

## BOROUGH OF NEW PROVIDENCE

ORDINANCE 2024-11

### **“AN ORDINANCE REQUIRING RETROFITTING OF EXISTING STORM DRAIN INLETS”**

**BE IT ORDAINED** by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey that Chapter 220 of the Code of the Borough titled “Storm Sewer System” be amended to add Article III, “Private Storm Drain Inlet Retrofitting” as follows:

#### **Article III. Private Storm Drain Inlet Retrofitting.**

##### **SECTION I. 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 Borough of New Providence to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply. Installation of all new storm drain inlets must include a catch basin or other BMP designed for solids collection in areas which drain to surface waters and that do not have any other downstream BMPS prior to the surface water discharge.

##### **SECTION II. 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 consistent 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)” means 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 Borough of New Providence or other public body, and is designed and used for collecting and conveying stormwater.

B. “Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

C. "Storm drain inlet" means the point of entry into the storm sewer system.

### **SECTION III. Regulated Activities:**

A. 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 IV below prior to the completion of the project.

B. The below design standard applies to the following types of storm drain inlet retrofit projects unless a more stringent standard is specified by the municipality's Stormwater Control Ordinance:

1. Privately-owned or operated storm drain inlets (e.g., condominium association) must be retrofitted where the storm drains are:
  - a. In direct contact with any repaving, repairing (excluding individual pothole repair), or resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen); or
  - b. In direct contact with any reconstruction or alteration of facilities. This does not include single family homes.

C. Grates in pavement or other ground surfaces shall meet either of the following standards:

1. The New Jersey Department of Transportation (NJDOT) bicycle safe grate standards described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (see [www.state.nj.us/transportation/about/publicat/pdf/BikeComp/introtofac.pdf](http://www.state.nj.us/transportation/about/publicat/pdf/BikeComp/introtofac.pdf)); or

2. A grate where each individual clear space in that grate has an area of no more than seven (7.0) square inches or is not greater than 0.5 inches across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates.

3. 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 used to collect stormwater from the surface into a storm drain or surface water body.

4. For curb-openings inlets, including curb-opening inlets in combination inlets, the clear space in the 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.

#### **SECTION IV. Exemptions:**

The following exemptions from the design standard apply:

A. Where each individual clear space in the curb opening in existing curb-opening inlets does not have an area of more than nine (9.0) square inches;

B. Where the review agency determines that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;

C. Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., 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:

1. A rectangular space four and five-eighths inches long and one and one-half inches wide; or

2. A bar screen having a bar spacing of 0.5 inches;

a. Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

D. Where flows are conveyed through a trash rack that has parallel bars with one inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in N.J.A.C. 7:8; or

E. Where the Department 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 the standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

**SECTION V. Enforcement:**

This ordinance shall be enforced by the Police Department, the Borough Administrator, the Public Works Manager or the Zoning Officer.

**SECTION VI. Violations and Penalties:**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$2,000.00 for each storm drain inlet that is not retrofitted to meet the design standard.

**SECTION VII. Severability:**

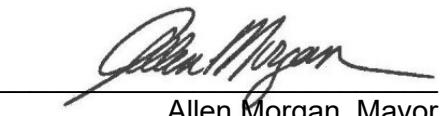
Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

**SECTION VIII. Effective Date:**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Introduced: October 8, 2024  
Public Hearing: October 22, 2024  
Adopted: October 22, 2024

BOROUGH OF NEW PROVIDENCE  
COUNTY OF UNION  
STATE OF NEW JERSEY



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Allen Morgan, Mayor

Attest:



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Denise Brinkofski, Borough Clerk