

**TOWNSHIP OF BYRAM
COUNCIL MEETING AGENDA
AUGUST 16, 2010
7:00 P.M. SPECIAL JOINT MEETING WITH PLANNING BOARD
7:30 P.M. REGULAR MEETING**

1. CALL JOINT PLANNING BOARD/TOWNSHIP COUNCIL MEETING TO ORDER
2. OPEN PUBLIC MEETING STATEMENT
Adequate notice of this meeting has been made in accordance with the Open Public Meetings Act, **NJSA 10:4-6**
3. ROLL CALL
4. FLAG SALUTE
5. DISCUSSION OF BYRAM TOWNSHIP'S RESPONSE TO THE HIGHLANDS DRAFT CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT – PAUL GLEITZ
6. OPEN TO THE PUBLIC
7. ADJOURNMENT OF SPECIAL JOINT MEETING
8. CALL REGULAR SCHEDULED MEETING TO ORDER
9. APPROVAL OF AGENDA
10. APPROVAL OF FIRE DEPARTMENT MEMBER – Eric T. Budinger
11. SPECIAL RECOGNITION – QUEEN OF THE FAIR – Kelly Baron
12. CERTIFICATIONS
 - Certification of Township Clerk of Initiative of Voters for Ordinance Changing Date of Municipal Election from May to November
 - Certification of Township Clerk of Initiative of Voters for Ordinance Eliminating Paid Health Benefits for Council Members Effective January 2, 2011
13. PUBLIC PARTICIPATION I – Meeting is open to the public for comments on matters not on the agenda or items on the agenda for which no public discussion is provided.
14. APPROVAL OF AUGUST 16, 2010 BILL LIST
15. APPROVAL OF MINUTES –
 - July 19, 2010 – Regular Meeting Minutes
 - July 19, 2010 – Closed Session Minutes
16. REPORTS
 - Township Manager
 - Mayor and Council Members
 - Township Attorney
17. CONSENT AGENDA: **These items are considered to be routine by the Members of the Township Council and will be enacted on by one motion. There will be no separate discussion unless a citizen or Council member so requests in which event the item may be removed from the general order of business and considered in its normal sequence on the agenda.**
 - A. Resolution No. 109-2010 - Resolution Extending Grace Period for Payment of 2010 Third Quarter Taxes
 - B. Resolution No. 110-2010 - Resolution of Intent to Appropriate Funds or Bond in the Event of a Funding Shortfall under COAH-certified Housing Element and Fair Share Plan
 - C. Resolution No. 111-2010 – Resolution Authorizing the Tax Collector to Cancel Certain Sewer Balances
 - D. Resolution No. 113-2010 - Resolution Authorizing Execution of Documents for the 2011 Municipal Aid Program – Roseville Road Phase II
 - E. Resolution No. 114-2010 - Resolution Authorizing Execution of Documents for the NJDOT grant for Bike and Walking Paths at C.O. Johnson Park
 - F. Resolution No. 115-2010 - Refund of Engineering Escrows – SP3-00/SP8-04/Blk. 169/Lot 7
 - G. Resolution No. 116-2010 – Cancellation of Taxes – Blk. 335/Lot 1.04
 - H. Resolution No. 117-2010 – Tax Sale Certificate Redemption - #2009-106 - \$627.87
 - I. Special Bingo Licenses for Senior Citizen Associations at Tomahawk Lake – Woodbury Senior Center and Hackensack United Center/Bergenfield Seniors 8/16/2010-8/16/2012
 - J. Certification for Rescue Squad Contribution from the County of Sussex for the Calendar Year 2010
18. RESOLUTION NO. 112-2010 – Resolution Authorizing the Execution of an Interlocal Agreement Between Byram Township and Netcong Borough for Construction Department Services
19. APPOINTMENTS – Board of Health
20. ORDINANCES – 2nd Reading and Public Hearing
 - A. Ordinance 9 – 2010 – Ordinance to Amend and Supplement Chapter 211, Stormwater Control to Prevent the Discharge of Solids and Floatables from Private Properties into Municipal Separate Storm Sewer Systems
 - B. Ordinance 10-2010 - Ordinance to Amend and Supplement Chapter 142, Garbage, Rubbish and Refuse to Guard Against Dumpster and Refuse Container Exposure to Stormwater
21. DISCUSSION ITEMS
 - A. Street Opening Permit – Sparta Township Water Company- Tomahawk Trail
22. PUBLIC PARTICIPATION II
23. RESOLUTION FOR EXECUTIVE SESSION
 - Attorney Client Privileged Information
 - Anticipated/Pending Litigation – Solid Waste Disposal
 - Open Space - Contract Negotiations
24. RETURN TO OPEN SESSION
25. ADJOURNMENT

