

ORDINANCE 2010-14

**ORDINANCE OF THE BOROUGH OF BARNEGAT LIGHT,
COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING
AND SUPPLEMENTING CHAPTER 167 OF THE BOROUGH
CODE, ENTITLED “STORMWATER CONTROL,” TO
PROVIDE FOR PRIVATE STORM DRAIN INLET
RETROFITTING.**

WHEREAS, the New Jersey Department of Environmental Protection, Division of Water Quality, Bureau of Nonpoint Pollution Control, requires that the Borough adopt 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 so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Barnegat Light, County of Ocean, State of New Jersey, as follows:

SECTION 1. Sections 167-1 through 167-20 of the Borough Code of the Borough of Barnegat Light shall be organized and designated as Article I of Chapter 167 of the Borough Code of the Borough of Barnegat Light, to be entitled “Stormwater Control.” Sections 167-15 through 166-20 are reserved for future use.

SECTION 2. There is hereby created and established an Article II of Chapter 167 of the Borough Code of the Borough of Barnegat Light, to be entitled “Private Storm Drain Inlet Retrofitting,” to provide as follows:

**ARTICLE II
Private Storm Drain Inlet Retrofitting**

§167-21. Purpose.

The purpose of this Article is to require 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 so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply, so as to comply with the requirements of the New Jersey Department of Environmental Protection, Division of Water Quality, Bureau of Nonpoint Pollution Control.

§167-22. Definitions.

For the purpose of this Article, 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.

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 Borough of Barnegat Light or other public body, and is designed and used for collecting and conveying stormwater.

PERSON – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

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.

WATERS OF THE STATE – 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.

§167-23. 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:

- A. Already meets the design standard below to control passage of solid and floatable materials; or
- B. Is retrofitted or replaced to meet the standard in §166-34 below prior to the completion of the project.

§167-24. Design Standard.

Storm drain inlets identified in §167-23 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):

- A. 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:
 1. 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
 2. 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.
 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.
- B. 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.

C. This standard does not apply:

1. 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;
2. 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:
 - a. 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
 - b. A bar screen having a bar spacing of 0.5 inches.
3. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or
4. 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.

§167-25. Enforcement.

This ordinance shall be enforced by any officer of the Borough.

§ 167-26. Violations and penalties.

Any violation of this article shall be punishable as provided in §1-15 of the Borough Code, entitled "Violations and penalties."

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Borough Council of the Borough of Barnegat Light, in the County of Ocean, State of New Jersey, on the 18 day of August, 2010, and will be considered for final passage at a regular meeting of said governing body to be held at the Municipal Building, 10 West 7th Street, Barnegat Light, New Jersey, on the 15 day of September, 2010, at 8:00 p.m., at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

GAIL J. WETMORE, Borough Clerk

Passage on First Reading: date: August 18, 2010 moved by Reynolds seconded by Bossi
VOTE:
Spark aye Morrison absent Mikuletzky aye Reynolds aye Bossi aye Warr aye
Attest:

GAIL J. WETMORE, Borough Clerk

Final Passage: date: September 15, 2010 moved by Spark seconded by Mikuletzky
VOTE:
Spark aye Mikuletzky aye Reynolds aye Bossi aye Warr aye
Attest:

GAIL J. WETMORE, Borough Clerk

Approved:

_____ date: _____
KIRK O. LARSON, Mayor
Attest:

GAIL J. WETMORE, Borough Clerk