

**2010 - 12 AN ORDINANCE OF THE BOROUGH OF HELMETTA AMENDING
CHAPTER 40 "LAND DEVELOPMENT," SECTION 119 "STORM DRAINAGE" IN
ACCORDANCE WITH NJDEP UPDATES TO THE BOROUGH'S TIER A STORM
WATER PERMIT**

WHEREAS, the Borough Code ("Code") of the Borough of Helmetta ("Borough") currently contains Chapter 40 "Land Development," Section 119, "Storm Drainage," which governs storm drain inlet design standards; and

WHEREAS, there were recent updates to the Borough's Tier A Stormwater Permit, mandated by the New Jersey Department of Environmental Protection (NJDEP) Municipal Stormwater Regulation Program, that require the Borough to adopt and enforce amendments to its current stormwater management and control ordinance; and

WHEREAS, the amendments must provide for the retrofitting of existing storm drain inlets on property that is not owned or operated by the Borough to prevent the discharge of solids and floatables to the municipal separate storm sewer system.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Helmetta, County of Middlesex, and State of New Jersey that Chapter 40, Section 119 of the Code, entitled "Storm Drainage" is hereby amended as follows (Additions are in bold type and underlined and deletions are struck-through):

1. § 40-119. shall be amended to add the following section and subsections:

I. Private Storm Drain Inlet Retrofitting.

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

(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 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.

(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:

(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 Section 4 below prior to the completion of the project.

(4) Design Standard. Storm drain inlets identified in Section 3 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 subsection (c) below.

(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:

(i) 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

(ii) 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.

(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:

(i) 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;

(ii) 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: (1) 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 (2) A bar screen having a bar spacing of 0.5 inches.

(iii) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or

(iv) 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.

(5) Enforcement. This ordinance shall be enforced by the Code Enforcement Officer of the Borough of Helmetta.

(6) 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 \$200.00 for each storm drain inlet that is not retrofitted to meet the design standard.

(7) 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.

(8) 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.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.