**TOWNSHIP OF BYRAM
RESOLUTION NO. 109 – 2010**

**TOWNSHIP OF BYRAM, COUNTY OF SUSSEX, STATE OF NEW JERSEY
RESOLUTION EXTENDING GRACE PERIOD FOR PAYMENT OF 2010
THIRD QUARTER TAXES**

WHEREAS, N.J.S.A. 54:4-64 requires that municipal tax bills be mailed twenty five (25) days before the third installment of taxes falls due; and

WHEREAS, in accordance with the intent of N.J.S.A. 54:4-64 taxpayers should be given adequate notice of taxes due before invoking any payment of interest for delinquency under the provisions of N.J.S.A. 54:4-67; and

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Byram in the County of Sussex, State of New Jersey that Byram Township taxes and assessments due August 1, 2010, will not be considered delinquent, and interest for delinquency in the payment of such taxes and assessments shall not be charged for the failure to pay any such taxes or assessments if received by the Township on or before the 7th day of September, 2010, and provided further, however, that if any such installments are not paid on or before September 7, 2010 interest at the usual rate will be charged from August 1, 2010.

BYRAM TOWNSHIP COUNCIL

| COUNCIL MEMBER | Councilman Olson | Councilwoman Rafferty | Councilman Rafferty | Councilman Thompson | Mayor Oscovitch |
|----------------|------------------|-----------------------|---------------------|---------------------|-----------------|
| Motion | | | | | |
| 2nd | | | | | |
| Yes | | | | | |
| No | | | | | |
| Abstain | | | | | |
| Absent | | | | | |

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on August 16, 2010.

Doris Flynn, Municipal Clerk

**TOWNSHIP OF BYRAM
RESOLUTION NO. 110 - 2010**

**RESOLUTION OF THE MAYOR AND COUNCIL
OF THE TOWNSHIP OF BYRAM
OF INTENT TO APPROPRIATE FUNDS OR BOND IN
THE EVENT OF A FUNDING SHORTFALL**

WHEREAS, the Township of Byram, Sussex County, State of New Jersey has petitioned the Council on Affordable Housing (COAH) for substantive certification of its adopted Housing Element and Fair Share Plan; and

WHEREAS, the plan submitted to COAH allocates funds for rehabilitation of units; and

WHEREAS, the Township of Byram anticipates that funding will come from the following sources to satisfy these obligations:

1. Housing Trust Fund Fees, and
2. Community Development Block Grants

WHEREAS, there is no obligation of the Township under the New Jersey Constitution or Mount Laurel II, or the Fair Housing Act for a municipality to expend municipal funds on affordable housing; and

WHEREAS, the Byram Housing Element and Fair Share Plan will not require expenditure of any other municipal funds; and

WHEREAS, in the event that the above funding sources prove inadequate to complete the affordable housing programs included in Byram Township's COAH-certified Housing Element and Fair Share Plan, Byram Township shall provide sufficient funding to address any shortfalls.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Township of Byram, County of Sussex, State of New Jersey, that the Governing Body does hereby agree to appropriate funds or authorize the issuance of debt to fund any shortfall in its affordable housing program that may arise whether due to inadequate funding from other sources or for any other reason, although no additional funds will be needed; and

BE IT FURTHER RESOLVED that, upon written notification by COAH after a finding that inadequate funding exists to complete the affordable housing programs included in Byram Township's COAH-certified Housing Element and Fair Share Plan, Byram Township agrees to appropriate funds or authorize the issuance of debt within 90 days of written notification by COAH; and

BE IT FURTHER RESOLVED that the Township of Byram may repay debt through future collections of development fees, as such funds become available.

BYRAM TOWNSHIP COUNCIL

| COUNCIL MEMBER | Councilman Olson | Councilwoman Raftery | Councilman Raftery | Councilman Thompson | Mayor Oscoitch |
|----------------|------------------|----------------------|--------------------|---------------------|----------------|
| Motion | | | | | |
| 2nd | | | | | |
| Yes | | | | | |
| No | | | | | |
| Abstain | | | | | |
| Absent | | | | | |

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on August 16, 2010.

