

Ordinance No. 2011-6
Ordinance of the Borough of Pemberton creating
requirements for Private Storm Drain Inlet Retrofitting Ordinance

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 Pemberton so as to protect public health, safety, and welfare, and to prescribe penalties for the failure to comply.

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 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 Borough of Pemberton and is designed and used for collecting and conveying stormwater.
- 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.

SECTION III. 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 in Section IV 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.

SECTION IV. Design Standard:

Storm drain inlets identified in Section III above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For exemptions to this standard, see Section IV.3 below.

1. Either of the following grates shall be used whenever a grate located in pavement or other ground surface is used to collect stormwater from that surface and discharge 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. Curb-opening inlets shall have a curb opening 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. In new development or redevelopment projects where the municipal engineer determines 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. In the retrofitting of existing storm drain inlets where the municipal engineer determines that this standard would cause inadequate hydraulic performance.
- c. Where flows from the water quality storm as specified in NJAC 7:8 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.
- 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 storm as specified in NJAC 7:8; or
- e. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at NJAC 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.

SECTION V. Enforcement:

This ordinance shall be enforced by the **[Police Department and/or other Municipal Officials]** of the Borough of Pemberton.

SECTION VI. 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 **[insert amount]** 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.