

## **Title 13 PUBLIC SERVICES**

### **Chapters:**

Chapter 13.04 - WATER AND SEWER SERVICE SYSTEMS

Chapter 13.08 - WASTEWATER COLLECTION AND TREATMENT SYSTEM

Chapter 13.12 - FLOOD DAMAGE PREVENTION

## **Chapter 13.04 WATER AND SEWER SERVICE SYSTEMS**

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### **13.04.010 Supervision of water and sewer systems.**

- A. Superintendent of Public Works. The water treatment plant, wells, sewage treatment plant, pumping stations and all mains and appurtenances thereto shall be under the supervision and control of the superintendent of public works of the borough. No person other than the superintendent, or duly authorized agent, shall be permitted to tap or make any connection with the main for distributing water or with the sewer pipe or street mains, and for any other work in connection with the water and sewer systems.

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- B. Permission Required to Open or Close Curb Stop. No person except the superintendent of public works or authorized agents, shall open or close the corporation or curb stop in any public or private main or make connections to any part of the sewer system or open any public hydrant except the borough fire department, unless permission from the superintendent has first been obtained, and no person having a hydrant or draw on his or her premises shall permit water therefrom to be drawn, taken or used by the occupants of other premises not paying water rent or charge.
- C. Free Access by Superintendent of Public Works. The superintendent of public works or any authorized agent shall at all reasonable hours have free access to all parts of any premises to which water and sewer services are supplied or connected for the purpose of inspection, examination of fixtures, reading, installing, removing or exchanging meters, or for doing anything in connection with the water and sewer installation for the purpose of protecting the interest of the borough. Any person who shall resist or refuse such access shall upon conviction be subject to the penalties for violation of this chapter.

(Ord. 6/95 (part); prior code § 15-1)

**13.04.020 Application and payment for water and sewerage service.**

- A. Application. Any person desiring to obtain water or make use of the water or the sewerage system of the borough shall first make application in writing at the office of the collector of water and sewer rents of the borough, upon a form provided for this purpose by the superintendent of public works, stating the locality of the premises to be serviced, the purpose for which the water or sewer is to be used, and in the case of the use of the sewer for other than domestic purposes from a residence shall specify the type of sewerage intended to be discharged into the mains, the fixtures to be supplied and agreeing to abide by all the rules and regulations relating to the use of the water and sewer systems now in force or later to be established by the mayor and council, and further agreeing to use the water or sewer for no other than a legitimate purpose expressed in the permit.

The applicant shall also agree by making of the application, that the applicant may make, at his or her cost and expense, all excavations and backfill to the borough mains for the property to be serviced, from the property line abutting the street in which the borough main is located, and supply all materials and labor as may be required and specified by the foreman of streets and roads of the borough and will also replace the surface pavement. A permit for any excavation required to be made in the street in accordance with Chapter 12.16 of this code shall be obtained.

B. Rates.

I. Water Service.

- a. At the time of application for water services, the applicant shall pay the following fees:

For each three-fourths inch water service connection:	\$550.00
For each one-inch water service connection:	750.00
For each one and one-half-inch water service connection:	950.00
For each two-inch water	1,175.00

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service connection:	
For each three-inch water service connection:	1,450.00
For each four-inch water service connection:	1,700.00
For each six-inch water service connection:	2,000.00

The cost of the water meter is included within the above charges for three-fourths inch up to and including two inches water service connections. The meter is to be furnished by the borough and the title to the meter shall remain at all times with the borough. The meter will be maintained by the borough at its expense. For all meters above two inches, the meter shall be purchased and installed by the applicant at their expense.

- b. In addition to the above, for each water service connection which services more than one dwelling unit, there shall be a connection fee of five hundred fifty dollars (\$550.00) for each dwelling unit serviced by such connection.
2. Sewer Service. At the time the applicant makes application for sewer service, the applicant shall pay therefore the sum of one thousand five hundred dollars (\$1,500.00) per single-family equivalent as determined by the regulations of the New Jersey Department of Environmental Protection.

Once an applicant has established his or her sewage flows and paid for the prerequisite sewer connection permit, any decrease in sewage flows caused by a change in use of the structure shall not entitle the applicant to a refund of any connection fee; however, any increase in sewage flows caused by a change in building usage or expansion may result in an additional sewer connection fee if the gallonage of sewage generated at the location should increase over the gallonage initially paid for in the sewer connection fee.