Doris Flynn, RMC
Township Clerk

TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY
RESOLUTION NO. 111 - 2010
RESOLUTION AUTHORIZING THE TAX COLLECTOR TO
CANCEL CERTAIN SEWER BALANCES.

WHEREAS, the Township of Byram has received a request from the State of New Jersey, Department of Transportation, regarding cancellation of sewer account billings/balances on Block 48, Lot 131, and Block 365, Lot 1.03; and

WHEREAS, the State of New Jersey has acquired these parcels for the purpose of local road improvements and therefore has no need or interest in the gallonage set aside for these properties, and

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Byram, Sussex County, New Jersey, that the Tax Collector be and is hereby authorized to cancel the balances listed below:

| <u>Quarter/Year</u> | <u>Block/Lot</u> | <u>Amount</u> | <u>Block/Lot</u> | <u>Amount</u> |
|---------------------|------------------|-------------------|------------------|-------------------|
| 3 rd | 48 | \$674.33 | 365 | \$227.82 |
| 4 th | 48 | \$674.33 | 365 | \$227.81 |
| 1 st | 48 | \$674.33 | 365 | \$227.81 |
| 2 nd | 48 | \$674.32 | 365 | \$227.81 |
| 3 rd | 48 | \$674.33 | 365 | \$227.81 |
| 4 th | 48 | \$674.32 | 365 | \$227.81 |
| 1 st | 48 | \$674.33 | 365 | \$227.82 |
| 2 nd | 48 | \$674.32 | 365 | \$227.81 |
| 3 rd | 48 | \$674.33 | 365 | \$227.81 |
| 4 th | 48 | \$674.32 | 365 | \$227.81 |
| TOTAL: | | <u>\$6,743.26</u> | | <u>\$1,822.50</u> |

NOW BE IT FURTHER RESOLVED that the allocation for those properties be returned to the sewer gallonage reserve.

I HEREBY CERTIFY that the foregoing to be a true copy of a resolution adopted by the Township Council of Byram Township, in the County of Sussex, at its meeting held on August 16, 2010.

Doris Flynn
Township Clerk

**Township of Byram
Resolution No. 113 - 2010**

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Roseville Road – Phase II project.

NOW, THEREFORE, BE IT RESOLVED that the Byram Township Council of the Township of Byram, County of Sussex, State of New Jersey formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as **MA-2011- Byram Township-00265** to the New Jersey Department of Transportation on behalf of Byram Township.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Byram Township and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement.

Certified as a true copy of the Resolution adopted by the Township Council on this 16th day of August, 2010.

Doris Flynn
Township Clerk

My signature and Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST AND AFFIX SEAL

Doris Flynn
Township Clerk

James Oscovitch
Mayor

**Township of Byram
Resolution No. 114-2010**

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Bike & Walking Paths at C.O. Johnson Park project.

NOW, THEREFORE, BE IT RESOLVED that the Byram Township Council of the Township of Byram, County of Sussex, State of New Jersey formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as **BIKE-2011- Byram Township-00100** to the New Jersey Department of Transportation on behalf of Byram Township.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Byram Township and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement.

Certified as a true copy of the Resolution adopted by the Township Council on this 16th day of August, 2010.

Doris Flynn
Township Clerk

My signature and Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST AND AFFIX SEAL

Doris Flynn
Township Clerk

James Oscovitch
Mayor

**TOWNSHIP OF BYRAM
RESOLUTION NO. 115 – 2010**

**RESOLUTION AUTHORIZING A REFUND
OF A BALANCE OF ENGINEERING ESCROWS**

WHEREAS, a balance of escrow remaining in the following accounts and shall be released; and

WHEREAS, the Planning Board Engineer and Attorney have verified that outstanding invoices have been paid and recommend the release of the following accounts:

| <u>Appl. #/Blk./lot</u> | <u>Applicant Name</u> | <u>Amount</u> |
|-------------------------|-----------------------|---------------|
| SP3-00 | AT&T | \$1,410.00 |
| SP8-04 | Lynnes Nissan | \$3,075.00 |
| Blk 169/Lot 7 | Joann Staugaard-Jones | 31.00 |

WHEREAS, Mayor and Council of the Township of Byram are in agreement with the release of the balance in the above mentioned escrow accounts.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Township Council, Township of Byram, County of Sussex, N.J., that the Finance Officer be authorized to issue payment to the above applicant the aforementioned balance in the escrow accounts.

