

BOARD OF SUPERVISORS
NEWTOWN TOWNSHIP

ORDINANCE # 2014-02

AN ORDINANCE TO AMEND THE CODE OF NEWTOWN TOWNSHIP TO
ADD CHAPTER 130 ARTICLE III RELATED TO REGULATING ON-LOT AND
COMMUNITY SEWAGE SYSTEMS, GRINDER PUMPS AND HOLDING TANKS

The Board of Supervisors of the Township of Newtown, Delaware County,
Pennsylvania, hereby ordains:

SECTION I — Introduction; Purpose

A. In accordance with municipal codes, the Clean Streams Law (Act of June 27, 1937, P.L. 1987., No. 394 as amended, 35 P.S. 9691.1 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), specifically Title 25, Chapter 71, Section 71.71, it is the power and the duty of Newtown Township to provide for adequate sewage treatment facilities and for the protection of the public health, safety, and welfare by prohibiting the discharge of untreated or inadequately treated sewage. The Official Sewage Facilities Plan for Newtown Township states the need 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.

B. The purpose of this ordinance is to provide for the regulation, inspection, maintenance and rehabilitation of on-lot sewage disposal systems; the installation, use and maintenance of sewage grinder pumps, the use and maintenance of existing and new holding tanks, to 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 sewage management program.

SECTION II – Code Amendment

The Code of the Township of Newtown is hereby amended to add the following:

ARTICLE III –On-Lot and Community Systems, Grinder Pumps, Holding Tanks

§130-18. Definitions

- A. Act 537 Plan: The Newtown Township's Official Plan as defined in the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. 1535 (1965), No. 537, as amended, 35 P.S. §750.1-750.20a ("sewage Facilities Act" or "Act 537")
- B. Authorized Agent: The Township Codes Enforcement Officer, a sewage enforcement officer, professional engineer, plumbing inspector, or any other qualified or licensed person who is duly authorized to function within specified limits as an agent of Newtown Township to administer and/or enforce the provisions of this ordinance.
- C. Authority: The Newtown Township Delaware County Municipal Authority
- D. Board: The Board of Supervisors of Newtown Township, Delaware County, Pennsylvania.
- E. 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 of the lots or at any other location for final disposal in whole or in part into the soil. This includes land application by spray irrigation.
- F. Department: the Pennsylvania Department of Environmental Protection.
- G. Grinder Pump: any electric motor driven, submersible pump capable of macerating all material found in normal domestic sanitary sewage, including reasonable amounts of objects, such as plastics, sanitary napkins, disposable diapers, rubber and the like, to a fine slurry, and pumping this material through a small diameter discharge.
- H. Holding Tank: a watertight receptacle, whether permanent or temporary, which receives and retains sewage conveyed by a water carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.
- I. Improved Property: any parcel of real estate located within Newtown 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
- J. Lot: A parcel of land under single and separate ownership or described by an approved and still valid subdivision plan recorded in the office of the Recorder of Deeds of Delaware County.

K. Official Plan Revision: a change in the Newtown Township Act 537 Plan to provide for additional or newly identified future or existing sewage facilities needs, as defined fully in section 1 of the sewage Facilities Act, 35 P.S. §750.1.

(i)"Update Revision" shall mean a comprehensive revision to the Act 537 Plan required when the Department of Newtown Township determines the official plan or one or more of its parts is inadequate for existing or future sewage facilities needs of the Township or its residents or landowners.

(ii)"Special Study" shall mean a study, survey, investigation, inquiry, research report or analysis which is directly related to an Update Revision. The studies provide documentation or other support necessary to solve specific problems identified in the Update Revision.

(iii)"Revision for new land development" shall mean a revision to the Act 537 plan resulting from a proposed subdivision as defined in the Act.

L. On-Lot Sewage System: A System of piping, treatment tanks, or other facilities serving a single lot and collecting, treating and disposing of sewage into a subsurface absorption area or spray irrigation system including Drip Dispersion.

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

N. Person: Any individual, partnership, corporation or other legal entity.

O. Property Owner: shall mean any person vested with ownership, legal, equitable, sole or partial, of any property located in Newtown Township.