- 3. Private Fire Hydrant Maintenance Fees. All privately owned fire hydrants installed or connected to water lines owned and operated by the borough shall be maintained and tested annually to insure their suitability for utilization by the borough fire department in case of emergency. The owner of property upon which private fire hydrants have been installed shall pay an annual inspection and maintenance fee in the amount of two hundred dollars (\$200.00) per hydrant to the borough water and sewer department.
- 4. Landscaping Meters. A property owner may install a separate water only service for landscape watering, swimming pool service and similar activities wherein the water will not be discharged into the sewer system. Upon payment of the water connection fee established in subsection (B)(1) of this section and verification by the superintendent of public works, that water supplied through this meter will not be discharged to the sanitary sewer system, an applicant may install a separate water service and receive a water meter pursuant to the regulations established by the borough. The property owner shall pay the establish quarterly minimum fee for this meter, even if there is no usage registered on the meter, plus the fee established for all water actually used by this service.

(Ord. 2005/7 § 1; Ord. 10/99 § 1; Ord. 26/98; Ord. 6/98 § 1 (part); prior code § 15-2)

(Ord. No. 2015/4, § 1, 3-16-15)

**13.04.030 Work performed by the borough—New connections.**

The borough shall, under the supervision of the superintendent, perform the following after the filing of the proper applications and the payment of the appropriate fees and the issuance of a connection permit by the collector of the water and sewer rents:

- A. Water Service.
  - 1. Make the tap and supply a corporation cock and gooseneck, curb stop, meter and meter setting for three-fourths inch to two-inch service at the fee schedule set forth in Section 13.04.020(B)(1). All other work, including excavation, backfill and installation of temporary and permanent paving, will be provided by the contractor for the property owner pursuant to regulations established by the borough.
  - 2. For services larger than two inches, the property owner shall have a licensed contractor supply and install the required connection to the water main, all piping required to provide the service to the property line and the required curb stop. In addition, the property owner shall supply the necessary meter and meter setting in accordance with the specifications provided by the superintendent.
  - 3. The size of the water service requested by the applicant shall be approved by the superintendent of public works and his or her decision shall be final.
- B. Sewer Service. Make only the connection for a four-inch sewer service at the fee schedule set forth in Section 13.04.020(B)(2). All other work, including excavation, backfill and installation of temporary and permanent paving, will be provided by the contractor for the property owner pursuant to regulations established by the borough.

(Ord. 6/98 § 1 (part); prior code § 15-3)

**13.04.040 Trench openings and regulations.**

All trench openings other than those made by the borough shall be subject to certain requirements and specifications. Each applicant for water and sewer service, after having first obtained the permit for an opening in the street required under Chapter 12.16, shall proceed, observing and complying with the following minimum requirements and according to the following specifications:

- A. Sewer Service Installation. A trench for sewer service shall be excavated and carefully graded by the plumber and pipe laid true to line and grade. If excavation is made below grade fill dirt shall be well tamped and before the pipe is connected the same shall be approved by the superintendent of public works or his or her duly authorized agent. The borough will make the service connection to the main after the trench has been excavated. The pipe to be used for all sewer services from main to property line shall be a minimum of four inches extra heavy cast iron soil pipe with joints caulked with lead or approved rubber gaskets. After the pipes are laid, the trench shall be backfilled and mechanically tamped in six-inch layers to grade of pavement. Backfill shall be made with approved, dry backfill material.
- B. Water Service Installation. A trench for water service shall be excavated by the plumber. The borough will install the necessary tap. Service pipes up to two inches in diameter shall be Type K copper with flare fittings. Pipes three inches or more in diameter shall be cast iron water pipe, cement lined Class 22 either Ball and Spigot or Tyton, caulked with lead, Tyton type, or mechanical joint. Steel pipe shall not be permitted. After the pipes are laid, the trench shall be backfilled with suitable approved material and mechanically tamped to grade of pavement.

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### C. Regulations.

1. No water or sewer service shall be installed which connects with a borough main except by a duly licensed plumber licensed by the borough and without the knowledge of the superintendent of public works.
2. Irrigation systems, including in ground lawn sprinkler systems, utilizing automatic timing devices are prohibited.