BYRAM TOWNSHIP COUNCIL

| COUNCIL MEMBER | Councilman Olson | Councilwoman Rafferty | Councilman Rafferty | Councilman Thompson | Mayor Oscovitch |
|-----------------------|-------------------------|------------------------------|----------------------------|----------------------------|------------------------|
| Motion | | | | | |
| 2nd | | | | | |
| Yes | | | | | |
| No | | | | | |
| Abstain | | | | | |
| Absent | | | | | |

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on August 16, 2010.

Doris Flynn, RMC
Township Clerk

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY
RESOLUTION NO. 116 – 2010**

**RESOLUTION AUTHORIZING THE TAX COLLECTOR TO
CANCEL CERTAIN TAX PAYMENTS**

WHEREAS, the Township of Byram has acquired Block 335; Lot 1.04 through an Open Space purchase; and

WHEREAS, the closing on this property was held on August 11, 2010; and

WHEREAS, there was a Township Lien on the property, and said lien was satisfied at the time of closing, and all current taxes were paid current to the date of closing; and

WHEREAS, there is a balance due on the on the records of the Tax Collector for the remainder of 2010 and preliminary taxes due for 2011:

| | |
|------------------------------|----------|
| 3 rd quarter 2010 | \$443.21 |
| 4 th quarter 2010 | \$815.51 |
| 1 st quarter 2011 | \$776.20 |
| 2 nd quarter 2011 | \$776.20 |

NOW BE IT RESOLVED by the Township Council of the Township of Byram, Sussex County, New Jersey, that the Tax Collector be and is hereby authorized to cancel the remaining taxes due on Block 335; Lot 1.04 for 2010 and 2011.

| COUNCIL MEMBER | Councilman Olson | Councilwoman Raftery | Councilman Raftery | Councilman Thompson | Mayor Oscovitch |
|----------------|------------------|----------------------|--------------------|---------------------|-----------------|
| Motion | | | | | |
| 2nd | | | | | |
| Yes | | | | | |
| No | | | | | |
| Abstain | | | | | |
| Absent | | | | | |

I HEREBY CERTIFY that the foregoing to be a true copy of a resolution adopted by the Township Council of Byram Township, in the County of Sussex, at its meeting held on August 16, 2010.

Doris Flynn
Township Clerk

**TOWNSHIP OF BYRAM
RESOLUTION NO. 117 – 2010**

TAX SALE CERTIFICATE REDEMPTION

WHEREAS, the Tax Collector has certified that the following Tax Title Lien has been satisfied:

| Lien Holder | Certificate # | Block/Lot | Amount |
|-----------------------------------|---------------|-----------|----------|
| US Bank Cust/ Sass Muni VI Dtr | #2009-016 | 337.07/14 | \$627.87 |

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council, Township of Byram, County of Sussex, New Jersey, that the Tax Collector be authorized to accept said funds to redeem and remove the Township lien.

BYRAM TOWNSHIP COUNCIL

| COUNCIL MEMBER | Councilman Olson | Councilwoman Raftery | Councilman Raftery | Councilman Thompson | Mayor Oscovitch |
|----------------|------------------|----------------------|--------------------|---------------------|-----------------|
| Motion | | | | | |
| 2nd | | | | | |
| Yes | | | | | |
| No | | | | | |
| Abstain | | | | | |
| Absent | | | | | |

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on August 19, 2010.

Doris J. Flynn, RMC
Township Clerk

**TOWNSHIP OF BYRAM
RESOLUTION NO. 112 – 2010**

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN BYRAM TOWNSHIP AND NETCONG BOROUGH FOR CONSTRUCTION DEPARTMENT SERVICES

WHEREAS, Byram Township and Netcong Borough have entered into an interlocal agreement for Construction Department Services for the period beginning September 1, 2010 through December 31, 2014; and

WHEREAS, both parties recognize that entering into this agreement achieves economies and efficiencies; and

WHEREAS, the attached agreement has been mutually agreed upon by both parties.

NOW THEREFORE BE IT RESOLVED by the Council of the Township of Byram, County of Sussex, State of New Jersey that the Mayor, Clerk and Township Manager are hereby authorized to execute any and all documents associated with the Shared Services Agreement between Byram Township and Netcong Borough for Construction Department Services.

