

## Ordinance #2020-1233

### An Ordinance Providing For Sump Pump Inspections In The Borough Of Manville, And Prohibiting The Connection Of Sump Pumps Or Rainwater Drainage Devices To The Sanitary Sewer System

#### STATEMENT OF PURPOSE

The purpose of this Ordinance is to protect the health and safety of residents of the Borough of Manville by establishing a uniform system of Inspections, Notices of Violations, Deadlines to Remediate, and Penalties, in order to reduce unnecessary use of, and excessive fees for, Raritan Valley Sewage Authority capacity, by requiring Sump Pump inspections in the Borough of Manville, and by Prohibiting the connection to the sanitary sewer system of sump pumps or other devices which discharge drainage resulting from rainwater, springs, wells, or other ground water, including but not limited to downspouts.

**WHEREAS**, the committed flow from the Borough of Manville to the Raritan Valley Sewage Authority waste water treatment plant exceeds 80% of the permitted flow of gallons per day; and

**WHEREAS**, New Jersey Department of Environmental Protection (“NJDEP”) regulations, at N.J.A.C. 7:14A-22.16 et seq., provide in relevant part that:

“Whenever the committed flow reaches or exceeds 80% of the permitted capacity of a treatment works, the [municipality] shall submit to [NJDEP] a program to be implemented in order to prevent an overloading of their facility or a violation of their NJPDES permit. This program shall include, but is not limited to, the following:

1. Reduction of inflow and infiltration (I & I) where appropriate....
2. Disconnection of roof leaders, sump pumps and other sources of inflow, from sanitary sewer lines and connect into storm sewer lines where storm sewers are available and to the extent feasible.....”

[N.J.A.C. 7:14A-22.16(a)]; and

**WHEREAS**, additional steps are needed to reduce overloading caused by illicit connections of Sump Pumps (and other devices which discharge drainage resulting from rainwater, springs, wells, or other ground water, including but not limited to downspouts) to the sanitary sewer system; and

**WHEREAS**, the Borough Council has determined that it can further reduce overloading by requiring a sump pump inspection and certification upon (a) the sale, lease, rental, or any change in occupancy of all residential and nonresidential properties in the Borough, or (b) at any time when the Borough Engineer or Zoning Officer determines that there is substantial evidence of an illicit connection of a sump pump to the sanitary sewer system;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Borough of Manville in the County of Somerset, New Jersey, as follows:

**Section 1: CONNECTION OF SUMP PUMPS OR RAINWATER DRAINAGE TO THE SANITARY SEWER SYSTEM IS PROHIBITED.** No Sump Pump or other device which discharges drainage resulting from rainwater, springs, wells, or other ground water, including but not limited to downspouts, shall be connected to the Borough sanitary sewer system.

**Section 2: SUMP PUMP INSPECTIONS AND CERTIFICATES.**

**(A) Inspection and Certificate Required Upon Sale, Lease, Rental, or Change in Occupancy.** No owner shall sell, lease, rent or otherwise permit occupancy or change in occupancy for residential or nonresidential purposes of any building in the Borough without first obtaining from the Borough Building Dept. a certificate stating that no sump pump or other device which discharges drainage resulting from rainwater, springs, wells or other ground water is connected to the sanitary

sewer system in violation of Section 1 of this Ordinance. No purchaser shall purchase property unless the seller has obtained the required certificate of sump pump compliance prior to closing and no tenant or lessee shall occupy premises unless the owner or landlord has obtained the required certificate of sump pump compliance prior to such occupancy.

**(1) Application for Certificate Upon Sale, Lease, Rental, or Change in Occupancy:** Procedures: Fee. Certificates of Sump Pump Compliance shall be issued in accordance with the following procedures:

**(2) Application Fee.** Applications for certificates of sump pump compliance upon Sale, Lease, Rental, or Change in Occupancy shall be filed with the Borough Building Dept. by the seller of the property or the landlord as the case may be. Said Application must be filed at least ten (10) days prior to the change in ownership and/or occupancy. Applications shall be submitted on the form supplied by the Building Department and shall be accompanied by a fee in the amount of \$25.

