

BOROUGH OF MENDHAM

MORRIS COUNTY, NEW JERSEY

ORDINANCE #17-2019

ORDINANCE OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, TO AMEND CHAPTER 168, SEWERS, OF THE BOROUGH CODE TO UPDATE AND CLARIFY CERTAIN PROVISIONS

WHEREAS, the Borough of Mendham's Administration, Borough and Sanitary Engineers, Water Reclamation Superintendent and Council Finance Committee has reviewed Chapter, 168, Sewers of the Borough Code and recommends amendments to update and clarify certain provisions; and

WHEREAS, the Mayor and Borough Council wish to adopt such recommendations and amend the ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Mendham, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter 168, Sewers, is hereby amended to read "Chapter 168, Sewerage System."

SECTION 2. Chapter 168, Sewerage System, Article I, Definitions, of the Borough Code is hereby amended to read as follows:

"§ 168-1. **Words and terms defined.**

As used in this chapter, unless a different meaning clearly appears from the context, the following words shall have the following meanings:

BOD (DENOTING "BIOCHEMICAL OXYGEN DEMAND")

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C. expressed in milligrams per liter.

BOROUGH

The Borough of Mendham, in the County of Morris and State of New Jersey.

BUILDING

Any building or structure heretofore or hereafter constructed and designed and used for dwelling purposes, either temporary or permanent, or nonresidential use or occupancy by a person or persons, or industrial, warehouse, and manufacturing uses.

BUILDING SEWER OR LATERAL

The extension from the building drain to the branch connection at the Borough sewage collection system or another place of disposal.

CHAIRPERSON

The Chairperson of the Borough Council's Public Works and Utilities Committee.

COMMERCIAL USE

Professional, business, office, warehouses, retail, commercial, governmental, religious or charitable uses or other non-industrial uses.

CONNECTION DATE

When used with respect to a building constructed prior to the date of initial operation of part of any sewerage system in the Borough owned and operated by the Borough and with respect to a sewer available to serve said building, the 90th day next ensuing after said date of initial operation, and when used with respect to a building constructed after the date of initial operation of a part of any sewerage system owned or operated by the Borough and with respect to a sewer available to serve said building, the 48th day after the date of completion of construction or availability, or the date of initial occupancy of said building, whichever of said dates shall be earlier in point of time.

DOMESTIC OR SANITARY SEWAGE

Waste and wastewater from humans or household operations.

EQUIVALENT DWELLING UNIT (EDU)

An Equivalent Dwelling Unit (EDU) is the unit of measure by which sewerage systems demand on the Borough sewerage system is calculated and is defined as 300 gallons per day. A residential dwelling unit is one Equivalent Dwelling Unit (EDU). Other uses have a number of EDU's based on the NJDEP design flow for the use divided by 300 gpd, rounded to the nearest whole number. An EDU is the unit of measure by which various fees are calculated for each Borough Sewer Utility User.

EQUIVALENT DWELLING UNIT (EDU)

Each unit, whether in a single or multiple unit building, having a demand on the Borough sanitary sewerage system equal to 300 gallons per day.

EXCESS USAGE RATE

The cost herein imposed per 1000 cubic feet of water usage in excess of 2500 cubic feet of water usage per quarter for each Equivalent Dwelling Unit (EDU) computed with respect to such Borough Sewer Utility user.

FEE

A flat charge for the Borough sewer utility service or connection to the Borough sewerage system.

GARBAGE

Solid waste from the preparation, cooking, dispensing and disposal of food and from the handling, storage and sale of produce.

INDUSTRIAL SEWAGE OR WASTE

Non-domestic waste and wastewater from manufacturing or chemical processes.

INDUSTRIAL USE

Use for or in a manufacturing, mining or chemical process or use in the operation of factories, processing plants, and similar sites.

MAINTENANCE FEE

The cost herein imposed for capital improvement projects, major maintenance and upgrades required to maintain operations and meet permit requirements for the sewerage system for each Equivalent Dwelling Unit (EDU) per Borough Sewer Utility User.

NJDEP

New Jersey Department of Environmental Protection.

NJPDES PERMIT

A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NON-RESIDENTIAL USER

Each building or separate space therein designed for or used for different professional, business, commercial, industrial, governmental, religious or charitable use or purpose, without regard to the number of building sewer or lateral connections from such buildings to the Borough sewerage system.

pH

The logarithm of the reciprocal of the weight of hydrogen ions in milligrams per liter of solution.

PPM

Parts per million.

PROPERLY SHREDDED GARBAGE

The wastes from the preparation, cooking and dispensing, and disposal of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the Borough sewage collection system sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

RATE

Cost imposed for the Borough sewer utility service per cubic feet of water usage.

RESIDENTIAL USER

Each building or separate space therein designed for or used as a residence or abode without regard to the number of building sewer or lateral connections from such building to the Borough sewerage system.

SENIOR DISCOUNT SERVICE FEE

The cost herein imposed for the use and services of the Borough sewerage system for each Residential User over the age of 65 whose annual income is \$25,000 or less, not including social security income.

SERVICE CONNECTION

The section of private, underground building sewer or lateral pipe connecting the property's wastewater plumbing to the sewage collection system.

SERVICE FEE

The cost herein imposed for the utilization of the sewerage system for each Borough Sewer Utility user.

SEWAGE OR WASTEWATER

Any used water and added waste that is carried away by drains and sewers, including waste from humans, households, commercial establishments, industries, and stormwater runoff, that are discharged to or otherwise enter a Treatment Works.

SEWAGE COLLECTION SYSTEM

The part of the Borough sewerage system, which includes all sanitary sewers, trunks or mains, interceptors, laterals, tributaries, branches, manholes, pumping stations, force mains and all other sewer appurtenances, either publicly or privately owned, which carry sewage to the borough Water Reclamation Facility.

SEWERAGE SYSTEM

The Borough's system and infrastructure of collecting, treating and disposal of sewage.

SEWER

Any sewer, trunk or main or interceptor designed and used for the collection or conveyance of sewage.

SEWER SERVICE AREA

The land area identified in the Morris County area-wide Water Quality Management Plan (WQMP) from which wastewater generated is conveyed to, or has been determined to be eligible, in accordance with N.J.A.C. 7:15 WATER QUALITY MANAGEMENT PLANNING, to pursue a permit to connect to a domestic treatment works or industrial treatment works. Inclusion in a sewer service area does not guarantee that capacity exists or will exist to provide treatment for all flow from that area.

SLUG

Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration of flows during normal operation.

SUPERINTENDENT

The Superintendent of the Water Reclamation Department as duly appointed by the Borough.

SUSPENDED SOLIDS

Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

SEWAGE SYSTEM

The sanitary sewerage system, which is all sewers, trunks, interceptors, laterals, branches, manholes, pumping stations and all other sewer appurtenances, either publicly or privately owned, which carry sewage to the Borough sewerage plant.

