

**BOROUGH OF BERNARDSVILLE
ORDINANCE NO. 10-1560**

**AN ORDINANCE REGULATING DUMPSTERS AND RESURFACING OF EXISTING
PARKING AREAS AND DRIVEWAYS; CREATING A NEW CHAPTER XXII IN THE
BOROUGH CODE ENTITLED "STORMWATER REGULATIONS"; AND MOVING
SEVERAL EXISTING SECTIONS FROM CHAPTER III
TO THE NEW CHAPTER XXII**

STATEMENT OF PURPOSE: To adopt private storm drain inlet retrofit and dumpster ordinances as mandated by NJDEP and to organize all of the required stormwater ordinances in a newly created chapter in the Borough Code.

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and bylaw not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Tier A Municipal Stormwater General Permit (Tier A Permit) for discharge to surface water and groundwater is one of four New Jersey Pollutant Discharge Elimination System (NJPDES) general permits that are part of the Municipal Stormwater Regulation Program established by the New Jersey Department of Environmental Protection (DEP); and

WHEREAS, the Borough of Bernardsville received authorization under the Tier A Permit to discharge stormwater from the municipal separate storm sewers in 2004; and

WHEREAS, on March 1, 2009, the DEP renewed the Tier A Permit for an additional five year period and amended the Tier A Permit to refine aspects of the Tier A Permit to better protect water quality and to assist municipalities in complying with the conditions of the Tier A Permit; and

WHEREAS, the amendments to the Tier A Permit require the Borough of Bernardsville to have fully implemented a private storm drain inlet retrofit ordinance consistent with the model ordinance provided by the DEP by September 1, 2010; and

WHEREAS, the Borough of Bernardsville wishes to adopt an ordinance consistent with the model ordinance provided by the DEP and to require the upgrade of privately owned drainage inlets so as to reduce the overall amount of floatable debris entering waterways, thereby helping to protect and improve surface water quality; AND

WHEREAS, the amendments to the Tier A Permit require the Borough of Bernardsville to have fully implemented a refuse container/dumpster ordinance consistent with the model ordinance provided by the DEP by September 1, 2010; and

WHEREAS, the Borough of Bernardsville wishes to adopt an ordinance consistent with the model ordinance provided by the DEP and to require that dumpsters and other refuse

containers be covered to prevent the spilling, leaking, dumping or other discharge of liquids, semi-liquids and solids into the Borough stormwater system, thereby helping to protect and improve surface water quality;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Bernardsville, County of Somerset, State of New Jersey as follows:

Section 1. There is hereby created a new Chapter XXII in the Borough Code entitled "Stormwater Regulations."

Section 2. Existing Borough Code Sections 3-20, Litter Control; 3-21, Wildlife Feeding; 3-22, Yard Waste Collection Program; 3-24, Containerized Yard Waste; 3-25, Illicit Storm Sewer Connections; and 3-27 Fertilizer are hereby moved to the new Chapter XXII and renumbered as Sections 22-1 through 22-6 respectively.

Section 3. There is hereby created a new Section 22-7 entitled "Private Storm Drain Inlet Retrofit" which reads as follows

22-7 PRIVATE STORM DRAIN INLET RETROFIT

22-7.1 - Purpose

This section requires the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Borough of Bernardsville so as to protect public health, safety and welfare, and prescribes penalties for the failure to comply. In order to facilitate the upgrading of storm drain inlets, the Borough will maintain a list of suppliers in the area which keep inlet grates and compliant ECO heads in stock.

22-7.2 - Definitions

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. *Municipal separate storm sewer system (MS4)* - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by Bernardsville Borough or other public body, and is designed and used for collecting and conveying stormwater.

2. *Person* - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
3. *Storm drain inlet* - an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.
4. *Waters of the State* - means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

22-7.3 - Prohibited Conduct:

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

1. Already meets the design standard below to control passage of solid and floatable materials; or
2. Is retrofitted or replaced to meet the standard in Section 44-264(d) below prior to the completion of the project.

22-7.4 - Design Standard:

Storm drain inlets identified in Section 44-264(c) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, solid and floatable materials means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 44-264(d)3 below.

1. Property owners shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

- b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

2. Whenever property owners use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
3. This standard does not apply:
 - a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
 - b. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - I. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
 - ii. A bar screen having a bar spacing of 0.5 inches.
 - c. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1) spacing between the bars; or
 - d. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

22-7.5 - Enforcement:

This ordinance shall be enforced by the Zoning Officer, Code Enforcement Officer, Public Works Manager and Borough Engineer or his duly authorized representative.

22-7.6 - Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to the penalties shall be in Section 1-5 of this Code. Each storm drain inlet that is not retrofitted to meet the design standard shall be considered a separate offense.

Section 3. There is hereby created a new Section 22-8 entitled "Private Storm Drain

Inlet Retrofit" which reads as follows

22-8 REFUSE CONTAINERS AND DUMPSTERS

22-8.1 - Purpose

This section requires dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of Bernardsville and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

22-8.2 - Definitions

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. Municipal separate storm sewer system (MS4) - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by Chester Borough or other public body, and is designed and used for collecting and conveying stormwater.
2. Person - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal

jurisdiction.

3. Refuse container - any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

4. Stormwater - means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

5. Waters of the State - means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

22-8.3 - Prohibited Conduct

1. Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

2. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Bernardsville.

22-8.4 - Exceptions to Prohibition

1. Permitted temporary demolition containers

2. Litter receptacles (other than dumpsters or other bulk containers)

3. Individual homeowner trash and recycling containers

4. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit

5. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup)

22-8.5 - Enforcement

This ordinance shall be enforced by the Borough's contractual health agency, the Code

Enforcement Officer and the Borough Police Department.

22-8.6 - Penalties

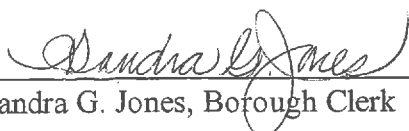
Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a penalty in accordance with Section 1-5 of the Revised Ordinances of the Borough of Bernardsville. Each day in which a violation exists shall be considered to be a separate offense.

Section 4. Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

Section 5. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

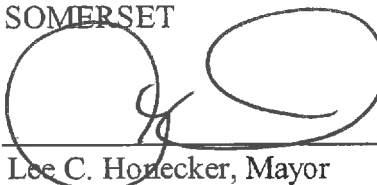
Section 6. This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST:



Sandra G. Jones, Borough Clerk

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

By: 

Lee C. Honecker, Mayor

Introduction: September 13, 2010

1st Publication: September 16, 2010

Public Hearing and Adoption: September 27, 2010

2nd Publication: September 30, 2010