Irrigation systems, including in ground sprinkler systems, utilizing manual valves, or automatic systems using rain sensors are hereby approved provided that these systems are operated in accordance with the established watering requirements of the Water Conservation Plan duly adopted by the borough.

Sprinkler systems for fire protection purposes are expressly permitted, provided that said systems are installed in accordance with the applicable provisions of the Uniform Construction Code.

3. Water services to all existing buildings in apartment zone A or garden apartment zones may be connected to one large water main by the developer. Water services to any new buildings or conversions of existing apartments to condominium units must have separate metered water service from each unit to the supply mains. Upon request from the governing agency of a Condominium Association which has been created through a conversion of a multifamily structure, the requirement for separate metered water services may be waived by the borough, provided the superintendent of public works indicates that the cost for separate metered services is excessive or not practical. In such event, the common meters shall be read and the individual units serviced by such meters shall be billed for water/sewer services in any reasonable manner requested by the Condominium Association and accepted by the borough financial officer and approved by resolution of the mayor and council.

The borough shall make the taps to the main for each service after the developer or owner has made the necessary applications for the services. The cost of the water meter for five-eighths inch to two-inch services is included in the charges. The meter is to be furnished by the borough and title thereto shall at all times remain in the borough. The meter will be maintained by the borough at the owner's expense.

4. Sewer services to buildings in apartment zone A or garden apartment zone may be connected to one large sewer main within the property by the developer. The borough shall make the connection to the borough sewer main after the developer has made the necessary application for the connection. The cost of the application will be sixty dollars (\$60.00) and no charge will be made for connections made within the development for house services by the developer. In lieu of a street connection by the borough, the superintendent of public works may require the developer to construct sewer manholes.
5. Each house must have a separate water and separate sewer service to the mains.
6. When any premises are now or hereafter occupied by more than one tenant drawing water through the same service pipe, the owner of the property shall be responsible for the water rents, and if the water be cut off from the premises the same shall not be again turned on until the rent or charge due and all expenses of cutting off and turning on the water shall be paid in full.

(Ord. 2002/8 § 1; Ord. 43/95 § 1; Ord. 25/95 § 1; Ord. 10/95; prior code § 15-4)

### **13.04.050 Repairs to existing water and sewer service lines.**

- A. Responsibility of the Borough. All water service pipes and equipment and all sewer collection pipes as defined herein from the main in the public street to the water curb stop or sewer property line

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cleanout, including stopcocks, boxes and other fixtures connected with any service lines, shall be maintained by the borough at its expense. A water service pipe is a service lateral or pipe up to and including two inches in size with a curb stop or shutoff. A sewer collection pipe is a gravity operated sewer pipe up to and including six inches in size that has a cleanout located at the property line. All water service pipe and sewer collection pipes other than those specified herein shall be maintained by the owner of the property at their own expense.

As to sewer collection pipes, the borough's responsibility shall cover only that pipe running from the cleanout at the property line to the main in the right-of-way. If there is no cleanout at the property line, the owner shall be responsible for the sewer pipe inside the structure and from the structure to the main in the right-of-way as set forth hereinafter.

If the property owner chooses to locate and install a cleanout at the curb line, the installation must be approved by the borough. No approval will be issued until a satisfactory inspection has been performed, including an underground review of the pipe running from the newly installed cleanout to the main line in the roadway.

- B. Responsibility of Owner. All water service pipes from the curb shutoff to and throughout the structure including meter yokes and shutoffs and other fixtures connected with any water service and all sewer collection pipes from property line cleanout to and throughout the structure, shall at all times be kept in good order and repair by the owner of the property at his or her own expense, and if he or she fails to do so, the water and sewer may be cut off and kept cut off until such pipes and attachments shall be put in good order and repair by the owner of the property at his or her own expense, and the expense of cutting off and turning on the same shall be paid by the owner to the borough.
- C. Work Performed by the Borough. The borough, at the discretion of and under the supervision of the superintendent of public works, may make any required repairs to the water supply pipes and sewer collection pipes that are the responsibility of the property owner with the full cost thereof being paid by the property owner except as provided herein. In those instances when the borough elects to perform the work at the request of the property owner, the property owner shall pay for the direct cost of all labor, equipment and materials used and the determination of the superintendent of public works as to the number of man hours, equipment and materials used on the particular job shall be final. The total amount of the bill shall be computed and sent to the owner of the property within fifteen (15) days after the completion of the work, and the owner of the property shall thereafter have sixty (60) days in which to pay same. If the bill is not paid within sixty (60) days, it shall become subject to an additional charge for interest at a rate then in effect for interest on delinquent real estate taxes in the borough. The collector of water and sewer rents is directed to charge and collect interest at the rate of the amount until paid. Interest shall be computed from the sixtieth day after the notice of the amount due has been sent to the owner at the address last appearing on the tax assessment records of the borough.

