

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2010- 13**

**AN ORDINANCE REQUIRING THAT DUMPSTERS AND OUTDOOR TRASH CONTAINERS
BE COVERED AT ALL TIMES, AND AMENDING CHAPTER 172 OF THE CODE OF
THE BOROUGH OF PENNINGTON.**

WHEREAS, the effective management of stormwater has been declared to be the public policy of the State of New Jersey, and various ordinances have been recommended by the New Jersey Department of Environmental Protection for enactment by each municipality in order to further the public policy; and

WHEREAS, the Municipal Stormwater General Permit requires municipalities to adopt and enforce an ordinance which requires dumpsters and other refuse containers that are outdoors or exposed to stormwater, with certain exceptions, to be covered at all times; and which prohibits the spilling, dumping, leaking or otherwise discharging of liquids, semi-liquids or solids from the containers. It is both appropriate and necessary for the Borough of Pennington to establish, consistent with the recommendations of the New Jersey Department of Environmental Protection, requirements for outdoor trash containers as set forth herein;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, as follows:

1. Chapter 172, of the Code of the Borough of Pennington, concerning Solid Waste, is hereby amended by the addition of a new article IV as follows:

§172-23. Definitions.

As used in this ordinance, the following terms shall have the meanings indicated, unless a modified definition applicable to stormwater management has been adopted by the New Jersey Department of Environmental Protection as part of the Stormwater Management Rules, in which case the definition enacted by the New Jersey Department of Environmental Protection shall apply.

“Municipality” means the Borough of Pennington.

“Municipal Separate Stormwater System (MS4)” means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) that is owned or operated by the Borough of Pennington or other public body, and is designed and used for collection and conveyance of stormwater.

“Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

“Refuse Container” means any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails and plastic trash bags.

“Stormwater” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

“Stormwater runoff” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“Waters of the State” means the ocean and its estuaries, all springs, streams, wetlands, 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.

§172-24 Prohibited Conduct

Any person who controls, whether owned, leased or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling or overflowing.

Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system operated by the Borough of Pennington or other public body.

§172-25 Exceptions to Prohibition.

- A. Permitted temporary demolition containers
- B. Litter receptacles (other than dumpsters or other bulk containers)
- C. **[Individual homeowner trash and recycling containers] Individual recycling containers**
- D. Refuse containers and facilities authorized to discharge stormwater under a valid NJPDES permit
- E. **Large bulky items (e.g. furniture, bound carpet and padding, white goods placed curbside for pickup)]**

§172-26 Enforcement

This ordinance shall be enforced by the Police Department and/or the Code Enforcement Officer of the Borough of Pennington.

§172-27 Penalties

- [A. Violation or non-compliance with any provision of this Ordinance shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than Three hundred dollars (\$300.00) for a first offense, and a minimum of two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) for each subsequent offense.**
- B. Notwithstanding the penalty set forth in the above section 27A, if a second offense occurs more than two years after the first offense the fines shall be imposed in the amounts provided for a first offense.]**

Any person who violates or neglects to comply with any provisions of this article or any regulation promulgated pursuant thereto shall receive at least one warning before an enforcement action is brought but thereafter shall be subject to a fine not to exceed \$500. Each day the violation continues to constitute a separate offense.

- 2. If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- 3. This ordinance shall take effect after publication and upon the approval by the county review agency, or sixty (60) days from the receipt of the ordinance by the county review agency if the county review agency should fail to act.

Introduced: November 1, 2010

Advertised: _____

Public Hearing: _____

Adoption: _____

Final Publication: _____

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

Anthony Persichilli, Mayor