P. Retaining Tank (also called a Holding Tank): A watertight receptacle, which receives and retains sewage and which is designed and constructed to hold sewage pending the ultimate disposal of the sewage at another location, site, or area.

Q. Sewage: Any substance that contains any of the fecal waste products or excrement or other discharge from the bodies of human beings or animals or any noxious or deleterious substances that may be harmful 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 "The Clean Streams Law," as amended.

R. Sewage Enforcement Officer: Individual appointed, as such, by the Board of Supervisors of Newtown Township.

S. Township: Newtown Township, Delaware County, Pa.

T. Treatment Tank: A watertight receptacle which receives the discharge of sewage from a house or building sewer line and is designed and constructed so as to permit settling of settleable solids from the liquid digestion of the organic matter by detention and discharge of the liquid portion into a distribution system or pit for underground dispersion or elevated sand mound, individual spray irrigation or similar disposal techniques. Treatment tanks include septic tanks, cesspools, aerobic units and the like.

§130-.19 Requirements

A. The requirements of this Article shall be effective throughout the entire Township.

- (1) The operation, maintenance and repair of an individual on-lot sewage system shall be the responsibility of the Property Owner; however, that maintenance and repair shall be subject to the continuing surveillance and inspection by the Township, its authorized agent and/or the Sewage Enforcement Officer.
- (2) It shall be the responsibility of the Property Owner of the lot which utilizes an on-lot sewage disposal system to have it pumped in accordance with the schedule set forth in §130-21 and to make such other repairs and/or replacements that are necessary in order to prevent the malfunctioning of the system.
- (3) The construction, repair and/or replacement of individual on-lot disposal systems shall be subject to the issuance of appropriate permits by the Township's Sewage Enforcement Officer in conjunction with the Pennsylvania Department of Environmental Protection.

§130-20 Inspections. Any owner of a property with a treatment tank system, retaining tank, stream discharge system, community on-lot disposal system, holding tank or cesspool, must obtain and provide to the Township annually, at the owner's expense, a certification which states that the existing system on

the property has been inspected and found to presently be in satisfactory working condition, in accordance with the septic systems guidelines of the Pennsylvania Septic Management Association (PSMA), adopted April 6, 1989, or as thereafter amended by PSMA. The inspection shall be conducted by a member of the PSMA, and the certification shall be on the form known as the "PSMA Septic System Inspection Checklist", dated March 1992, or as amended by PSMA.

§130-21 On-Lot/COLDS Maintenance

A. Treatment Tank Systems: The Property Owner of a lot, which uses a treatment tank system as a means of sanitary sewage disposal, must have the tank(s) pumped out and the contents disposed of at a licensed sewage disposal facility at least once every three (3) years or more often if necessary. The Contractor performing such work must be a licensed septic tank contractor under the regulations of the PaDEP. Every owner of a treatment tank system existing on any lot on the effective date of this Section shall maintain proof of the required pumping and disposal to be made available to the Township's Sewage Enforcement Officer or his/her designated representative upon request in the form of a receipted bill issued by the contractor or such other proof as shall be acceptable to said Sewage Enforcement Officer. Such requests shall not be unreasonably made. If a system has been pumped within twelve months of the effective date of this section, that system will then fall into the next three year pumping schedule. The Property Owner of a system installed after the effective date of this Section shall henceforth pump his system in accordance with schedule determined by the Township.

B. Retaining Tanks: The Property Owners 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 Section shall enter into a written contract with a PaDEP licensed septic tank contractor requiring 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 tank system. A copy of the contract shall be maintained by the Property Owner and shall be in effect and valid for a period of at least one (1) year. Upon request of the Sewage Enforcement Officer, the Property Developer shall provide true and correct copies of the contract or, in the alternative, shall allow review and inspection of the contract by the Sewage Enforcement Officer. Any such requests shall not be unreasonably made.

C. Stream Discharge Systems: The Property Owner of a lot on which a stream discharge sewerage system approved and permitted by the PaDEP has been installed shall register the system with the Township within ninety (90) days following the effective date of this Section by filing a copy of the current PaDEP

permit, together with any other information required by the Sewage Enforcement Officer to verify the current validity of the permit and copies of any tests verifying the system's operational integrity performed during the twelve (12) months immediately preceding the registration. The Property Owner of a system installed after the effective date of this Section shall register the system with the Township within ninety (90) days of such installation. The Codes Enforcement officer or other authorized agent shall arrange for periodic inspections by the Sewage Enforcement Officer as required.