**(3) Inspection.** Upon receipt of a completed Application for Certificate Upon Sale, Lease, Rental, or Change in Occupancy, the Borough Zoning Officer or his inspector shall, conduct an inspection of the property to determine compliance with the standards set forth in this Ordinance.

**(4) Notice of Violation; time to Remediate:** If a violation is discovered during the inspection, the property owner shall be mailed a Notice of Violation within five (5) business days of the inspection which shall clearly describe the violation and the remedial action needed for compliance, and which shall provide 21 calendar days for the sump pump connection to be brought into compliance.

**(5) Penalties for Failure to Obtain Certificate or to Timely Remediate Violation:** Any person who fails to apply for and obtain a Certificate of Sump Pump Compliance as required by this Ordinance shall be subject to the penalties set forth in this Ordinance. Any person who timely applies for a Certificate, is found to be in violation, and fails to remediate the violation within 21 calendar days, shall be subject to the penalties set forth in Section 4 of this Ordinance. If a seller of a property fails to comply with this or any section of this Ordinance, the seller and the new owner after the sale will be jointly and severally responsible for said compliance and all resulting penalties.

**(B) Inspection and Certificate Required Upon the Borough Engineer or Director of Public Works Certifying that There is Substantial Evidence of an Illicit Connection to the Sanitary Sewer System.** If at any time the Borough Engineer or Director of Public Works believes there is substantial evidence that a sump pump (or other device which discharges drainage resulting from rainwater, springs, wells, or other ground water, including but not limited to downspouts) has been connected to the Borough sanitary sewer system, the Borough Engineer or Director of Public Works shall provide a Certification to the Borough Administrator that such evidence exists, upon which the Borough Administrator shall direct that the property in question be subject to immediate Inspection by the Zoning Officer.

**(1) Notice of Inspection:** Upon the filing of the Certification referenced in Section 2(b) above, the Zoning Officer or designee shall cause a Notice to be sent via Certified Mail to the property address in question, and to the registered owner of said property on the Borough tax records, giving Notice of Inspection to take place at any time after seven (7) days from the mailing of said Notice of Inspection.

**(2) Inspection.** At any date seven (7) or more days after the Notice of Inspection has been Mailed, the Borough Zoning Officer or designee or the borough Housing Official or their designee shall, conduct an inspection of the property to determine

compliance with the standards set forth in this Ordinance, and shall make an Inspection Report thereon, favorable or otherwise, within five (5) days after completing the inspection, which will be sent via regular mail and certified mail to the property owner. If the Inspection was satisfactory, a Certificate of Sump Pump Compliance shall be issued, and shall be enclosed with the mailed Inspection Report

**(3) Notice of Violation; time to Remediate:** If a violation is discovered during the inspection, the property owner shall within five (5) business days of the inspection be sent a Notice of Violation via regular mail and certified mail or signed by the Owner, Landlord or agent of the record property identifying receipt of notice, which shall clearly describe the violation and the remedial action needed for compliance, and which shall provide fourteen (14) calendar days, for the sump pump connection to be brought into compliance, and for the Department of Code Enforcement to be notified of compliance, upon which a Re-Inspection of the property shall take place.

**(4) Penalties for Failure to Timely Remediate Violation and Obtain Certificate of Compliance:** Any person who fails to remedy a violation and obtain a Certificate of Sump Pump Compliance within fourteen (14) days as set forth in the preceding paragraph, such person shall be subject to the penalties set forth in this Ordinance. Any person who timely applies for a Certificate, is found to be in violation, and fails to remediate the violation within 14 calendar days, shall be subject to the penalties set forth in Section 4 of this Ordinance.