BYRAM TOWNSHIP COUNCIL

| COUNCIL MEMBER | Councilman Olson | Councilwoman Raffa | Councilman Rafferty | Councilman Thompson | Mayor Oscovitch |
|----------------|------------------|--------------------|---------------------|---------------------|-----------------|
| Motion | | | | | |
| 2nd | | | | | |
| Yes | | | | | |
| No | | | | | |
| Abstain | | | | | |
| Absent | | | | | |

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on August 16, 2010.

Doris Flynn, Municipal Clerk

TOWNSHIP OF BYRAM
Sussex County, New Jersey

ORDINANCE NO. 9 - 2010

**AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 211, STORMWATER CONTROL
IN THE CODE OF THE TOWNSHIP OF BYRAM TO
PREVENT THE DISCHARGE OF SOLIDS AND FLOATABLES FROM PRIVATE
PROPERTIES INTO MUNICIPAL SEPARATE STORM SEWER SYSTEMS.**

PURPOSE STATEMENT: The purpose of this section is to require 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 Township of Byram so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

WHEREAS, the New Jersey Department of Environmental Protection requires that all Tier A municipalities take measures to prevent the discharge of solids and floatables from private properties into municipal separate storm sewers systems. In order to comply with the requirements of the Township of Byram's Municipal Stormwater General Permit, the Township Council wishes to amend the revised general ordinances to require the retrofitting of existing storm drain inlets on privately owned properties.

BE IT ORDAINED by the Byram Township Council that certain sections within Chapter 211, Stormwater Control of the Code of the Township of Byram be amended as follows:

SECTION 1. Chapter 211, Article IV, Section 211-18, *Private Storm Drain Inlet Retrofitting* is created to include the following:

The purpose of this section is to require 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 Township of Byram so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

SECTION 2. Chapter 211, Article IV, Section 211-18.1, *Definitions* is created to include the following:

For the purpose of this section, 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.

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 Township of Byram or other public body, and is designed and used for collecting and conveying stormwater.

PERSON – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

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.

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 3. Chapter 211, Article IV, Section 211-18.2, *Prohibited Conduct* is created to include the following:

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:

- A. Already meets the design standard below to control passage of solid and floatable materials; or
- B. Is retrofitted or replaced to meet the standard in Section IV below prior to the completion of the project.

SECTION 4. Chapter 211, Article IV, Section 211-18.3, *Design Standards* is created to include the following:

Storm drain inlets 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 19B-18.3(3) below.

- A. 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:
 - (1) 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

- (2) 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.

- B. 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.

- C. This standard does not apply:

- (1) 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;

- (2) Where flows are conveyed through any device (e.g., 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:

- a. 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
b. A bar screen having a bar spacing of 0.5 inches.

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

- (4) 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 5. Chapter 211, Article IV, Section 211-18.4, *Enforcement* is created to include the following:

The Township Manager, through the Road Department Supervisor, shall enforce the provisions of this section. It shall be unlawful for any reason to violate any part of this section adopted by the Township of Byram Council.

SECTION 6. Chapter 211, Article IV, Section 211-18.5, *Penalties* is created to include the following:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be first notified of the violation and if the violation is not remediated within 30 days, that person(s) shall be liable to a penalty not to exceed \$500 for each day on which the violation exists beyond the 30 day limit.

SECTION 7. Chapter 211, Article IV, Section 211-18.6, *Severability* is created to include the following:

It is the intention of the Township Council that every provision of this Section shall be considered separable and the invalidity of any article, clause or provision of this Section shall not affect the validity of any other portion of this Section or this Chapter.

SECTION 8. Effective date:

This ordinance shall take effect upon final adoption and will be published as required by law.

BY ORDER OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BYRAM.

Doris Flynn, Township Clerk

James Oscovitch, Mayor

| | | | | | | | | |
|----------------|---------|--|--|--|--|--|--|--|
| COUNCIL MEMBER | Motion | | | | | | | |
| | 2nd | | | | | | | |
| | Yes | | | | | | | |
| | No | | | | | | | |
| | Abstain | | | | | | | |
| | Absent | | | | | | | |

NOTICE is hereby given that the above-entitled Ordinance was introduced and passed first reading at the meeting of the Byram Township Council held at the Byram Township Municipal Building, 10 Mansfield Drive on the 19th day of July, 2010. The said ordinance was further considered for final adoption at a meeting of the Byram Township Council, held at the Byram Municipal Building, 10 Mansfield Drive, Byram Township on the 16th day of August, 2010 at 7:30 p.m. at which time all persons were given the opportunity to be heard. It was finally passed and adopted and will be in full force in the Township according to law.