TRUNK OR MAIN SEWER

A large sewer line that receives sewage from many tributary branches and sewer lines and serves as an outlet for a large territory or is used to feed an intercepting sewer."

SECTION 3. Chapter 168, Sewerage System, Article II, Connections and Building Sewers, of the Borough Code is hereby amended to read "Article II, Service Connections, Building Sewers or Laterals."

SECTION 4. Chapter 168, Sewerage System, Article II, Service Connections, Building Sewers or Laterals," is hereby amended to read as follows:

"§ 168-2. Connection required.

The owner of each building intended for human occupancy along the line of any sewer now or hereafter constructed in the Borough, or the owner of any such building with a right of access to any sewer now or hereafter constructed in the Borough, shall connect each building on such property to a sanitary sewer. No connection shall be made to the trunk or main sewer unless permitted after application to the Superintendent or authorized designee.

§ 168-3. Pipe connection specifications.

Every connection required by this chapter shall be made in accordance with all applicable codes promulgated by the NJDEP and National Standard Plumbing Code.

§ 168-4. Connection required as sewer service becomes available.

- A. As sanitary sewers become available to serve buildings on any properties in the Borough, the Borough shall order each owner of property along the line of said sewer to connect each building on such property to the sewerage system in accordance with the terms of this chapter.
- B. In the event a construction permit or zoning application is filed in connection with property located in a sewer service area which is: i) a vacant lot; ii) currently served by a septic system; or iii) an expansion or alteration of the existing use; the owner shall be required to connect to the sewerage system; provided, however, that if none of the criteria established in § 168-47B(2), (3) or (4) are applicable, the property owner shall instead be required to obtain a reservation of capacity under § 168-47.1.

§ 168-5. Service of notice to connect.

The Superintendent or authorized designee shall give notice to the owner of property with respect to which an order is issued pursuant to this section of this chapter. Such notice shall be addressed to the owner of said property as the name of said owner appears in the last tax duplicate of the Borough, shall describe the property by lot and block designation as the same appears on the Tax Map of the Borough and by the street address if a street address exists, and shall state that by order of the Borough the owner is required to connect each building on said property with a sewer in accordance with the terms of this chapter on or before the connection date with respect to such building, or, if such connection date shall have passed, within 28 days after the service of such notice as hereinafter provided, and said notice shall also describe the penalty which may be imposed hereunder for failure to comply with said notice and order in accordance with the terms of this chapter. Said notice may be served on the owner personally or by leaving it at his or her usual place of abode with a member of his or her family above the age of 14 years. Said notice may also be served within or without the limits of the Borough by mailing the same by certified mail to the last known post office address of said owner as the same appears on the last tax duplicate of the Borough.

§ 168-6. Building Sewer or Lateral Permit required.

It shall be unlawful to install any building sewer or lateral or to make any service connection to the sewerage system without first obtaining a building sewer permit, and such installation and service connection shall be made under the direction and supervision of the Superintendent or authorized designee in the manner hereinafter set forth. The building sewer or lateral permit must be obtained from the Superintendent or authorized designee before a building permit will be issued with respect to new construction or a new service connection approved.

§ 168-7. Classes of building sewer or lateral permits.

Building sewer permits shall be of two classes:

CLASS I – For residential, public buildings and commercial uses.

CLASS II – For establishments discharging industrial wastes, laboratory wastes, or both.

§ 168-8. Application for building sewer or lateral permit required.

The owner or their agent shall make application on a form furnished by the Borough for such permit. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent or Borough Engineer or as required by state law.

§ 168-9. Expiration of building sewer or lateral permit.

Building sewer or lateral Permits will expire one year after the date of issue, but will be subject to renewal for further such periods not to exceed a period of 90 days each.

§ 168-10. Backfilling of building sewer or lateral extended by Borough.

Where the building sewer or lateral has been extended by the Borough from the trunk or main sewer to the curb or property line, the applicant, after securing the building sewer or lateral permit, shall notify the Superintendent or authorized designee when the excavation is made and the building sewer or lateral on the property is installed and connected. No backfill is to be placed without the written approval of the Superintendent or authorized designee.

§ 168-11. Backfilling of building sewer or lateral not extended by Borough.

Where the building sewer or lateral has not been extended by the Borough from the trunk or main sewer to the curb or property line, the applicant, after securing the building sewer or lateral permit, shall do all the excavation required and shall notify the Superintendent or authorized designee 24 hours before the excavation is ready for the installation of the connection to the trunk or main sewer. Street opening fees, backfilling and repaving shall be as required under Chapter 190, Streets and Sidewalks, at the expense of the applicant, and he or she shall post a bond for the completion thereof if the work is not done by the Water Reclamation Department.

§ 168-12. Guarding of excavations.

All excavations for building sewer or lateral installations shall be adequately guarded with barricades and lights to protect the public from hazard by and at the expense of the applicant.

§ 168-13. Inspection by Superintendent.

It shall be the duty of the Superintendent or authorized designee, when notified, to inspect the installation of any building sewer or lateral to determine whether the same complies with all the provisions hereof and any other ordinances of the Borough the enforcement of which is within the Superintendent's jurisdiction. The Superintendent shall evidence compliance with written approval on the permit.

§ 168-14. Liability of Borough.

The owner of any premises upon which the building sewer or lateral and connection are or to be installed shall indemnify the Borough from any loss or damage that may indirectly or directly be occasioned by the installation thereof.

§ 168-15. Separate sewers required; exception.

A separate and independent building sewer or lateral shall be provided for every building, except where one building stands at the rear of another on an interior lot and the rear building is an accessory use as established under Chapter 215, Zoning, and while both buildings remain under the same ownership, in the discretion of the Borough Engineer or Superintendent.

§ 168-16. Old building sewers or laterals, septic tanks and cesspools.

- A. Old building sewers or laterals may be used in connection with existing buildings or new buildings only when they are found upon examination and testing by the Borough Engineer or Superintendent and, if necessary, the Plumbing Inspector to meet all the requirements of this chapter.
- B. The owner of any premises which shall be required to connect with the Borough sewerage system shall, within a reasonable time after the connection date with respect to any such building or when it becomes a safety hazard in the opinion of the Borough Engineer or Superintendent, fill in all septic tanks or cesspools on the premises.

§ 168-17. Pump or ejector required for certain installations.

In all buildings in which any building drain is too low to permit gravity flow to the sewerage system, sewage carried by such drain shall be lifted by a pump or ejector as approved by the Borough Engineer or Superintendent and discharged into the building sewer or lateral.

§ 168-18. Reserved.

§ 168-19. Cleanouts.

Cleanouts shall be constructed every 80 feet or as required by the National Standard Plumbing Code.

§ 168-20. Service Connections into existing building sewers or laterals.

Service connections shall be made into existing building sewers or laterals as directed by the Borough Engineer or Superintendent or authorized designee.

