklist must be submitted to the Township within 30 days of the inspection.
- (3) Discharge only normal domestic wastes into the on-lot sewage disposal system. The following shall not be discharged into the system:

- a. Industrial waste.
 - b. Automobile oil and other non-domestic oil.
 - c. Toxic or hazardous substances or chemicals, including but not limited to, pesticides, disinfectants (excluding household cleaners), acids, paints, paint thinners, herbicides, gasoline and other solvents.
 - d. Clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps and french drains.
 - e. Wastewater resulting from hair treatment at a multi-chaired beauty shop.
- (4) Provide an adequate supply of electrical power with the proper phase, frequency, voltage as recommended by the equipment manufacturer of the various components of the system.
 - (5) Not plant trees or shrubs in the absorption area or otherwise excavate or damage the absorption area.
 - (6) Protect the absorption area from vehicle traffic, and protect the absorption area and system components from stormwater runoff from gutters and downspouts, driveways, swales and sump pump discharges.
 - (7) No building of any structures, including swimming pools and sprinkler systems, on or within 10 feet of the absorption area or any components of the system.
 - (8) Use water conservation devices (such as low flow toilets, showerheads, dishwashers, and front-loading clothes washers) and promptly repair any leaking plumbing fixtures.
 - (9) Minimize garbage disposal use and limit garbage disposal use to ordinary kitchen waste.

E. Any person owning a building served by an OLDS or SFSTF that contains pre-treatment components or technologies deemed by the Department or the Township to require more detailed operation and maintenance requirements than provided for in this Ordinance, including but not limited to peat filters, sand filters, UV or chlorine disinfection and nitrate reduction systems shall:

- (1) Follow the operation and maintenance recommendations of the equipment manufacturer. In no case may the service or pumping intervals for pre-treatment treatment tanks exceed those required for

septic tanks. 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.

- (2) Provide to the Township a receipt documenting the service activities at the intervals specified by the manufacturer's recommendations. Such receipt must be submitted to the Township within 30 days of the cleaning or inspection.
- (3) Maintain a contract with a septic system service provider and/or a manufacturer's qualified inspector to meet system-specific operation, maintenance and monitoring requirements as designated by the Department systems guidance and/or regulations.

F. Any person owning a building served by an OLDS or SFSTF that is found to be in unsatisfactory condition by the Sewage Enforcement Officer shall:

- (1) Have the OLDS or SFSTF repaired within 60 days from the date the unsatisfactory condition was identified, weather permitting.
- (2) Provide the Township with a receipt documenting the date on which the system was repaired along with a copy of the Chester County Health Department permit authorizing the repair. Such receipt and permit must be submitted to the Township within 30 days of the completion of the repair.

G. Any person owning a building served by a SFSTF shall:

- (1) Follow all requirements stated in the permit issued by the Department, including maintenance of all pre-treatment equipment and water quality sampling and monitoring.
- (2) Remain in compliance with the permit issued by the Department, including all requirements through the National Pollutant Discharge Elimination System (NPDES) regulations.
- (3) Annually submit a copy of the Annual Maintenance Report (AMR) prepared by a service provider and/or manufacturer's qualified inspector and documentation of any repairs performed, to the Township.

H. Any person owning a building served by a Community On-Lot Sewage System or an OLDS which utilizes any components or technologies deemed by the Department or the Township to require more detailed operation and maintenance requirements than provided for in this Ordinance, including but not limited to Individual Residential Spray Irrigation Systems (IRSIS), Alternate Systems, or Experimental Systems shall be further subject to the maintenance responsibilities recommended by the Department for said system. These

responsibilities shall be memorialized in individual sewage facilities operation and maintenance agreements for each such use, to which both the Township and the property owner shall be party. Such agreement shall contain system specific requirements for the proposed system type and will define responsibilities for proper protection and maintenance of the system. The operation and maintenance agreement shall provide for the deposit of a nonrefundable fee to the Township for administration and future compliance monitoring and shall further require the owner to post financial security in an amount established by the Board to guarantee the proper operation and maintenance of the proposed facility in accordance with the Pennsylvania Sewage Facilities Act and the terms of this Ordinance.

