

REGULAR MEETING – September 27, 2010 – 7:30 P.M.

Pledge of Allegiance.

Roll Call: Commissioner McGovern, Mayor Mahon, Commissioner Gorman.

Borough Clerk reads the following statement:

This is a regular meeting of the Board of Commissioners of the Borough of Avon-By-The-Sea and notice of time, date and place has been transmitted to the area newspapers, Avon Board of Education, Avon Public Library and the Avon Post Office in compliance with the rules and regulations of the Open Public Meetings Law.

Fire Exits are located in the directions I am indicating. In case of fire, you will be notified by an alarm bell. If so notified, please move in a calm, orderly manner to the nearest smoke free exit. Thank you.

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 12-2010 entitled:

**“ORDINANCE CREATING A NEW CHAPTER 144,
ENTITLED “DUMPSTERS AND OTHER REFUSE CON-
TAINERS THAT ARE OUTDOORS OR EXPOSED TO
STORMWATER” IN THE CODE OF THE BOROUGH
OF AVON-BY-THE-SEA, MONMOUTH COUNTY,
NEW JERSEY.”**

SECTION I. Purpose:

An ordinance requiring dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of Avon-By-The-Sea and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

SECTION II. 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 Borough of Avon-By-The-Sea 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. Refuse container - any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

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

e. Waters of the State - means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

SECTION III. 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 out 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(s) operated by the Borough of Avon-By-The-Sea.

SECTION IV. 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

d. Refuse containers at 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)

SECTION V. Enforcement:

This ordinance shall be enforced by the Police Department and/or Property Maintenance of the Borough of Avon-By-The-Sea.

SECTION VI. Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall upon conviction thereof, be liable to the penalty provided by Chapter I, Section 1-15.

SECTION VII. 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.

SECTION VIII. 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.

Would anyone like to be heard on the above ordinance? No one.

Motion by McGovern seconded by Mahon that the above Ordinance No. 12-2010 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 13-2010 entitled:

**“ORDINANCE CREATING A NEW CHAPTER 145,
ENTITLED “PRIVATE STORM DRAIN INLET
RETROFITTING” IN THE CODE OF THE BOROUGH
OF AVON-BY-THE-SEA, MONMOUTH COUNTY,
NEW JERSEY.”**

SECTION I. Purpose:

An ordinance requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Borough of Avon-By-The-Sea so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

SECTION II. 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 of Avon-By-The Sea 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.

SECTION III. Prohibited Conduct:

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

1. Already meets the design standard below to control passage of solid and floatable materials; or

2. Is retrofitted or replaced to meet the standard in Section IV below prior to the completion of the project.

SECTION IV. Design Standard:

Storm drain inlets identified in Section III above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section V.3 below.

1. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

2. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

3. This standard does not apply:

a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be

overcome by using additional or larger storm drain inlets that meet these standards;

b. Where flows are conveyed through any device (e.q., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

i. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities): or

ii. A bar screen having a bar spacing of 0.5 inches.

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

d. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

SECTION V. Enforcement:

This ordinance shall be enforced by the Police Department and/or Property Maintenance of the Borough of Avon-By-The-Sea.

SECTION VI. Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall, upon conviction thereof, be liable to the penalty provided by Chapter I, Section 1-15 for each storm drain inlet that is not retrofitted to meet the design standard.

SECTION VII. 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.

SECTION VIII. 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.

Would anyone like to be heard on the above ordinance? No one.

Motion by McGovern seconded by Mahon that the above Ordinance No. 13-2010 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None

RESOLUTION offered by Commissioner McGovern seconded by Mayor Mahon that the Board of Commissioners hereby authorizes the cancellation of 2010 water/sewer charges for the following accounts:

| | | | |
|--------------------------|--------------------------|-----------------|-----------------|
| Block 16 Lot 12 | 332 Woodland Ave. | C/O Date | \$108.04 |
| Block 37 Lot 11 | 26 Lincoln Ave. | Demo | \$156.61 |
| Block 48.01 Lot 3 | 118 Fourth Ave. | C/O Date | \$108.04 |

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby approve a Raffles license for the Avon Home & School Assn. to be held on October 29, 2010 at the Norwood Inn.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that the Mayor is hereby authorized to sign an equipment lease between Outdoor Ice Rink Partners, LLC and the Borough of Avon-By-The-Sea.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Mahon that the bills in the amount of \$424,218.90 be approved for payment.

The Vote:

Aye: All (Mayor abstains from approving P.D. bills)

No: None

Mayor asks if anyone would like to be heard? No one.

Motion by McGovern seconded by Gorman that being there is no further business, the meeting is adjourned.

The Vote:

Aye: All

No: None

Robert Mahon, Mayor

Robert P. McGovern, Commissioner

Francis E. Gorman, Commissioner

**Timothy M. Gallagher, RMC
Borough Clerk**