§ 168-21. Street and sidewalk replacement.

All street and sidewalk replacement shall be in accordance with Borough ordinances.

§ 168-22. Vented traps required.

On all units in a building, a house trap shall be provided which shall be properly vented to the atmosphere.

§ 168-23. Reserved.

§ 168-24. Backflow prevention devices.

- A. A reduced pressure backflow prevention valve or device, approved by the Borough Plumbing Inspector, shall be installed on each service connection from the Borough water supply system to buildings with a flushometer toilet or toilets; mortuaries; hospitals and nursing homes; and any other premises where and upon which the Superintendent determines that an actual or potential hazard exists to the Borough water supply system from sewage effluent or other substance or thing by virtue of the nature or use of the premises, and thereby requiring installation of a backflow prevention valve or device.

- B. Any such backflow prevention valve or device shall be installed in a location and manner approved by the Borough Plumbing Inspector and shall always be maintained by the owner of the premises in proper and satisfactory repair and operating condition.

§ 168-25. Cost of work to be borne by owner.

All work required under this article shall be done at the expense of the applicant.

§ 168-26. Toilet required.

The owner of any building intended for human occupancy or the owner of any commercial use located upon any public street along the sewage collection system now or hereafter constructed or made available in the Borough or the owner of any such building or commercial use with a right of access to the sewage collection system now or hereafter constructed or made available in the Borough shall install a toilet in said building or commercial use, unless a toilet is now installed therein, and connect it or any toilet already installed with the building sewer outlet as hereinabove required and maintain the same in operable condition at all times that such building or commercial use is occupied.

§ 168-27. Private disposal systems.

Where the Borough sewerage system is not available under the above provisions, the owner of every building intended for human occupancy shall install a toilet in said building, unless a toilet is now installed therein, and connect it or the toilet already installed to a private disposal system complying with Borough ordinances.

§ 168-28. Installation by Borough.

If the owner of any property in the Borough shall fail to make the installation required by this chapter within the time herein required, the Borough may proceed to make such connection or installation, or cause the same to be made, and charge and assess the cost thereof against such property pursuant to the authority of N.J.S.A. 40:63-54."

SECTION 5. Chapter 168, Sewerage System, Article III, Use of Public System, is hereby amended to read "Article III, Use of Borough Sewerage System."

SECTION 6. Chapter 168, Sewerage System, Article III, Use of Borough Sewerage System, is hereby amended to read as follows:

"§ 168-29. Unsanitary deposits prohibited.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Borough, or in any area under the jurisdiction of the Borough, any human or animal excrement, garbage or other objectionable waste.

§ 168-30. Suitable treatment required.

It shall be unlawful to discharge to any natural outlet within the Borough, or in any area under the jurisdiction of the Borough, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

§ 168-31. Certain disposal facilities prohibited.

Except as hereinabove provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

§ 168-32. Prohibited water discharges.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, swimming pool or pond water, cooling water or unpolluted industrial process waters into the Borough sewerage system.

168.32.1 Prohibited water discharges penalties.

- A. Any person who permits the discharge of causes to be discharged any storm water, surface water, ground water, roof run-off, subsurface drainage, swimming pool or pond water whether by use of a sump pump, French-drain or otherwise into the sanitary sewer system shall be subject to a fine of not more than one thousand dollars (\$1,000), plus two hundred fifty dollars (\$250) per day for each additional day the violation continues. Penalties are in accordance with N.J.S.A. 40:49-5.
- B. The Superintendent shall provide a property owner with a Notice of Violation, hand delivered, or sent by certified mail, return receipt requested, setting forth the nature of the violation, the penalty to be imposed and any remedial action required to abate the violation. The violation shall be remediated at the penalty paid within 10 days of receipt of the Notice of Violation by the property owner unless a greater period is set forth in the Notice of Violation. Failure to take the remedial action directed by the Borough within 10 days of the Notice of Violation shall result in the assessment of additional penalties.

§ 168-33. Unpolluted water discharges.

Industrial cooling waters or unpolluted process waters may be discharged, on approval of the Superintendent into the sewerage system.

§ 168-34. Prohibited discharges enumerated.

- A. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes into the sewerage system:
 - (1) Any liquid or vapor having a temperature higher than 150° F.
 - (2) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in the sewage collection system or other interference with the proper operation of the sewerage system, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - (3) Containing mineral acidity, pH not less than 5.5.
 - (4) Containing caustic alkalinity, pH not greater than 9.5.
 - (5) Containing any explosive or flammable substance, gasoline, naphtha, petroleum products, gases or vapors, either free or occluded in concentration toxic or dangerous to humans, animals or aquatic life or to the sewerage system.
 - (6) Oils, fats or grease except as may result from household, hotel or restaurant operation, and in no event that which will solidify or become viscous at temperatures between 32° F. and 150° F. or exceeding 25 parts per million.
 - (7) Containing insoluble substances which shall not exceed a daily average of 500 parts per million.
 - (8) Containing total solids (soluble and insoluble) exceeding a daily average of 5,000 parts per million.
 - (9) Containing chlorine demand exceeding an average greater than 20 parts per million.
 - (10) Containing five-day BOD exceeding an average greater than 500 parts per million and the BOD by the dichromate method exceeding an average greater than 700 parts per million.
 - (11) Containing sulfides exceeding two parts per million.

- (12) Containing any toxic or irritating substances which will create conditions hazardous to public health and safety.
- (13) Containing poisons in sufficient quantities to endanger man or interfere with biological processes.
- (14) Containing phenols or orthocresols in excess of 0.01 part per million.
- (15) Containing any substance which the Borough now or hereafter finds to be harmful.
- (16) Containing any noxious or malodorous gas or substance capable of creating a public nuisance.
- (17) Containing milk, brewery or distillery waste in any form.
- (18) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 horsepower metric) or greater shall be subject to the review and approval of the Superintendent.
- (19) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.
- (20) Containing unusual concentrations of inert suspended solids, such as but not limited to fuller's earth, lime slurries and lime residues, or of dissolved solids, such as but not limited to sodium chloride and sodium sulfate.
- (21) Containing waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the Water Reclamation Facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (22) Any of the following waste or substance which shall cause or result in a chemical reaction, either directly or indirectly, with the materials of construction to impair the strength or durability of any sewer structure.
 - (a) Mechanical action that will destroy or damage the sewer structure.
 - (b) Restricting hydraulic capacity of the sewer structure.
 - (c) Restricting normal inspection and maintenance of the sewer structure.
 - (d) Placing unusual demands of quantity or quality on the sewage treatment equipment or process, plant or sewers.
 - (e) Limiting the effectiveness of the sewer treatment process.
 - (f) Danger to public health and safety.
 - (g) Obnoxious conditions inimical to the public interest.
 - (h) Excessive discoloration, such as but not limited to dye wastes and vegetable tanning solutions.
 - (i) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

§168.34.1 Prohibited discharges enumerated penalties.