Prior to the Township entering the operation and maintenance agreement, the owner shall complete the following tasks.

- (1) Owner shall furnish verification in writing from the Chester County Department of Health or the Department indicating that the system complies with applicable design standards.
- (2) Three copies of the design and site plan for the proposed sewage disposal system, including details associated with required maintenance of the system, shall be provided to the Township. Owner shall furnish permit information to the Township for a small flow sewage treatment facility upon receipt from the Department.
- (3) The administrative fee in an amount established by resolution of the Board and as amended from time to time, shall be deposited with the Township for review of the submitted design and site plan and for preparation of the operation and maintenance agreement.
- (4) Financial security, as required by the operation and maintenance agreement, shall be held by the Township in a separate escrow account for as long as the system remains in use and until the property is connected to a public sewer system. If the Township is required to exercise its rights under the operation and maintenance agreement and perform any maintenance or repairs of the system, it shall be permitted to withdraw the necessary funds from the escrow account to pay all costs incurred by the Township.

Property owners who are required to enter operation and maintenance agreements pursuant to this Ordinance shall provide potential buyers of their property with a copy of the agreement, the Township maintenance requirements and the maintenance and repair record for the system.

Section 6. Rights of the Township.

Authorized agents of the Township are authorized to inspect the pumping, maintenance, service, or repair of an OLDS or SFSTF upon presentation of proper credentials and reasonable notice to the property owner.

Section 7. Notice to comply.

The Board, or any Authorized Agent of the Township, is hereby authorized to give notice, by personal service or by United States mail, to the person who owns a property on which an On-Lot Sewage Disposal System or Small Flow Sewage Treatment Facility is located, requiring such owner to pump, inspect or repair the system and provide the Township with a receipt and other specified information documenting the date on which the system was pumped, inspected or repaired.

SECTION 8. Administration.

A. The Township may retain qualified individuals or firms to assist the Township in administering and enforcing the terms of this Ordinance. Those individuals shall include an Authorized Agent and may include an administrator and such other persons as may be necessary to carry out the provisions of this Ordinance.

B. The Board may establish a fee schedule by Resolution and authorize the collection of fees to cover the costs to the Township of administering this Ordinance.

Section 9. Appeals.

Appeals from final decisions of the Township or any of its Authorized Agents under this Ordinance shall be made to the Board in writing within thirty (30) days from the date of written notification of the decision in question. Appeals shall be heard and determined by the Board in accordance with the provisions of the Local Agency Law. The Board may impose the reasonable costs of the appeal upon Appellant.

Section 10. Violations and Penalties.

Any person who violates or permits the violation of any provision of this Ordinance shall upon conviction thereof in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be subject to the payment of a fine of not less than \$100 and no more than \$1,000, plus the costs of prosecution, including reasonable attorneys' fees incurred by the Township. In default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. The summary proceedings to enforce the provisions of this Ordinance are separate from any penalties imposed for a violation of any regulations of the Chester County Health Department or DEP.

Section 11. Abatement of Nuisances.

In addition to any other remedies provided in this Ordinance, any violation of this Ordinance shall constitute a nuisance and shall be subject to abatement by the Board by appropriate equitable or legal relief from a court of competent jurisdiction.

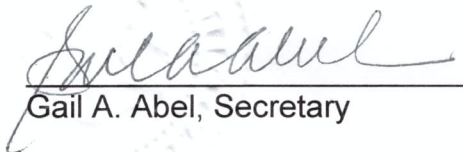
Section 12. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors of Newlin Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 13. Repealer. This Ordinance repeals and replaces in its entirety Ordinance No. 2014-02 enacted by the Board on November 10, 2014. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

Section 14. Effective Date. This Ordinance shall become effective five days after its enactment as law provides.

ENACTED AND ORDAINED THIS 13th day of November, 2017.

ATTEST:




Gail A. Abel, Secretary


**NEWLIN TOWNSHIP
BOARD OF SUPERVISORS**



Janie H. Baird, Chair



William J. Kelsall, Vice-Chair



Robert R. Pearson, Member