

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2023-14**

**AN ORDINANCE PROHIBITING CERTAIN STORMWATER
DISCHARGES FROM ROOF LEADERS, DOWNSPOUTS, YARD
DRAINS AND OTHER PIPES AND DRAINS INTO THE STORM
SEWER SYSTEM AND PUBLIC RIGHT-OF-WAY**

WHEREAS, roof leaders, downspouts, yard drains and other pipes and drains discharging storm water directly into the municipal separate storm sewer system and public right-of-way increase the risk of flooding, degrade the environment, cause early deterioration of road surfaces and create hazards on sidewalks and roadways which endanger public safety;

WHEREAS, Borough Council seeks to prohibit physical connections to the storm sewer system that would cause storm-water discharges from roof leaders, downspouts, yard drains and other pipes and drains to discharge into the Borough’s storm sewer system and public right-of-way, and to prescribe penalties for noncompliance;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that Chapter 159 of the Code of the Borough of Pennington, concerning Sewer Use, is hereby amended (with deleted language crossed out and new language underlined) as follows:

1. Section 159-1.A, Definitions and Word Usage:

“As used in this chapter, the following terms shall have the meanings indicated:

* * *

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 storm sewer system or public right-of-way operated by the Borough of Pennington, unless expressly permitted by or in accordance with this ordinance or 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 storm sewer system or public right of way.

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2. Section 159-37, Illicit Connections:

A. No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system or public right-of-way operated by the Borough any domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater).

B. The Borough reserves the right to use whatever tests are available to determine the existence of illicit connections. It also reserves the right to inspect properties in order to enforce these prohibitions. If a test is used which might cause some discomfort if an illicit connection exists, it shall be recognized that any discomfort, or other effect of the test, is of less value and importance than the effects of such illicit connection on the health, comfort and welfare of the residents of the Borough and, consequently, there shall be no cause for action against the Borough in law or in equity.

C. Any person found to have made or caused any such discharge or to have constructed or permitted any illicit connection shall be punished by a fine not exceeding \$1,000, by imprisonment for a term not exceeding 90 days, or by a period of community service not exceeding 90 days, or by any combination thereof, except the minimum fine shall be \$100 per day for each day an unlawful discharge continues beyond the time limit provided for in the notice served by the Borough pursuant to Sec. 159-34 of this chapter. Each day a violation continues shall be deemed a separate offense. In addition, any person who makes or causes such discharges or constructs or permits any illicit connection shall be liable to the Borough for expense, loss or damage incurred by the Borough as a result of such violation, as provided in Sec. 159-35B of this chapter.

3. Section 159-38, Improper Disposal of Substances into the Storm Sewer System.

A. Except as further set forth herein, no person shall spill, dump, dispose of or otherwise discharge fluids or substances other than storm water in or into the municipal separate storm sewer system, and no person shall handle, store, dispose of or otherwise discharge fluids or substances in such a manner as to cause the discharge of such fluids or substances other than storm water in or into the municipal separate storm sewer system.

B. No person shall construct a pipe, trench, swale or other physical connection to discharge storm water into the municipal separate storm sewer system or into the public right-of-way unless approved in advance and in writing by the Borough Engineer. With respect to any such advance approvals, the Borough Engineer may require as a condition precedent that the property owner demonstrate reasonable efforts to contain the storm water on the property, maximize recharge on land or otherwise reduce to a minimum discharges into the public right-of-way or municipal separate storm water sewer system.

C. Physical connections to the municipal separate storm sewer system or in the public right-of-way in existence on or before September 5, 2023, the date of introduction of this ordinance, shall not be subject to removal except in the following circumstances:

- (1) the connection is to be removed as part of road reconstruction; or
- (2) the connection has caused a hazardous condition.

When a connection has caused a hazardous condition, the property owner shall be given written notice pursuant to Section 159-34 of this ordinance requiring removal of the connection and remediation of the hazardous condition under the supervision of the Borough Engineer or other enforcing official, at the owner's expense. If the owner fails to remove the connection or remediate the condition in compliance with such notice, they shall be determined to have constructed a prohibited connection or made or caused a prohibited discharge in violation of this ordinance.

D. Whenever the owner has not complied with the notice as specified and the connection causing the hazardous condition has not been removed or the hazardous condition remediated, the Borough in its discretion may itself undertake to remove the connection and remediate the condition, if practicable within the public right-of-way. The costs and expenses incurred by the Borough in doing so may be recovered by certifying these costs and expenses to the Tax Assessor for inclusion as part of the taxes next assessed against the property which is the source of the connection. In the alternative, the Borough may elect to recover the amounts due in an action at law in any court of competent jurisdiction. Recovered costs shall be in addition to and shall not affect the imposition of any penalties for the violation of this ordinance.

E. Discharges of the following fluids and substances into the municipal separate storm sewer system are not prohibited:

- (1) Discharge from waterlines and other potable water sources;
- (2) Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps otherwise permitted by this chapter, foundation or footing drains, rising ground waters);
- (3) Air-conditioning condensate (excluding contact and noncontact cooling water);
- (4) Irrigation water (including landscape and lawn watering runoff);
- (5) Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows;
- (6) Residential car washing water and residential swimming pool discharges;
- (7) Sidewalk, driveway and street wash water;
- (8) Flows from fire-fighting activities;
- (9) Flows of storm water caused by a physical connection permitted by this ordinance.

F. Any person found to have made or caused a prohibited discharge into the municipal separate storm sewer system or public right-of-way shall be punished by a fine not exceeding \$1,000, by imprisonment for a term not exceeding 90 days, or by a period of community service not exceeding 90 days, or a combination thereof, except the minimum fine shall be \$100 per day for each day a prohibited discharge continues beyond the time limit provided for in the notice served by the Borough pursuant to Sec. 159-34 of this chapter. Each day a violation continues shall be deemed a separate offense. In addition, any person who makes or causes such discharges shall be liable to the Borough for consequent expense, loss or damage incurred by the Borough as provided in Sec. 159-35B of this chapter.

BE IT FURTHER ORDAINED that this ordinance shall be effective upon passage and publication as provided by law.

Introduced:September 5, 2023

Advertised:September 15, 2023

Public Hearing:October 2, 2023

Amended:October 2, 2023

Public Hearing Carried:

Adopted:

Published:

ATTEST:APPROVED:

Elizabeth Sterling, Borough ClerkJames Davy, Mayor

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RECORD OF COUNCIL VOTE ON INTRODUCTION

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V	A.B.
Angarone	X				Marciante	S			
Chandler	M				Stern	X			
Gnatt	X				Valenza	X			

RECORD OF COUNCIL VOTE ON AMENDMENT

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V	A.B.
Angarone	X				Marciante	M			
Chandler				absent	Stern	X			
Gnatt	S				Valenza				absent

RECORD OF COUNCIL VOTE ON ADOPTION

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				