- A. Any person who permits the discharge of any of the prohibited discharges identified under 168.34 into the sanitary sewer system shall be subject to a fine of not more than one thousand dollars (\$2,000), plus five hundred dollars (\$500) per day for each additional day the violation continues. Penalties are in accordance with N.J.S.A. 40:49-5.

- B. In addition to the above fines and penalties or any other sanctions or remedies otherwise available by law or regulation, failure to comply with the ordinance shall subject the property owner and/or discharger to any and all costs incurred by the Borough, including any penalties or fines imposed upon the Borough by a local, state or federal entity, which are associated with such violation. In addition to the provisions herein, violations of the terms and conditions upon which pollutants may be introduced to the Borough's treatment works is governed by the provisions of N.J.S.A. 58:10A-6(i), as amended and the Borough shall be entitled to pursue all remedies set forth therein.
- C. The Superintendent shall provide a property owner with a Notice of Violation, hand delivered, or sent by certified mail, return receipt requested, setting forth the nature of the violation, the penalty to be imposed and any remedial action required to abate the violation. The violation shall be remediated at the penalty paid within 10 days of receipt of the Notice of Violation by the property owner unless a greater period is set forth in the Notice of Violation. Failure to take the remedial action directed by the Borough within 10 days of the Notice of Violation shall result in the assessment of additional penalties.

§ 168-36. Grease, oil and sand interceptors.

- A. Oil and sand interceptors. Oil and sand interceptors shall be installed in commercial and industrial facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing oil in excessive amounts, any flammable wastes, sand or other harmful substances. All oil and sand interceptors shall conform to the applicable standards for oil and sand interceptors set forth in the National Plumbing Code and shall be located as to be readily and easily accessible for cleaning and inspection.
- B. Grease interceptors. Restaurants, cafeterias, institutional kitchens and other installations discharging large quantities of grease shall use a grease interceptor. A garbage grinder shall not be used when a grease interceptor is required. The grease interceptor shall be installed in a separate line serving that part of the plumbing system into which the grease will be discharged. The grease interceptor shall be located close to the source of the wastewater, where the wastewater is still hot, to facilitate separation. Grease interceptors shall be located, designed and constructed in a manner that will permit easy access and cleaning.

(1) Standards applicable to existing facilities.

- (a) Existing facilities shall have installed grease interceptors which conform to the applicable standards for grease interceptors set forth in the National Plumbing Code. In addition, in order to identify those grease interceptors which are malfunctioning or of a capacity or design inadequate to properly intercept the grease discharged, the Superintendent of the Water Reclamation Facility shall require monitoring points to be installed on the premises of all existing facilities. The Superintendent shall notify in writing all property owners who shall be required to install said monitoring points. Said monitoring points shall be installed within 120 days of receipt of the Superintendent's written notification.
- (b) The monitoring points shall consist of cleanouts extended to be flush with the existing grade at a point on the premises as near to the main or trunk sewer as possible. Where multiple tenants have separate building sewers or laterals connecting to the main or trunk sewer, monitoring points shall be installed for each individual facility to which this chapter applies. Monitoring points with a depth of four feet or less shall have a minimum diameter of four inches. Monitoring points with a depth of more than four feet shall have a minimum diameter of six inches. The cover of the cleanouts shall be brass where the top of the cleanout is in pavement, sidewalk or other area subject to vehicle or pedestrian traffic.
- (c) The Superintendent or authorized designee shall take random samples from the monitoring points at various times through the year. Access to the monitoring points shall be kept reasonably open to the Superintendent for samples to be taken. If the Superintendent or authorized designee

determines from the samples taken that any grease interceptor is malfunctioning or of inadequate design or capacity, he shall notify the property owner of the malfunction or deficiency and the measures that must be taken by the property owner to correct the malfunction or deficiency, which measures may include the installation of a grease interceptor meeting the standards set forth in Subsection B(2) below.

- (d) "Existing facility," as that term is used herein, shall mean a restaurant, cafeteria, institutional kitchen or other installation discharging large quantities of grease that is operating effective November 5, 2012.
- (2) Standards applicable to new or altered facilities. The following standards shall apply to new or altered facilities as follows:

- (a) Restaurants. The following equation shall be used to determine the minimum size required for grease interceptors serving restaurants:

$$Q = (D) \times (HR/2) \times (12.5) \times (0.5),$$

where:

Q = size of grease interceptor in gallons;

D = number of seats in dining area; and

HR = number of hours open per day.

- (b) Cafeterias and institutional kitchens. The following equation shall be used to determine the minimum size required for grease interceptors serving cafeterias and institutional kitchens:

$$Q = (M) \times (11.25) \times (LF),$$

where:

Q = size of grease interceptor in gallons;

M = total number of meals served per day; and

LF = loading factor depending on type of facilities present:

1.0 with dishwashing;

0.5 without dishwashing.

- (c) In no case shall a grease interceptor serving a new or altered facility be smaller than 750 gallons in capacity. The minimum requirement for construction, materials and foundations of grease interceptors shall be the same as those required for septic tanks, as prescribed in N.J.A.C. 7:9A-8.2. The inlet and outlet of the grease interceptor shall be provided with T baffles extending to a depth of 12 inches above the tank floor and well above the liquid level. To facilitate maintenance, manholes extending to finished grade shall be provided. Covers shall be of gas-tight construction and shall be designed to withstand expected loads and prevent access by children.
- (d) "New facility," as that term is used herein, shall mean any proposed new restaurants, cafeteria, institutional kitchen or other installation discharging large quantities of grease.
- (e) "Altered facility," as that term is used herein, shall mean a restaurant, cafeteria, institutional kitchen or other installation discharging large quantities of grease which is remodeled, renovated, reconstructed or modified, which remodeling, renovation, reconstruction or modification requires any change in the physical configuration of an existing grease interceptor or any of its component parts, including replacement, modification, addition or removal of system components such that there will be a change in the location, design, construction, installation, size, capacity, type or number of one or more components.

§ 168-36.1. Grease, Oil and Sand penalties.

- A. Any person who fails to comply with any provision of this subsection, upon conviction therefor, shall be liable to a penalty of not to exceed \$1,000, for the first offense, \$1,500 for the second offence and \$2,000 for the third offense and each thereafter. Penalties are in accordance with N.J.S.A. 40:49-5.
- B. In addition to the penalties, violators are responsible for all cost and damages incurred by the Borough related to removing the blockage.
- C. The Superintendent shall provide a property owner with a Notice of Violation, hand delivered, or sent by certified mail, return receipt requested, setting forth the nature of the violation, the penalty to be imposed and any remedial action required to abate the violation. The violation shall be remediated, and the penalty paid within 10 days of receipt of the Notice of Violation by the property owner unless a greater period is set forth in the Notice of Violation. Failure to take the remedial action directed by the Borough within 10 days of the Notice of Violation shall result in the assessment of additional penalties.

