

ORDINANCE NO. 11-2023

**ORDINANCE OF THE BOROUGH OF BRANCHVILLE, COUNTY OF SUSSEX, STATE OF NEW JERSEY CREATING CHAPTER 35 ENTITLED "PRIVATE STORM DRAIN INLET RETROFITTING" AS REQUIRED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**WHEREAS**, the New Jersey Department of Environmental Protection is requiring all New Jersey municipalities to adopt certain ordinances in order to comply with the Tier A Stormwater Requirements; and

**WHEREAS**, certain model ordinances were provided to the Borough by the Department for introduction and subsequent adoption; and

**WHEREAS**, the Borough Council of the Borough of Branchville believes the adoption of these ordinances is in the best interest of the Borough and its residents.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Branchville, County of Sussex, State of New Jersey, that Chapter 35 entitled "Private Storm Drain Inlet Retrofitting" be created as follows:

**SECTION I.**

**§ 35-1. 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 Borough of Branchville so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

**§ 35-2. 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 Borough of Branchville or other public body, 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.

### **§ 35-3. 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 IV below prior to the completion of the project.

### **§ 35-4. 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 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 V.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 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

#### **§ 35-5. Enforcement.**

This Ordinance shall be enforced by the Branchville Borough Consulting Engineer and the Branchville Director of Public Works.

#### **§ 35-6. 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 two thousand dollars (\$2,000.00) for each storm drain inlet that is not retrofitted to meet the design standard.

#### **SECTION II. Repealer.**

Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Branchville inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.

#### **SECTION III. Severability.**

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged to be unconstitutional or invalid by a

court of competent jurisdiction the remainder of this Ordinance shall remain in full force and effect.

**SECTION IV. Effective Date.**

This Ordinance shall take effect upon final passage and publication as provided by law.

**NOTICE**

**NOTICE** is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Borough of Branchville held on \_\_\_\_\_, 2023 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Borough Council to be held on \_\_\_\_\_, 2023 at 7:00 p.m. or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 34 Wantage Avenue, Branchville, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Borough Clerk