

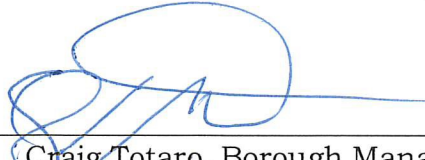
NEWTOWN BOROUGH
BUCKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 802

AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF NEWTOWN AT PART II [GENERAL LEGISLATION], CHAPTER 473 [STORMWATER MANAGEMENT], BY AMENDING AND RESTATING ARTICLE I [GENERAL PROVISIONS], ARTICLE IV [STORMWATER MANAGEMENT (SWM) SITE PLAN REQUIREMENTS], ARTICLE VIII [PROHIBITIONS], AND ARTICLE IX [ENFORCEMENT AND PENALTIES] TO REVISE AND CLARIFY REQUIREMENTS AND PROCEDURES FOR STORMWATER MANAGEMENT PERMITS

CERTIFICATION

I, CRAIG TOTARO, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT I AM THE BOROUGH MANAGER IN THE BOROUGH OF NEWTOWN, BUCKS COUNTY, PA AND THAT ATTACHED HERETO IS A TRUE AND COMPLETE CORRECT COPY OF ORDINANCE NO. 802



Craig Totaro, Borough Manager
8/14, 2024

ENACTED: 8/13/2024

NEWTOWN BOROUGH

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WHEREAS, the Newtown Borough Council is duly empowered by the Borough Code, 8 Pa.C.S.A. § 101, *et seq.*, to enact certain regulations relating to the public health, safety welfare of the residents of Borough Council;

WHEREAS, The Borough Code authorizes Borough Council to make, amend and adopt amendments to the Code of the Borough of Newtown, as amended, that are consistent with the Constitution and laws of the Commonwealth that it deems necessary for the proper management and control of the Borough and the best interests of its residents; and

WHEREAS, the Newtown Borough Council has determined that certain amendments to the Code of the Borough of Newtown, as amended, are required for the orderly administration of the laws of Newtown Borough.

NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Newtown Borough Council that the Borough's Code is amended as follows:

SECTION 1. **Amendment to Chapter 473 [Stormwater Management], Article I [General Provisions], Section 6 [Exemptions] to revise the thresholds for stormwater management requirements.**

The Code of the Borough of Newtown, Part II [General Legislation], Chapter 473 [Stormwater Management], Article I [General Provisions], Section 6 [Exemptions] is hereby restated and amended to delete the struck-through language (~~example~~) and add the underlined language (example) as follows:

- A. Regulated activities that create impervious surfaces smaller than or equal to ~~1,000~~ 500 square feet do not have to apply the volume control

requirements of this chapter. Regulated activities of this size are exempt from the volume control requirements, the peak rate control requirements and the SWM site plan preparation located in Article IV of this chapter. Notwithstanding, if the activity is found to be a significant contributor of pollution to the waters of the commonwealth, Newtown Borough may enforce any of the above requirements.

- B. Regulated activities that create impervious surfaces between ~~1,001~~ 501 square feet up to and including 5,000 square feet are exempt only from the peak rate control requirements of this chapter.
- C. Regulated activities as part of a residential project that create impervious surfaces between ~~1,001~~ 501 square feet up to and including 5,000 square feet, and less than one acre of earth disturbance, are exempt from the peak rate control requirements and the SWM site plan preparation located in Article IV of this chapter, provided a small project stormwater management site plan, prepared in accordance with Appendix I,^[1] is submitted to and approved by the municipality.

Chapter Article or Section	Type of Project	<u>0 to 500</u> Square Feet	0 <u>501</u> to 1,000 Square Feet	1,001 to 5,000 Square Feet	<u>≥ 5,000</u> Square Feet
Article IV, SWM site plan requirements	Development	<u>Exempt</u>	Exempt <u>Not Exempt, except for small residential projects satisfying Appendix I^[2]</u>	Not Exempt, except for small residential projects satisfying Appendix I ^[2]	Not Exempt
§ 473-13, volume control requirements	Development	<u>Exempt</u>	Not applicable <u>Not Exempt</u>	Not Exempt	Not Exempt
§ 473-14, peak rate control requirements	Development	<u>Exempt</u>	<u>Exempt</u>	<u>Exempt</u>	Not Exempt
Erosion and sediment pollution control requirements	Must comply with title 25, Chapter 102, of the Pa. Code and any other applicable state, county, and municipal codes; PADEP requires an engineered post-construction SWM plan with projects proposing earth disturbance greater than one <u>(1)</u> acre.				