§ 168-37. Inspection and maintenance of Grease, oil and sand interceptors.

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times. All interceptors shall be cleaned at intervals at least every 90 days. Notice must be provided to the Superintendent of the Water Reclamation Facility at least 48 hours in advance of any proposed regular cleaning and immediately in the event of an emergency cleaning. Proof of cleaning may be required upon the request of the Superintendent. Frequency of cleaning may be required to be increased to prevent discharge to the sewerage system.

§ 168-38. Silt basins.

No washings from vehicles of any type shall be admitted to the sewerage system except through a silt basin of suitable size, properly protected by a grating and trapped, from which the deposits shall be removed by hand as often as may be required by the Superintendent. All plans for such silt basins shall be approved by the Borough Engineer.

§ 168-39. Action of Superintendent of the Department of Water Reclamation on deleterious discharges.

If any waters or wastes are discharged or are proposed to be discharged to the sewerage system, which waters contain the substances or possess the characteristics enumerated in § 168-38 of this article, and which, in the judgment of the Superintendent, may have a deleterious effect upon the sewerage system, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- A. Reject the wastes.
- B. Require pretreatment to an acceptable condition for discharge to the public sewers.
- C. Require control over the quantities and rates of discharge.
- D. Require payment to cover all added costs of handling and treating the wastes not covered by existing charges under the provisions of § 168-44 of this article. Where necessary, the owner of the premises served shall provide, at his or her expense, such preliminary treatment as may be necessary as determined by the Borough Engineer and the Superintendent to reduce the quality and quantity of such waste to these limits. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Borough Engineer, the Superintendent and the State of New Jersey Department of Environmental Protection as required, and no construction of such facilities shall be commenced until said approvals are obtained, in writing.

§ 168-40. Maintenance of preliminary treatment facilities.

Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner of the premises served, at his or her expense.

§ 168-41. Installation of manholes.

Where necessary, in the opinion of the Borough Engineer and the Superintendent or authorized designee, the owner of any building sewer or lateral carrying industrial waste shall install a suitable control manhole in the building sewer or lateral to facilitate observation, sampling and measurement of the wastes. Such manholes, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Borough Engineer and the Superintendent or authorized designee. The manhole shall be installed by the owner of the premises served, at their own expense, and shall be maintained to be safe and accessible at all times.

§ 168-42. Analysis of wastes.

All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in §§ 168-34, 168-35 and 168-39 shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Sewage and shall be determined at the control manhole provided for in § 168-41 or upon suitable samples taken at said control manhole. If no special manhole has been required, the control manhole shall be the nearest downstream manhole in the public sewer to the point at which the building sewer or lateral is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewerage system and to determine the existence of hazards to life, limb and property. The particular analysis involved will determine whether a twenty-four-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.

§ 168-43. Maintenance of building sewer or lateral.

The maintenance of the building sewer or lateral, whether constructed by the Borough or otherwise, and building drain shall be the responsibility of the owner of the property served.

§ 168-44. Acceptance of prohibited industrial wastes.

No statement contained in this article should be construed as preventing any special agreement or arrangement between the Borough and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Borough for treatment at an additional charge, provided that the Borough has been advised, in writing, by a qualified consulting sanitary engineer retained by the Borough at the expense of the industrial applicant that the industrial waste of the applicant can be adequately treated by the then-existing Water Reclamation Facility, and at what additional cost to the applicant for the treatment."

SECTION 7. Chapter 168, Sewerage System, Article IV, Limitations on Sewer Connections, is hereby amended to read "Article IV, Limitations on Sewer Service Connections."

SECTION 8. Chapter 168, Sewerage System, Article IV, Limitations on Sewer Service Connections, is hereby amended to read as follows:

"§ 168-45. Findings and purpose.

- A. In 1988 the Borough Water Reclamation Facility was approaching its permitted discharge limit of 400,000 gallons per day monthly average. At the time that the average daily flow reached 80% of the permitted discharge limit, the Borough was required to impose a sewer connection ban and to establish a program of controls to ensure that the permitted capacity of the Water Reclamation Facility is not exceeded. By adoption of Resolution No. 114-88, the Borough did impose a connection ban in November 1988 which was approved by the New Jersey Department of Environmental Protection.

- B. In July of 1989 the New Jersey Department of Environmental Protection (NJDEP) imposed its own connection ban due to the inability of the then-existing Water Reclamation Facility to meet revised effluent quality standards. The Borough was ordered to make additions and improvements to the treatment facilities to ensure compliance with the revised standards. Over the years from 1990 through 1993, the Borough made additions and improvements costing over \$4,000,000. As a result, the treatment facility met all applicable effluent quality standards, and on December 8, 1993, the NJDEP rescinded its sewer connection ban. Despite the rescission of the NJDEP sewer connection ban, the preexisting sewer ban imposed by the Borough continued to be mandated by discharge limitations and the Water Reclamation Facility has been closely monitored through the years to ensure that the allowed discharge limitations fall within applicable regulations.
- C. As part of its on-going efforts to monitor and control the amount of treated effluent discharge, the Borough of Mendham has completed a program of sewer pipe and manhole rehabilitation financed through Bond Ordinance No. 9-09, entitled "Bond Ordinance Providing for the Improvement of the Sanitary Sewerage Collection System in and by the Borough of Mendham, in the County of Morris, New Jersey, Appropriating \$1,600,000 Therefor and Authorizing the Issuance of \$1,600,000 Bonds or Notes of the Borough for Financing such Appropriation." The rehabilitation work has resulted in a reduction of non-sewage infiltration averaging 100,000 gallons of flow per day, creating available sewage treatment capacity. A portion of the newly available capacity must be retained by the Borough for municipal projects, potential school expansions, and other possible uses of the Water Reclamation Facility over which the Borough does not have regulatory jurisdiction, leaving 30,000 gallons per day potentially available for allocation to new construction, the expansion of existing uses, and the like, subject to revision of such amount based on changing circumstances.
- D. In determining to release the new sewage treatment allocation of 30,000 gallons per day, the Borough remains mindful that the consequences of exceeding the Water Reclamation Facility's New Jersey Pollutant Discharge Elimination System (NJPDES) permit discharge limits could result in mandatory water quality studies, an increase in the size of the facility and modifications to the facility to provide improvements in the quality of the effluent. The cost of such actions could be prohibitive to the present users of the sewerage system. It is therefore determined, and will remain, the purpose and intent of the Borough to impose such controls on future service connections to the sewerage system as are deemed reasonably necessary to comply with the mandate(s) of the NJDEP.

§ 168-46. Extension of sewage collection system prohibited; exceptions.