TOWNSHIP OF BYRAM
Sussex County, New Jersey

ORDINANCE No. 10 - 2010

**AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 142, GARBAGE, RUBBISH, AND REFUSE,
IN THE CODE OF THE TOWNSHIP OF BYRAM**

TO

**GUARD AGAINST DUMPSTER AND REFUSE CONTAINER EXPOSURE TO
STORMWATER.**

PURPOSE STATEMENT: The purpose of this ordinance is to require that all dumpsters and other refuse containers that are outdoors or exposed to stormwater 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 Township of Byram 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.

WHEREAS, the New Jersey Department of Environmental Protection requires that all Tier A municipalities take measures to prevent the discharge of liquids or solids from uncovered dumpsters and other refuse containers into municipal separate storm sewers systems. In order to comply with the requirements of the Township of Byram's Municipal Stormwater General Permit, the Township Council wishes to amend the Code to require that all dumpsters and other refuse containers exposed to stormwater be covered at all times.

BE IT ORDAINED by the Byram Township Council that certain sections within Chapter 142, Garbage, Rubbish, and Refuse of the Code of the Township of Byram be amended as follows:

SECTION 1. Chapter 142, Article III, Section 142-12, *Refuse Container/Dumpster* is created to include the following:

The purpose of this section is to require that all dumpsters and other refuse containers that are outdoors or exposed to stormwater 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 Township of Byram 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 2. Chapter 142, Article III, Section 142-12.1, *Definitions* is created to include the following:

For the purpose of this section, 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.

MUNICIPAL SEPARATE STORM 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 Township of Byram or other public body, and is designed and used for collecting and conveying stormwater.

PERSON – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

REFUSE CONTAINER – 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, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

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 3. Chapter 142, Article III, Section 142-12.2, *Prohibited Conduct* is created to include the following:

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 Byram Township.

SECTION 4. Chapter 142, Article III, Section 142-12.3, *Exceptions to Prohibition* is created to include the following:

- 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 5. Chapter 142, Article III, Section 142-12.4, *Enforcement* is created to include the following:

The Township Manager, through the Township Zoning Officer, shall enforce the provisions of this section. It shall be unlawful for any reason to violate any part of this ordinance adopted by the Byram Township Council.

SECTION 6. Chapter 142, Article III, Section 142-12.5, *Violations and Penalties* is created to include the following:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be first notified of the violation and if the violation is not remediated within 30 days, that person(s) shall be liable to a penalty not to exceed \$500 for each day on which the violation exists beyond the 30 day limit.

SECTION 7. Chapter 142, Article III, Section 142-12.6, *Severability* is created to include the following:

It is the intention of the Township Council that every provision of this Section shall be considered separable and the invalidity of any article, clause or provision of this Section shall not affect the validity of any other portion of this Section or this Chapter.

SECTION 8. Effective date:

This ordinance shall take effect upon final adoption and will be published as required by law.

BY ORDER OF THE MAYOR AND COUNCIL OF THE TOWSHIP OF BYRAM.

Doris Flynn, Township Clerk

James Oscovitch, Mayor

| COUNCIL MEMBER | Councilman Olson | Councilwoman Rafferty | Councilman Rafferty | Councilman Thompson | Mayor Oscovitch |
|----------------|------------------|-----------------------|---------------------|---------------------|-----------------|
| Motion | | | | | |
| 2nd | | | | | |
| Yes | | | | | |
| No | | | | | |
| Abstain | | | | | |
| Absent | | | | | |

NOTICE is hereby given that the above-entitled Ordinance was introduced and passed first reading at the meeting of the Byram Township Council held at the Byram Township Municipal Building, 10 Mansfield Drive on the 19th day of July, 2010. The said ordinance was further considered for final adoption at a meeting of the Byram Township Council, held at the Byram Municipal Building, 10 Mansfield Drive, Byram Township on the 16th day of August, 2010 at 7:30 p.m. at which time all persons were given the opportunity to be heard. It was finally passed and adopted and will be in full force in the Township according to law.