### **Section 3: RIGHT OF ENTRY AND RIGHT TO INSPECT**

**(A)** The Borough reserves the right to use whatever tests are available to determine the existence of illicit connections to the Borough sanitary sewer system. The Borough also reserves the right to inspect properties in order to enforce these prohibitions. If Tests or Inspections are conducted which might cause some inconvenience or discomfort if an illicit connection exists, it shall be recognized that any such inconvenience or discomfort, or other effect of the Test or Inspection, 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.

**(B)** No Person shall obstruct, hinder, delay or interfere with by force or otherwise, the Director of Public Works, the Borough Zoning Officer, or their designees in their exercise of any power or discharge of any function or duty under the provisions of this Ordinance

**(C)** No person shall provide, utter or render any false statement, false report, false document, false plans, or false specifications to the, the Borough Zoning Officer, or their designees to obstruct, hinder, delay or interfere with the provisions of this Ordinance.

### **Section 4: PENALTIES FOR OFFENSES**

**(A)** Any owner of a property found to have violated this Ordinance or to have caused, constructed, installed, permitted the construction or installation of an illicit connection to the sanitary sewer system of any Sump Pump or other device which discharges drainage resulting from rainwater, springs, wells, or other ground water, including but not limited to downspouts, shall be subject to the fines and penalties set forth in this section.

**(B)** The minimum fine shall be \$100 per day for each Violation, and an additional \$100 per day for each day that an unlawful discharge continues, beyond the time limit provided for remediation in the Notice of Violation served by the Borough pursuant to Section 2(A)(4) or 2(b)(3) of this Ordinance. Each day a violation continues beyond the time limit to remediate shall be deemed a separate offense, and each day in which a Notice of

Violation continues to be unabated shall constitute an additional one hundred dollar (\$100) a day penalty until the violation(s) has been abated.

**(C)** 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.

**(D) Lien to be Placed on the Property.** All charges, prices, costs, expenses, rents, interest or penalties, or any of them, as established herein, shall be and remain a Lien attaching to the property, the same as all other taxes and municipal charges upon real estate under the laws of the State of New Jersey, for the collection of taxes and other municipal liens upon real estate.

**(E) Penalties for Continuing Violations.** Upon any repeated violation of any section of this Ordinance, the Borough reserves the right to bring charges against the Violator in Municipal Court, asking the Court to impose any penalties authorized by N.J.S.A. 40:49-5, including but not limited to one or more of the following: imprisonment in the County Jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$2,000.00; or by a period of community service not exceeding 90 days. The court before which any person is convicted of violating any ordinance of a municipality shall have power to impose any fine, term of imprisonment, or period of community service not less than the minimum and not exceeding the maximum set forth in this Ordinance.

**Section 5: Repealer.** All other Ordinances or other local requirements that are inconsistent or in conflict with this ordinance are hereby repealed to the extent of any inconsistency or conflict, and the provisions of this ordinance shall apply.

**Section 6: Severability.** In the event that any provision of this Ordinance, or the application of thereof to any person or circumstance is adjudged invalid, such adjudication of invalidity shall not affect the validity of the remaining provisions same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 7: Purpose of Captions.** The captions contained in this Ordinance have been inserted only for the purpose of facilitation reference to the various sections, and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

**Section 8: Effective Date:** This Ordinance shall take effect June 1, 2020, after adoption, passage, and publication according to law.

Borough of Manville,



Richard M. Onderko, Mayor

**ORDINANCE #2020-1233**

**FIRST READING:**

**ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		MAGNANI				✓

	✓	LUKAC	✓			
		MAEDER	✓			
✓		PETROCK	✓			
		SZABO	✓			
		ZAMORSKI	✓			
		MAYOR ONDERKO				

**INTRODUCED** this 13th day of April, 2020

Attest:



Wendy Barras, Borough Clerk

**SECOND READING:**

**ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
	✓	MAGNANI	✓			
		LUKAC	✓			
		MAEDER	✓			
✓		PETROCK	✓			
		SZABO	✓			
		ZAMORSKI	✓			
		MAYOR ONDERKO				

**[ADOPTED]** [DEFEATED] this 27th day of April, 2020

Attest:



Wendy Barras, Borough Clerk