D. Community On-Lot Disposal (COLDS): The operator(s) of any COLDS system shall submit annual reports to the Township in the PaDEP format for Waste Management (Chapter 94) and Discharge Management Report.

E. Compliance: Failure to comply with the provisions of subsection A. through D. of this §130-21 shall constitute a violation of this Code, subjecting the owner of the property on which the system is installed to the enforcement and penalty provisions of Sections §130-25, §130-26 and §130-27 of this Article.

F. Change of Ownership: Prior to the conveyance of any lot which is subject to the provisions of this Section, the sewage system installed on such lot shall be pumped and its contents disposed of as required by this §130-21, unless the Property Owner has filed with the Township a receipt issued by a licensed septic tank contractor proving that the system was pumped out within the immediately preceding six months period. Following any conveyance of the lot, the new Property Owner shall be subject to the provisions of this Section.

G. Classification: If the type of on-lot sewage system is unknown, it shall be classified as a cesspool.

H. Promulgation of Regulations and Required Proof: In addition to the requirements specific in this §130-21, the Board may, by resolution, promulgate such forms and regulations for the administration and enforcement of this ordinance 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.

§130-22 Grinder Pumps

A. Planning Requirements. The connection of proposed new land development or a proposed new Improved Property to an existing or proposed sewerage system through the use of sewage grinder pumps, their associated force mains, or low-pressure laterals shall occur only after an Official Plan Revision to the Act 537 Plan, approved by both the Newtown Township and the Department, designates that the proposed properties be served by such a connection, unless an exemption to such a requirement is approved by the Township and the Department. All existing Improved Properties containing a

grinder pump prior to the passage of this Section are exempt from the provisions contained herein.

B. Duties and Responsibilities of the Township

1. The Township shall exercise its powers and legal authority set forth herein, and under all applicable statutes, ordinances, and other laws to affect the purposes of this ordinance.

2. The Township shall require an approved application and discharge permit with each Property Owner proposing to install a sewage grinder pump or low-pressure sewer system to assure the short and long-term operation, maintenance, use, service, repair or replacement of such systems.

3. The Township shall require that all grinder pumps and low-pressure sewer systems (and the installation, use, operation, maintenance, service, repair and replacement thereof) shall comply with the rules and regulations of the Township, Authority and the Department in effect from time to time.

4. The Township shall require that all grinder pumps and low-pressure sewer systems shall be connected to the Township/Authority's sewerage collection and conveyance system in full compliance with the rules and regulations of the Township in effect from time to time.

5. The Township shall review the type of grinder pump used and assure that the Property Owner has provided documentation that full service capacity is available locally on short notice in case of malfunction.

6. The Township and Authority shall bear no responsibility for the purchase, installation, use, operation, maintenance, service, repair, or replacement of the grinder pump and/or its low-pressure sewer systems and low-pressure force main or lateral, except as otherwise set forth herein.

D. Duties and Responsibilities of Others

1. Each Property Owner served by a grinder pump shall bear full responsibility for providing, installing, using, operating, maintaining, servicing, repairing and replacing his/her grinder pump and/or its low-pressure force main or lateral, unless otherwise set forth herein.

2. Where the low-pressure force main or lateral is shared between Property Owners, they shall submit to Newtown Township a Declaration of Easements, covenants and restrictions in recordable form setting forth the agreement of each benefited Property Owner with respect to the

installation, use, operation, maintenance, service, repair and replacement of the low-pressure sewer system, which agreement shall bind all future Property Owners. Following the approval of the low-pressure sewer system by all applicable agencies, the Township will not issue a permit for its installation, until evidence is presented that the agreement has been recorded in the Office for the Recording of Deeds, Delaware County, Pennsylvania.

3. Each Property Owner shall annually renew, for life of the grinder pump a System contract with an authorized Maintenance Contractor (hereinafter the "Maintenance Contractor"). The Maintenance Contractor shall be a private, independent contractor, who has been given special training by the original equipment manufacturer and is authorized by the manufacturer to service the grinder pump and all appurtenances.