- A. Except as hereinafter provided, the existing sewage collection system shall not be extended, and no connection to said system shall be considered if it requires such extension. A "sewer extension" is defined as the installation of any pipe or conduit, regardless of size, required to convey sewage to the Borough sewage collection system, where said sewage collection system does not abut the premises to be served. Any sewer connection which requires the obtaining of a right-of-way or easement or which must cross adjacent properties to reach the existing sanitary sewage collection system would be considered a sewer extension. Any property or lot, existing or to be established, which does not lie within 100 feet of an existing Borough sewer main or trunk line shall be considered to be outside the sewer service area, and any connection thereto would be considered an extension.
- B. An extension may be granted in a case where the facility to be served by such extension is presently served by an individual on-site septic system which has failed to function and which is certified to be irreparable and not able to be relocated upon the premises served and, upon the findings of the Borough Health Officer and the Borough Engineer, based upon proofs required by § 168-48 below, there is no alternative but to allow the connection to the existing sewerage system.
- C. Also, notwithstanding any of the foregoing, the Borough Council shall deny any application if it finds that approval of the application would unduly threaten the remaining reserve treatment capacity of the sewerage system contrary to N.J.A.C. 7:14A-12.20.

§ 168-47. Limitations on service connections to sewerage systems.

- A. No future connections to the Borough sewerage system shall be made except with specific approval of the Borough Council through the adoption of a resolution approved by an affirmative vote of a majority of said governing body.
- B. The Borough Council shall not approve an application for connection to the existing sewerage system unless said application for connection shall meet one of the following criteria and all rules and regulations on file with the Borough are complied with relative to sewer connection applications:
 - (1) The facility to be served by the proposed connection is located upon a lot presently served by the existing sewage collection system, and the sewage flow therefrom will not exceed:
 - (a) One-tenth gallon per square foot of floor area per day in the case of a new commercial, professional or business use; or
 - (b) In the case of a new use in an existing structure, the anticipated sewage flow from the new use will not exceed the sewage flow from the prior use which existed at the time of the imposition of the sewer connection ban (November 7, 1988) or one-tenth gallon per square foot of floor area per day, whichever is greater. The preexisting and proposed design flows shall be determined pursuant to the New Jersey Department of Environmental Protection's design flows designated pursuant to N.J.A.C. 7:14A-23.3 for the particular use. If at the time of imposition of the Borough's sewer connection ban an existing structure was vacant and produced no sewage flow, that structure shall be subject to the limitation set forth under Subsection B(1)(a) above. The purpose of these regulations is to prevent an increase in the flow from an existing structure. The permitted flow may be reallocated among various uses in an existing structure, provided that no area of the structure is allocated less than 0.10 gallon per square foot of floor area per day. The transfer of flow from one structure to another structure on the same lot is expressly forbidden;
 - (2) The facility to be served is a dwelling located on or to be located on an existing lot presently serviced by the existing sewage collection system;
 - (3) The facility to be served is a dwelling to be located on a lot legally established through normal subdivision channels, which lot meets all of the requirements of Chapter 215, Zoning, for the residential zone in which it is located and if said lot so established can be serviced by the existing sewage collection system without the necessity of a sewer extension;
 - (4) The facility to be served is presently served by an individual, on-site, septic system which has failed to function and which is certified to be irreparable and not able to be relocated upon the premises served and, upon the findings of the Borough Health Officer and the Borough Engineer, based upon proofs required by § 168-48 below, there is no alternative but to allow the connection to the existing sewer plant; or
 - (5) The facility to be served has been allocated reserved sewage capacity in accordance in § 168-47.1 herein.
- C. Notwithstanding any of the foregoing, the Borough Council retains the right to listen to or consider applications for service connections to the existing sewage collection system if an applicant can demonstrate that such consideration is in the best interest of the Borough of Mendham. If such application does deviate from the standards of this chapter, the applicant shall request a waiver from the Borough Council. Such waiver application shall be accompanied by an escrow deposit in an amount as set forth under Chapter 102, Fees.

- D. Also, notwithstanding any of the foregoing, the Borough Council shall deny any application if it finds that approval of the application would unduly threaten the remaining reserve treatment capacity or applicable regulation.
- E. Any and all approvals of service connections to the system granted pursuant to this section shall automatically expire at the end of one year from the date of adoption of the resolution of approval, unless within such one-year period either of the following shall have occurred:
 - (1) Construction of the facility to be connected has commenced in accordance with permits duly issued; or
 - (2) Renewal or extension of the approval has been granted by further resolution of the Borough Council.
- F. A fee as set forth in Chapter 102, Fees and Rates, shall be payable for each application to connect to the existing sewerage system.

§ 168-47.1. Determination of and Application for Reservation of Allocated Sewage Capacity.

- A. In the event the Borough Council determines by resolution that a specific quantity of sewage capacity has become available and may be released in particular cases without adversely impacting the Borough's ongoing efforts to monitor and control the amount and quality of treated effluent discharged by the Borough Water Reclamation Facility, the Borough will accept applications from property owners to reserve allocations of such sewage capacity in connection with a proposed development project. If an Application for Reservation of Allocated Sewage Capacity is approved by the Borough Council, the reserved allocation of sewage capacity shall be identified and established in such resolution.
- B. If an Application for Reservation of Allocated Sewage Capacity is approved by the Borough Council, a Capacity Reservation Fee shall be established and paid as follows:
 - (1) There shall be a Capacity Reservation Fee in an amount equal to the Borough's cost in obtaining the allocated capacity. For example, if the cost of obtaining or recapturing the available sewage capacity is \$1,600,000 per 100,000 gallons of capacity, the charge for reserved capacity shall be \$16 per each gallon of allocated capacity daily. If an applicant proposes the future conversion of an office use to a restaurant, for example, an additional 200 gpd of capacity will be needed for the new use, resulting in a Capacity Reservation Fee of \$3,200 calculated as follows: 200 gpd X \$16 per gallon.
 - (2) Upon approval of the Application for Reserved Capacity, 20% of the Capacity Reservation Fee shall be due. An additional 20% of the fee shall be due each year thereafter on the anniversary date of the approval until it is paid in full; provided, however, that if the applicant applies for a construction permit for the proposed project, the entire Capacity Reservation Fee shall be paid in full before such permit shall issue.
 - (3) In the event the applicant fails to connect the proposed project to the sewerage system within five years after approval of the reservation of allocated sewage capacity, the reservation shall revert to the Borough and the Capacity Reservation Fee paid to the Borough shall be forfeited.
- C. Notwithstanding the provisions of Subsections A and B of this § 168-47.1, the Borough reserves the right to by resolution suspend the receipt of applications and/or the approval of pending Applications for Reservation of Allocated Sewage Capacity upon determination that the operations of the Water Reclamation Facility may result in measured discharge parameters that compromise the ability of the Facility to meet its permit requirements.

§ 168-48. Proof of soil impermeability required.

