

ORDINANCE #2020-08

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF LOWER; ADDING CHAPTER 577;  
PRIVATE STORM DRAIN INLET RETROFITTING**

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Township Council of the Township of Lower, County of Cape May, State of New Jersey that the following chapter shall be added:

**Chapter 577; PRIVATE STORM DRAIN INLET RETROFITTING**

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

**SECTION 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 Lower 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.

**SECTION 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.

**SECTION 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.

**SECTION 5. Enforcement:** This ordinance shall be enforced by the Public Works Department, Code Enforcement, Police Department and/or other Municipal Officials of the Township of Lower

**SECTION 6. Violations and Penalty:**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a maximum penalty, upon conviction, of a fine not exceeding \$100 or imprisonment for a period not exceeding 90 days, or both.

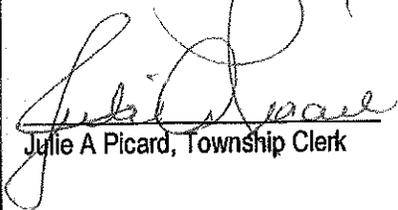
**SECTION 7.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof;

**SECTION 8.** All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

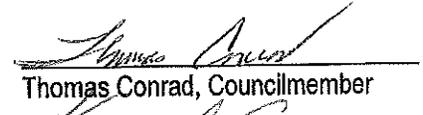
**Section 9.** This ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Introduced: February 12, 2020

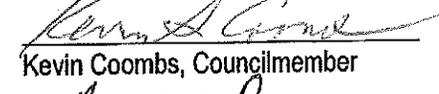
Adopted: March 16, 2020



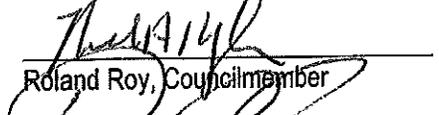
Julie A Picard, Township Clerk



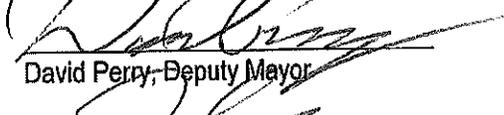
Thomas Conrad, Councilmember



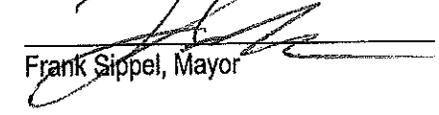
Kevin Coombs, Councilmember



Roland Roy, Councilmember



David Perry, Deputy Mayor



Frank Sippel, Mayor