**SECTION 2. Amendment to Chapter 473 [Stormwater Management],
Article I [General Provisions], Section 6 [Exemptions],**

**Appendix I to revise the requirements for Small Project
Stormwater Management (SWM) Site Plan.**

The Code of the Borough of Newtown, Part II [General Legislation], Chapter 473 [Stormwater Management], Article I [General Provisions], Section 6 [Exemptions], Appendix I is hereby restated and amended to delete the struck-through language (~~example~~) and add the underlined language (example) as follows:

...

- ~~Bucks or Montgomery~~ County Conservation District erosion and sediment control “Adequacy” letter as required by Municipal, County or State regulations.
- No stormwater operations and maintenance (O&M) agreement is required.

**SECTION 3. Amendment to Chapter 473 [Stormwater Management],
Article IV [Stormwater Management (SWM) Site Plan
Requirements], Section 17 [General Requirements] to provide
provisions for erroneous permits and waivers.**

The Code of the Borough of Newtown, Part II [General Legislation], Chapter 473 [Stormwater Management], Article IV [Stormwater Management (SWM) Site Plan Requirements], Section 17 [General Requirements] is hereby restated and amended to add the underlined language (example) as follows:

- A. For any of the activities regulated by this chapter, the preliminary or final approval of subdivision and/or land development plans, the issuance of any building or occupancy permit, the commencement of any earth disturbance, or activity may not proceed until the property owner or applicant or his/her agent has received written approval of an SWM site plan from Newtown Borough and an approval of an adequate erosion and sediment (E&S) control plan review from Newtown Borough or County Conservation District.
- B. Erroneous Permit. Any permit or authorization issued or approved based on false, misleading or erroneous information provided by an applicant is void without the necessity of any proceedings for revocation. Any work undertaken or use established pursuant to such permit or other authorization is unlawful. No action may be taken by a board, agency or employee of Newtown Borough purporting to validate such a violation.
- C. Waivers.
 - (1) If the Borough determines that any requirement under this Ordinance cannot be achieved for a particular regulated activity, the Borough may, after an evaluation of alternatives, approve measures other than those in this Ordinance, subject to Section 110, Paragraphs B and C.

(2) Waivers or modifications of the requirements of this Ordinance may be approved by the Borough if enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that the modifications will not be contrary to the public interest and that the purpose of the Ordinance is preserved. Cost or financial burden shall not be considered a hardship. Modification may be considered if an alternative standard or approach will provide equal or better achievement of the purpose of the Ordinance. A request for modifications shall be in writing and accompany the Stormwater Management Site Plan submission. The request shall provide the facts on which the request is based, the provision(s) of the Ordinance involved and the proposed modification.

(3) No waiver or modification of any regulated stormwater activity involving earth disturbance greater than or equal to one (1) acre may be granted by the Borough unless that action is approved in advance by the Department of Environmental Protection (DEP) or the Bucks County Conservation District.

SECTION 4. Amendment to Chapter 473 [Stormwater Management], Article VIII [Prohibitions], Section 32 [Prohibited Discharges] to clarify discharge provisions.

The Code of the Borough of Newtown, Part II [General Legislation], Chapter 473 [Stormwater Management], Article VIII [Prohibitions], Section 32 [Prohibited Discharges] is hereby restated and amended to delete the struck-through language (example) and add the underlined language (example) as follows:

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge, including sewage, process wastewater, and wash water to enter the waters of the commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into surface waters of this commonwealth which are not composed entirely of stormwater, except 1) as provided in Subsection C below, and 2) discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined to be significant contributors to pollution to the waters of the commonwealth:
 - ~~(1) Discharges from firefighting activities;~~
 - ~~(2) Potable water sources, including water line flushing;~~
 - ~~(3) Irrigation drainage;~~
 - ~~(4) Air conditioning condensate;~~
 - ~~(5) Springs;~~
 - ~~(6) Water from crawl space pumps;~~
 - ~~(7) Flows from riparian habitats and wetlands;~~
 - ~~(8) Uncontaminated water from foundations or from footing drains;~~