- A. Where an existing septic system has failed and when it is alleged that soil conditions will not permit the construction of a replacement individual disposal system, the applicant for a sewer connection permit shall be required to present percolation test results and soil permeability data to the Borough Engineer and the Health Department Borough Sanitarian, and said tests shall be performed in accordance with the requirements of the laws of the State of New Jersey both as to technical requirements and as to the number of tests required.
- B. The applicant shall prove to the satisfaction of the Borough Engineer that there is no alternative individual disposal system which can be constructed on site. Such alternatives shall include disposal beds, disposal trenches, mound systems or similar installations.
- C. Subsections A and B notwithstanding, any septic system on a property located within 100 feet of an existing Borough sewer which malfunctions and requires remedial repairs or alternations must be allowed to connect to the Borough's sewage collection system.

§ 168-49. Water-saving devices required.

When a sewer connection is permitted, and as a condition to the approval of said sewer connection by the Borough Council, the applicant shall agree to replace all existing water closets, shower heads, sinks, lavatories, etc., with water-saving fixtures as presently required for all new construction by the Uniform Construction Code of the State of New Jersey."

SECTION 7. Chapter 168, Sewerage System, Article V, Fees and Charges, is hereby amended to read "Article V, Sewer Utility Fees and Rates and Service Connection Fees."

SECTION 8. Chapter 168, Sewerage System, Article V, Sewer Utility Fees and Rates and Service Connection Fees, is hereby amended to read as follows:

"§ 168-50. Quarterly Sewer Utility Fees and Rates.

- A. Sewer Utility Fees and Rates are hereby fixed and established for each user in the Borough in accordance with the schedule set forth in Chapter 102, Fees and Rates. Sewer Utility Fees and Rates shall be calculated per quarter for each user in such building and calculated on the number of Equivalent Dwelling Unit (EDU) computed with respect to such building, unless a higher Sewer Utility Fee and Rate shall be applicable to such building as otherwise provided in this chapter.
- B. For the purposes of calculating the Maintenance Fee each building of the Mendham Area Senior Housing complex shall constitute a single EDU.
- C. The owner of records for each building shall pay or shall be liable for the payment of all Sewer Utility Fees and Rates with respect to such building.

§ 168-51. Excess Usage Rate for Residential Users.

There shall be an Excess Usage Rate charged as set forth in Chapter 102, Fees and Rates, per quarter per 1,000 cubic feet of water used by a residential user or EDU in excess of 2,500 cubic feet per billing quarter.

§ 168-52. Excess Usage Rate for Non-Residential Users.

There shall be an Excess Usage Rate charge as set forth in Chapter 102, Fees and Rates, per quarter per 1,000 cubic feet of water used by a non-residential user or EDU in excess of 2,500 cubic feet per billing quarter.

§ 168-53. Billing and payment of Quarterly Sewer Utility Bills.

- A. The Sewer Utility Fees and Rates shall be prorated to take effect on the date of the issuance of a certificate of approval for the installation of a sewer connection to the sewerage system, but in no event shall the charge be less than for one month.
- B. Sewer Utility Bills shall be billed quarterly and shall be payable quarterly on the first day of March, June, September and December in each year at the place where sewer utility bills are paid, but the failure to bill for such charge shall not relieve the owner of any building of the obligation to pay such charge as herein provided.

- C. Sewer Utility Bills, to the extent that any part thereof is unpaid, shall draw interest from the date they or any part thereof become due, in accordance with the schedule set forth in Chapter 102, Fees and Rates, and shall be a lien upon the land and buildings thereon connected to the sewerage system until paid. The Borough shall have the same remedies for the collection thereof, with interest, costs and penalties, as it has by law for the collection of taxes on real property. If a charge is paid in full within 30 days following the date of the billing, interest thereon shall be waived. On payments made thereafter, interest shall be charged for the entire period of delinquency, beginning with the date of the billing.

§ 168-54. Sewer Utility Fees and Rates for Users not serviced by a Water system.

Each residential user, each non-residential user, or EDU which is not serviced by a water system or does not have a water meter shall pay Sewer Utility Fees and Rates in accordance with the scheduled set forth in Chapter 102, Fees and Rates.

§ 168-55. Service Connection Fees.

A Service Connection Fee shall be charged for connection to the sewerage system and shall be made in accordance with the schedule set forth in Chapter 102, Fees and Rates.

§ 168-56. Payment of Service Connection Fees.

Service Connection Fees on future units to be connected to the sewerage system must be paid prior to final approval of a major subdivision or, in the case of a single lot, prior to the issuance of a building permit.”

SECTION 9. Chapter 168, Sewerage System, Article VI, Enforcement, Penalties and Appeals, is hereby amended to read as follows:

“§ 168-57. Violations and penalties.

Any person, firm or corporation who shall not comply with any order issued in accordance with the provisions hereof as provided herein or who shall violate any of the provisions of this chapter shall, upon complaint of the Borough Clerk or any other person and upon conviction in the Municipal Court of the Borough, shall be punishable, upon conviction, according to the penalties provided in § 1-15 of this Code, in the discretion of the Judge before whom such person may be brought. Each day that a violation is permitted to exist shall constitute a separate offense.

§ 168-58. Reserved.

§ 168-59. Appeals.

Appeals from the decision of the Superintendent shall be taken within two weeks of the decision of the Superintendent, in writing, directed to the Borough Council Public Works and Utilities Committee.

§ 168-60. Powers and authority of inspectors.

The Borough Engineer, Health Officer, Superintendent or authorized designee or other duly authorized employees of the Borough bearing proper credentials and identifications shall be permitted to enter upon all properties for the purpose of inspection, observation, measurements, sampling and testing in accordance with this chapter.”

SECTION 10. Chapter 168, Sewerage System, Article VII, Sewer Connection Inspection, is hereby amended to read as follows:

§ 168-61 Inspection required.

Effective July 1, 2001, prior to the transfer of any property that is connected to the Borough sewerage system, there shall be an inspection conducted by the personnel of the Mendham Borough Department of Water Reclamation for the purposes of verifying that no improper connections to the sewage collection system have been made which could result in a prohibited discharge in violation of Chapter 168, Sewerage System. If the inspection is satisfactory, a certificate of compliance shall be issued which shall be effective for a period of 60 days.”

SECTION 11. Chapter 168, Sewerage System, Article VIII, Illicit Connections, is hereby amended to read "Article VIII, Illicit Connections to Stormwater Sewer System."

SECTION 12. Chapter 168, Sewerage System, Article VIII, Illicit Connections to Stormwater Sewer System, is hereby amended to read as follows:

"§ 168-62. Purpose.

The purpose of this article is to prohibit illicit connections to the municipal separate stormwater sewer system operated by the Borough of Mendham so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 168-63. 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 article 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. The definitions below are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

DOMESTIC SEWAGE

Waste and wastewater from humans or household operations.