4. After the first month of operation of the grinder pump, and annually thereafter, or more frequently if the manufacturer of any component parts recommends more frequent servicing, the Property Owner shall have the Maintenance Contractor provide the Property Owner with copies of a report signed by the Maintenance Contractor certifying that the grinder pump is operational in accordance with the permit. The inspection and maintenance program will include, at a minimum, the manufacturers' recommended services and inspections for each separate component of the system. The Maintenance Contractor's report shall include the average daily flow from water meter readings, if available. The report shall also indicate resolution of any deficiencies noted in the Maintenance Contractor's inspection or any service or alarm call during the past year. If a revision or modification is made to the System, an amended and revised drawing detailing the revision or modification shall be provided to the Property Owner and the Township. The Property Owner is responsible for obtaining any required permits from the Township for any revision or modification to the grinder pump and all appurtenances to it and the low-pressure system.

5. The Property Developer shall be responsible for maintaining all maintenance records, reports and drawings as required and set forth hereinabove. Property Developer shall provide to the Township and/or Authority true and correct copies of any such maintenance records, reports and drawings upon request of the Township and/or Authority, which request shall not be unreasonably made. In the alternative, Property Developer shall allow such maintenance records, reports and drawings to be reviewed and inspected by the Township and/or Authority upon request, which request shall not be unreasonably made.

A. Duties and Rights of Township.

1. The collection and transportation of all sewage from any improved property utilizing a holding tank may be directed and controlled by the Township, and the disposal thereof shall be made only at such site or sites as may be approved by the Department of Environmental Protection of the Commonwealth of Pennsylvania.
2. The Township will receive, review and retain pumping receipts from permitted holding tanks owners, operators or service providers.
3. The owner is required to provide annual inspection reports for each permitted holding tank.

B. Duties of Improved Property Owner

The owner of any improved property that utilizes a holding tank shall:

1. Maintain the holding tank 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.
2. Permit the Township or its agent to inspect holding tanks as requested.
3. Permit only the qualified and appropriately licensed service providers to collect, transport, and dispose of the contents therein.

§130-24. Reporting

A. When the Township becomes aware of a violation(s) of this Article or the Township Regulations and/or Pa DEP regulation related to sewers, it shall be reported to the Township and/or PaDEP and become subject to their rules and regulations.

§130-25. Enforcement and Appeals

A. The Township's Code Enforcement Officer shall have the power and authority to determine all issues relating to compliance with the provisions of this Article, and to bring and prosecute in the name of the Township enforcement and penalty proceedings for violations of its provisions.

B. Appeals from the Code Enforcement Officer's determinations or interpretations of the provisions of this Article shall be taken to the Board within thirty (30) days from the date of such determination or interpretation. Appeals shall be heard and determined in accordance with the provisions of the Local Agency law. The Board may request documentation and consult with the

Township Engineer or other competent authorities as it determines necessary for just resolution of the Appeal, and may impose the reasonable costs thereof upon the appellant. Provided, however, the Board shall have no jurisdiction to hear or determine any appeal from the action of the Code Enforcement Officer and/or Sewage Enforcement Officer in prosecuting a violation of this Article in a summary proceeding before a District Justice.

§ 130-26. Violations and Penalties

- A. Any Property Owner who violates any provision of this Article or who fails to comply with any of its provisions or regulation promulgated hereunder or who fails or refuses to comply with any lawful notice, order or direction of the Code Enforcement Officer or authorized agent issued pursuant to this Article shall be guilty of a summary offense, and upon conviction by a District Justice, shall pay a fine of not less than \$100.00 nor more than \$1,000.00 together with the costs of prosecution, and upon default in payment for the fine and costs, shall be subject to imprisonment in the County Prison for a term not exceeding thirty (30) days.; Each day during which any violation of this ordinance continues shall constitute a separate offense punishable by like fine or imprisonment.

