

**NEWTON TOWNSHIP  
LACKAWANNA COUNTY, PENNSYLVANIA  
ORDINANCE # 2009-1**

**AN ORDINANCE TO AMEND THE CODE OF NEWTON TOWNSHIP, CHAPTER 106 (SEWERS AND SEWAGE DISPOSAL), SPECIFICALLY CHAPTER 106 I. (STANDARDS FOR ON-LOT SYSTEMS) AND APPLICABLE PROVISIONS OF NEWTON TOWNSHIP'S SUBDIVISION AND LAND DEVELOPMENT ORDINANCE (ORIGINALLY ADOPTED APRIL 12, 1993, NOW INCORPORATED INTO THE CODE OF NEWTON TOWNSHIP, CHAPTER 117) AND NEWTON TOWNSHIP'S ZONING ORDINANCE (INCORPORATED INTO THE CODE OF NEWTON TOWNSHIP, CHAPTER 130) BY REQUIRING TESTING, IDENTIFICATION AND RESERVATION OF AN AREA WITHIN EACH LOT OR DEVELOPED PROPERTY FOR THE INSTALLATION OF A REPLACEMENT ON-LOT SEWAGE DISPOSAL SYSTEM**

WHEREAS, failure of the primary sewage disposal area of an on-lot sewer system presents a significant threat to human health; and

WHEREAS, disregard of potential areas that could otherwise provide suitable replacement site for on-lot sewage could allow disturbance of soils that would render them unsuitable; and

WHEREAS, the requirement for testing, identification and reservation of locations for replacement on-lot sewage disposal systems will promote and provide minimum standards for the prevention and suppression of disease and health risks associated with the use of private sewage disposal systems and to otherwise promote continuing public safety, maintain the present and future welfare of residents of Newton Township, and Protection of the environment.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the Township of Newton, County of Lackawanna and State of Pennsylvania, and it is hereby enacted and ordained by authority of the same as follows:

Section 1. A new Section 607.5(a) is hereby added to the Township's Subdivision and Land Development Ordinance (incorporated as part of the Code of Newton Township, Chapter 117), and the same is also hereby added to Chapter 106, Article I of the Codification at Section 106-16 [now entitled as "Reserved"] as follows:

607.5(a) Reserved Replacement Area

- A. All applications for the subdivision and development of land, permit for the installation of an individual on-lot or community on-lot sewage system, approval of a Planning Module for land development or the adoption of a revision, exception to revision, or supplement to the Township's Official Sewage Facilities Plan which are prepared pursuant to the applicable regulations of the Pennsylvania Department of Environmental Resources for subdivision or development of land within Newton Township, shall provide for the testing, identification and reservation of an area of each lot or developed property suitable for the installation of a replacement on-lot sewage disposal system. This requirement is in addition to the testing, identification and reservation of an area for the primary sewage disposal system.
- B. No person shall install, construct, or request bid proposals for construction or alter an individual on-lot sewage disposal system or on-lot community sewage system or construct or request bid proposals for construction or install or occupy any building or structure for which an individual sewage system or community sewage system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with the provisions of this Ordinance with respect to the testing, identification and reservation of an area suitable for the installation of a replacement on-lot sewage disposal system. This requirement is in addition to the testing, identification and reservation of an area for the primary sewage disposal system.
- C. A replacement area for an on-lot sewage system shall be required for all lots or lots to be created which are not serviced by a public sewage disposal system or for which a valid permit for installation of an individual on-lot sewage system has not been issued. Lots existing prior to the effective date of this Ordinance shall be exempt from the requirements of this section.
- D. Each applicant who shall submit a plan for the subdivision or development of land or who shall apply for a permit for the installation of an individual on-lot or community on-lot sewage system, or who shall request approval of a Planning Module for land development or the adoption of a revision, exception to revision, or supplement to the Official Plan shall demonstrate to the satisfaction of the certified SEO that a suitable area exists on the lot or on each lot to be created for an initial individual on lot sewage system and for the replacement area. The certified SEO shall perform or observe all tests required for the location of an individual on-lot or community on-lot sewage system to confirm the suitability of the replacement area. Allowance of open land for the replacement area without testing performed or observed by the certified SEO shall not constitute compliance with the requirements of this Section.
- E. No Permit shall be issued for any proposed new on-lot sewage disposal system with respect to any subdivision or land development within Newton Township unless and until a replacement area is tested, identified and reserved in compliance with all with the terms of this Ordinance and all other applicable Newton Township regulations and ordinances, as well as all applicable regulations issued by DEP relating to individual on-lot and community on-lot sewage systems.