ILLICIT CONNECTION

Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater or other industrial waste (other than stormwater) to the municipal separate stormwater sewer system operated by the Borough unless that discharge is authorized under a NJPDES permit other than the Tier A municipal stormwater general permit (NJPDES Permit Number NJ0141852). Nonphysical connections may include, but are not limited to, leaks, flows or overflows into the municipal separate stormwater sewer system.

INDUSTRIAL WASTE

Nondomestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act [33 U.S.C. § 1317(a), (b), or (c)].

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made 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.

NJPDES PERMIT

A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NONCONTACT COOLING WATER

Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Noncontact cooling water may, however, contain algaecides or biocides to control fouling of equipment such as heat exchangers and/or corrosion inhibitors.

PERSON

Any individual, corporation, company, partnership, firm, association or political subdivision of this state subject to municipal jurisdiction.

PROCESS WASTEWATER

Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

STORMWATER

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate stormwater sewers or other sewerage system or drainage facilities or is conveyed by snow removal equipment.

§ 168-64. Prohibited conduct.

No person or persons, firm, association or corporation shall discharge or cause to be discharged through an illicit connection to the municipal separate stormwater sewer system operated by the Borough any domestic sewage, noncontact cooling water, process wastewater or other industrial waste (other than stormwater).

§ 168-65. Enforcement.

All police officers of the Borough, the Superintendent or duly authorized designee, the Borough Engineer, and the Zoning Officer, are hereby given full power and authority and are charged with the duty to enforce all provisions of this article.

§ 168-66. Violations and penalties.

Any person or persons, firm, association or corporation violating any of the provisions of this article shall be subject, upon conviction, to the penalties provided in § 1-15 of this Code.

SECTION 12. Chapter 168, Sewerage System, Article IX, Application of Fertilizers, is hereby amended to read as follows:

“§ 168-67. Purpose; applicability.

An article to regulate the outdoor application of fertilizer so as to reduce the overall amount of excess nutrients entering waterways, thereby helping to protect and improve surface water quality. This article does not apply to fertilizer application on commercial farms.

§ 168-68. Basis and background.

Elevated levels of nutrients, particularly phosphorus, in surface water bodies can result in excessive and accelerated growth of algae and aquatic plants (eutrophication). Excessive plant growth can result in diurnal variations and extremes in dissolved oxygen and pH, which, in turn, can be detrimental to aquatic life. As algae and plant materials die off, the decay process creates a further demand on dissolved oxygen levels. The presence of excessive plant matter can also restrict use of the affected water for recreation and water supply. While healthy vegetated areas are protective of water quality by stabilizing soil and filtering precipitation, when fertilizers are applied to the land surface improperly or in excess of the needs of target vegetation, nutrients can be transported by means of stormwater to nearby waterways, contributing to the problematic growth of excessive aquatic vegetation. Most soils in New Jersey contain sufficient amounts of phosphorus to support adequate root growth for established turf. Over time, it is necessary to replenish available phosphorus, but generally not at the levels commonly applied. Other target vegetation, such as vegetable gardens and agricultural/horticultural plantings, will have a greater need for phosphorus application, as will the repair or establishment of new lawns or cover vegetation. A soils test and fertilizer application recommendation geared to the soil and planting type is the best means to determine the amount of nutrients to apply. Timing and placement of fertilizer application is also critical to avoid transport of nutrients to waterways through stormwater runoff. Fertilizer applied immediately prior to a runoff-producing rainfall, outside the growing season, or to impervious surfaces is most likely to be carried away by means of runoff without accomplishing the desired objective of supporting target vegetation growth. Therefore, the management of the type, amount and techniques for fertilizer application is necessary as one tool to protect water resources. This article does not apply to application of fertilizer on commercial farms, but improper application of fertilizer on farms would be problematic as well. Stewardship on the part of commercial farmers is needed to address this potential source of excess nutrient load to water bodies. Commercial farmers are expected to implement best management practices in accordance with conservation management plans or resource conservation plans developed for the farm by the Natural Resource Conservation Service and approved by the Soil Conservation District Board.

§ 168-69. 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 article 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.

BUFFER

The land area, 25 feet in width, adjacent to any water body.

COMMERICAL FARM

A farm management unit producing agricultural or horticultural products worth \$2,500 or more annually.

FERTILIZER

A fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale.

IMPERVIOUS SURFACE

A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. This term shall be used to include any highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PHOSPHOROUS FERTILIZER

Any fertilizer that contains phosphorus, expressed as P2O5, with a guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including human) or vegetable manures, agricultural liming materials, or wood ashes that have not been amended to increase their nutrient content.

WATER BODY

A surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

§ 168-70. Prohibited conduct.

No person may do any of the following:

- A. Apply fertilizer when a runoff-producing rainfall is occurring or predicted and/or when soils are saturated and a potential for fertilizer movement off site exists.
- B. Apply fertilizer to an impervious surface. Fertilizer inadvertently applied to an impervious surface must be swept or blown back into the target surface or returned to either its original or another appropriate container for reuse.
- C. Apply fertilizer within the buffer of any water body.
- D. Apply fertilizer more than 15 days prior to the start of or at any time after the end of the recognized growing season (March 1 through November 15).

§ 168-71. Phosphorus fertilizer application.

No person may do the following:

- A. Apply phosphorus fertilizer in outdoor areas.
- B. Exceptions.
 - (1) Application of phosphorus fertilizer needed for:
 - (a) Establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the requirements established

under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules;

- (b) Re-established or repairing a turf area.
- (2) Application of phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots.
- (3) Application of phosphorus fertilizer to residential container plantings, flower beds, or vegetable gardens.

§ 168-72. Enforcement.

All police officers of the Borough, the Superintendent or authorized designee, the Borough Engineer, the zoning Officer, or other duly authorized employees of the Borough are hereby given full power and authority and are charged with the duty to enforce the provision of this article.

§ 168-73. Violations and penalties.

Any person or persons, firm, association or corporation violating any of the provisions of this article shall be subject, upon conviction, to the penalties provided in § 1-15 of this Code.”

SECTION 13. All ordinances of the Borough of Mendham that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 14. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 15. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

* * * * *

Introduced: October 28, 2019
Public Hearing: November 13, 2019
Adopted: November 13, 2019

BOROUGH OF MENDHAM

Christine Serrano-Glassner
MAYOR

Attest:

Date signed: November 13, 2019

Robin R. Kline, MAS, RMC, CMR
BOROUGH CLERK

CERTIFICATION

I, Robin R. Kline, Municipal Clerk for the Borough of Mendham, County of Morris, State of New Jersey, do hereby certify this is a true and correct copy of the Ordinance adopted by the Borough Council at its Regular meeting held on November 13, 2019.

Robin R. Kline, MAS, RMC, CMR
Municipal Clerk