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ORDINANCE NO. 10-19

**AN ORDINANCE TO ADOPT CHAPTER 16-8, PRIVATE STORM DRAIN
INLET RETROFITTING, OF THE REVISED GENERAL ORDINANCES OF THE
TOWNSHIP OF ROCKAWAY, MORRIS COUNTY, STATE OF NEW JERSEY**

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 by-laws 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 Departmental of Environmental Protection (DEP); and

WHEREAS, the Township of Rockaway ("Rockaway") received authorization under the Tier A Permit to discharge stormwater from 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 Township of Rockaway have fully implemented a private storm drain inlet retrofitting ordinance consistent with the model ordinance provided by the DEP; and

WHEREAS, the Township of Rockaway desires to adopt Chapter 16-8, Private Storm Drain Inlet Retrofitting, of the Revised General Ordinances of the Township of Rockaway, County of Morris, State of New Jersey to be consistent with the model ordinance provided by the DEP and to regulate the retrofitting of existing storm drain inlets and to prevent the discharge of solids and floatables, so as to protect public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Rockaway, County of Morris, State of New Jersey as follows:

SECTION 1. Chapter 16-8, Private Drain Inlet Retrofitting, of the Revised General Ordinances of the Township of Rockaway, County of Morris, State of New Jersey is hereby adopted to read as follows:

§ 16-8.1. Purpose.

An ordinance requiring 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 Township of Rockaway so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 16-8.2. 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.

- a. 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 the Township of Rockaway or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.
- b. Person - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. 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.
- d. 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.

§ 16-8.3. 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 stated in §16-8.4 herein to control passage of solid and floatable materials; or
2. Is retrofitted or replaced to meet the standard in §16-8.5 herein prior to the completion of the project.

§ 16-8.4. Design Standard.

Storm drain inlets identified in this Ordinance 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 Paragraph 3 below.

1. Design engineers 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 design engineers 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 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.

§ 16-8.5. Enforcement.

This ordinance shall be enforced by the Engineering Department and/or the Department of Public Works of the Township of Rockaway.

§ 16-8.6. Penalties.

Any person violating this Article shall be subject, upon conviction, to one or more of the following at the discretion of the Court: a fine not to exceed \$1,250 or imprisonment in the County Jail for a term not to exceed 90 days or community service not to exceed 90 days.

SECTION 2. All ordinances of the Township of Rockaway that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect upon final passage and approval in accordance with law.

C E R T I F I C A T I O N

I, Mary C. Cilurso, RMC/CMC, Township Clerk of the Township of Rockaway, County of Morris, State of New Jersey, do hereby certify that the foregoing is a true copy of an Ordinance introduced by the Township Council of the Township of Rockaway at a duly convened meeting held on July 6, 2010 and adopted at a duly convened meeting held on August 3, 2010.

Mary C. Cilurso
Mary C. Cilurso, RMC/CMC, Township Clerk

Approved By:



Louis S. Sceusi, Mayor