- F. The replacement area provided shall comply with the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. 750.1 et seq. also known as ACT 537) and with all applicable regulations issued by DEP (which are hereby incorporated into this Ordinance) concerning individual on-lot and community on-lot sewage systems, including isolation distances, and with the other applicable terms of this Ordinance and any other applicable Newton Township regulations and ordinances.
- G. The proposed lot must have sufficient suitable area for the proposed initial sewage disposal system as well as 100% reserve replacement area. The replacement area shall be in an appropriate location and sized to allow the installation of an approved sewage disposal area in the event of malfunction of the initial system. The area shall be protected and reserved for future use as an absorption area with similar design and configuration as the initial system so the reserve area may be utilized for repair or replacement. This replacement area must satisfy all applicable criteria as set forth in and/or required by DEP regulations (relating to on-lot sewage disposal systems), this Ordinance, and all other applicable local and Newton Township ordinances (including, without limitation, Newton Township's Zoning Ordinance [incorporated into the Code of Newton Township, Chapter 117] and Chapter 106 of the Code of Newton Township- Sewers and Sewage Disposal). A holding tank shall not be designated as a replacement system.

H. Replacement Area Disturbance Prohibited.

Areas reserved for the original and replacement disposal sites may not have driveways, parking areas, structures or other improvements on / or over such areas. (See as well Sections I & J below.)

- I. Whether a proposed plan/development with on-lot sewage disposal is submitted as part of an application for subdivision or land development approval or as part of a request that the municipality approve a Planning Module for land development or amend its Official Plan, or a request for an exception to the revision of the Official Plan, the location of each initial individual on-lot or community on-lot sewage system and each replacement area shall be noted upon the plot plans. If the application is for subdivision or land development approval, a note constituting a permanent easement shall be added to the plans stating that no improvements shall be constructed upon the replacement area, and the deed to be recorded for each lot created as part of the subdivision or land development shall contain language reflecting this limitation. The noted limitation shall be recorded in the Office of the Lackawanna County Recorder of Deeds and must include a statement that the replacement area shall not be graded or disturbed, that no permanent or temporary improvements of any character shall be constructed thereon, and that no plant material shall be established within the replacement area other than shallow-rooted plant matter. A plan depicting the replacement area shall be recorded with the deed. If the lot for which the replacement area is required is part of a new subdivision, the Record Plan shall bear a note stating the restrictions recited above and identifying the lot to which they pertain.

J. Substitution of an Alternate Area

Any person who desires to construct improvements within the replacement area shall demonstrate to the satisfaction of Newton Township that an alternate replacement location, which complies with all Township and Department of Environmental Protection rules, regulations and 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 Ordinance and shall be designated as the replacement location. A Declaration of Restrictions or other appropriate legally recognized document shall be executed by the parties and shall be recorded in the Office of the Recorder of Deeds designating the new replacement area location and vacating the old one.

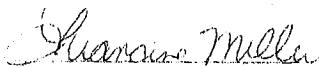
Section 2. This Ordinance is intended to amend and supplement, as applicable, all applicable Township Ordinances relating to on-lot sewage disposal and on-lot disposal systems, including, without limitation, the Township's Subdivision and Land Development Ordinance (incorporated as part of the Code of Newton Township, Chapter 117), Zoning Ordinance [incorporated into the Code of Newton Township, Chapter 117], and Chapter 106 of the Code (Sewers and Sewage Disposal). All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 3. If any sentence or clause, section or part of this Ordinance is found to be unconstitutional, illegal or invalid, such findings shall not affect or impair any of the remaining parts of this Ordinance. It is hereby declared to be the intent that this Ordinance would have been adopted had such unconstitutional, illegal or invalid part not been included.

Section 4. This Ordinance shall become effective five days after enactment.

Enacted and ordained by the Board of Supervisors of the Township of Newton, Lackawanna County, Pennsylvania, this 10<sup>th</sup> day of AUGUST 2009.

ATTEST:

  
Township Secretary

NEWTON TOWNSHIP BOARD OF SUPERVISORS:

By: 

By: 

By: 