§130-27 Other Remedies

In the event of the Property Owners' failure to perform under this Article or any subsequent agreements resulting herefrom, the Township shall have the right, but not the obligation to perform Property Owner's obligations under this Ordinance and/or to pursue whatever legal or equitable remedy they shall deem appropriate, including but not limited to, bringing an action for specific performance against the Property Owner to compel compliance with this Ordinance or any subsequent agreement resulting herefrom. The Property Owner shall reimburse the Township for all costs incurred by the Township in doing so, including legal fees and court costs. The Township shall also have the right to file a lien against the property to secure to the Township any reimbursement of costs due to the Township as well as any and all rights and remedies as allowed by law.

§130-28 Abatement of Nuisances

In addition to any remedies provided in this Article, any violation of §130-21C and §130-21D above shall constitute a nuisance and may be abated by the Township and/or Authority by either seeking mitigation of the nuisance or appropriate equitable relief from a court of competent jurisdiction.

§130-29 – Fee Schedule

- A. The Board of Supervisors shall, by resolution, adopt a fee schedule for the administration of this Article. Said schedule shall be kept on file by the Township Manager and shall be reviewed and revised as necessary.

SECTION 3. Guidelines.

The PSMA guidelines and checklist dated April 6, 1989, are attached to this Ordinance as Exhibit A.

SECTION 4. Repealer

All code provisions, ordinances or resolutions or parts of ordinances or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

SECTION 5 — Severability

A. If in 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 not affect or impair any of the remaining provision, 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 if such offending provision had not been included herein.

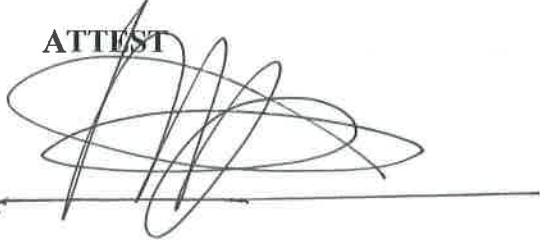
B. When the provisions of this Ordinance are more restrictive than other ordinances or regulations of this Township, this Ordinance shall apply; but, in any case, the most rigid requirements of the applicable ordinances or codes shall apply whenever they may be in conflict.

SECTION 6 — Effective Date

A. This Ordinance shall become effective immediately.

ADOPTED AND ENACTED THIS 14th DAY OF October, 2014.

ATTEST



**BOARD OF SUPERVISORS
TOWNSHIP OF NEWTOWN**

BY: 

(Name)

(Title)

LEGAL NOTICE

The following is a summary of a proposed ordinance intended to be considered for passage by the Board of Supervisors of Newtown Township, Delaware County at the Township Municipal Building on October 14, 2014 at 7:30 p.m. at its regular meeting.

The title of the proposed amending Ordinance is as follows:

AN ORDINANCE TO AMEND THE CODE OF NEWTOWN TOWNSHIP TO ADD CHAPTER 130 ARTICLE III RELATED TO REGULATING ON-LOT AND COMMUNITY SEWAGE SYSTEMS, GRINDER PUMPS AND HOLDING TANKS

The content of the proposed ordinance, which adds an Article III entitled "On-Lot and Community Sewage Systems, Grinder Pumps, Holding Tanks" to Township Code Section 130 "Sewers" is summarized as follows:

§130-19 Sets forth responsibilities, pumping requirements and permitting requirements related to the maintenance and repair of on-lot sewage systems;

§130-20 Sets annual inspection and certification requirements for on-lot sewage systems;

§130-21 Sets forth maintenance and reporting requirements for various on-lot sewage systems and community sewage systems;

§130-22 Sets forth certain required Township approvals, regulations and specifications for the installation, maintenance and use of grinder pumps;

§130-23 Sets forth inspection and maintenance requirements for the maintenance, servicing and use of holding tanks;

§130-24 Establishes certain reporting requirements;

§135-25, 26, 27, and 28. Establish penalties and rules for enforcement and appeals related to the foregoing sections; and

§130-29 Permits the Township to adopt a fee schedule for the administration of this Article.

A copy of the proposed Ordinance may be examined without charge or obtained for the cost of copying during normal business hours at the Newtown Township Municipal Building, 209 Bishop Hollow Road, Newtown Square, Pennsylvania (610) 356-0200. The Ordinance may also be reviewed at the Delaware County Law Library and at this newspaper's office.

Michael T. Trio
Township Manager
Township of Newtown
209 Bishop Hollow Road
Newtown Square, PA 19073