- ~~(9) Lawn watering;~~
- ~~(10) Dechlorinated swimming pool discharges [per Department of Environmental Protection (PADEP) requirements];~~
- ~~(11) Uncontaminated groundwater;~~
- ~~(12) Water from individual residential car washing; and/or~~
- ~~(13) Routine external building washdown (which does not use detergents or other compounds).~~
- (1) Discharges or flows from firefighting activities.
- (2) Discharges from potable water sources including water line flushing and fire hydrant flushing, if such discharges do not contain detectable concentrations of Total Residual Chlorine (TRC).
- (3) Non-contaminated irrigation water, water from lawn maintenance, landscape drainage and flows from riparian habitats and wetlands.
- (4) Diverted stream flows and springs.
- (5) Non-contaminated pumped ground water and water from foundation and footing drains and crawl space pumps.
- (6) Non-contaminated HVAC condensation and water from geothermal systems.
- (7) Residential (i.e. not commercial) vehicle wash water where cleaning agents are not utilized.
- (8) Non-contaminated hydrostatic test water discharges, if such discharges do not contain detectable concentrations of TRC.

D. In the event that Newtown Borough or PADEP determines that any of the discharges identified in Subsection C significantly contribute to pollution of the waters of this commonwealth, Newtown Borough or PADEP will notify the responsible person(s) to cease the discharge.

SECTION 5. Amendment to Chapter 473 [Stormwater Management], Article IX [Enforcement and Penalties], Section 36 [Inspection] to clarify inspection procedures.

The Code of the Borough of Newtown, Part II [General Legislation], Chapter 473 [Stormwater Management], Article IX [Enforcement and Penalties], Section 36 [Inspection] is hereby restated and amended to delete the struck-through language (~~example~~) and add the underlined language (example) as follows:

Stormwater management (SWM) best management practices (BMPs) ~~should~~ shall be inspected for proper operation by the landowner, or the owner's designee (including Newtown Borough for dedicated and owned facilities), ~~according to the following list of minimum frequencies: as specified in the operations and maintenance (O&M) agreement.~~

- ~~A. Annually for the first five years;~~
- ~~B. Once every three years thereafter;~~
- ~~C. During or immediately after the cessation of a ten-year or greater storm; and/or~~

~~D. — As specified in the operations and maintenance (O&M) agreement.~~

A written inspection report shall be created to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, facility or structure inspected, observations on performance, and recommendations for improving performance, if applicable. Inspection reports shall be submitted to the Borough within thirty (30) days following completion of the inspection.

SECTION 6. Amendment to Chapter 473 [Stormwater Management], Article IX [Enforcement and Penalties], Section 37 [Enforcement] to clarify inspection procedures.

The Code of the Borough of Newtown, Part II [General Legislation], Chapter 473 [Stormwater Management], Article IX [Enforcement and Penalties], Section 37 [Enforcement] is hereby restated and amended to add the underlined language (example) as follows:

All inspections regarding compliance with the stormwater management (SWM) site plan and this chapter shall be the responsibility of Newtown Borough.

...

D. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM Site Plan, unless specifically exempt in Section 473-6.

SECTION 7. Repeal and Ratification.

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. Any other terms and provisions of the Borough's Code unaffected by this Ordinance are hereby reaffirmed and ratified.

SECTION 8. Severability.

Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect, and for this reason the provisions of this Ordinance shall be severable.

SECTION 9. Effective Date.

This Ordinance shall become effective 5 days after enactment.

ORDAINED AND ENACTED this 13th day of August 2024, by the
Newtown Borough Council.

**BOROUGH OF NEWTOWN
COUNTY OF BUCKS
COMMONWEALTH OF PENNSYLVANIA**


John Burke, *Mayor*


Emily Heinz, *President*

Attest:


Judy S. Musto
Borough Secretary