In case any bill for such repairs is not paid within the sixty (60) day period, the water and sewer service to the property may be shut off until the bill, accrued interest and turn off/turn on charges are paid in full or the amount thereof, together with interest computed, shall be a lien upon the land and buildings in connection with which the expenses are incurred. This lien shall be enforced and collection made in the same manner as delinquent taxes upon real property are collected, and the collector of water and sewer rents shall certify to the collector of taxes.

(Ord. 2004/21 § 1; Ord. 6/98 § 1 (part): prior code § 15-5)

### **13.04.060 Meters.**

- A. Required—Placement of Meters. Water shall only be sold through meters and all water consumption shall be measured by meters of a type to be approved by the superintendent of public works and title to all meters attached to any lines through which water is supplied by the borough shall at all times remain and be the property of the borough. All meters shall be under the supervision of the superintendent of public works and shall be so located that he or she or his or her agents shall have

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easy access thereto, and shall be placed on the outside of the building as to be easily read and inspected, unless in the judgment of the superintendent of public works it is impractical to place same on the outside of the building. Meters may then be placed in accessible basement rooms. Large meters installed on the outside of the building will be placed in a special meter pit, constructed by the owner at his or her expense, using the borough engineer's design.

- B. **Removal of Meters Prohibited by Unauthorized People.** No person except duly authorized agents of the borough working under the supervision of and at the direction of the superintendent of public works, or any other duly authorized agent of the borough, shall set or remove meters or attempt any repairs on the same, providing, however, that plumbers may lawfully set or remove meters upon obtaining written permission from the superintendent of public works to do so. Should a meter be broken or injured by the neglect or carelessness of the person having use of the meter, the same shall be repaired or replaced, as the case may require, at the expense of the owner of the premises under the supervision of the superintendent of public works.
- C. **Request for More than One Meter.** When an owner of the premises shall request the installation of more than one meter in the service, he or she shall do so in writing to the collector of water and sewer rents and the borough will furnish same. The owner shall install the additional meter at the location agreed to by the borough. If the owner requests, at the discretion of and under the supervision of the superintendent of public works, the borough may install the meter with the full cost thereof being paid by the property owner.
- D. **Privately Owned Water Extensions.** Master meters for service of privately owned extension of water or sewer mains outside the borough limits shall be prohibited and each property connected to privately owned extension of water and sewer mains outside the borough limits, if and when such extension of the water supply or sewer service outside the borough limits shall be approved by the mayor and council, shall be provided with a meter by the borough upon payment by the owner of such property or the applicant therefor of the cost thereof, together with the installation cost to be computed as set forth in the preceding subsection and be paid for the same as specified in the preceding subsection.
- E. **Meter Readings.** The superintendent of public works shall cause all meters to be read quarterly and shall supply to the collector of rents consumption data to be used for billing purposes. All customers with meters located within a structure shall provide reasonable access to the superintendent or his or her designee for the reading of the meter for that structure. Failure to provide access at least annually shall be grounds to terminate service until consumption data can be verified.

(Ord. 6/98 § 1 (part); Ord. 6/95 § 2; prior code § 15-6)

### **13.04.070 Increase or extension of service.**

No person shall make any increase or extension to any water or sewer service pipes by which borough water is supplied or sewage is disposed of without first obtaining a written permit from the borough to do so.

In no case shall water be turned into any premises until the plumbing system therein has been first constructed in accordance with the provisions of any sanitary code of the borough adopted by the board of health and approved by the health inspector evidenced by a written certificate issued by the board of health.

(Prior code § 15-7)

### **13.04.080 Water and sewer rates and charges.**

- A. **Rates for Water Usage.** Residential and nonresidential customers of the borough water system shall be charged for water consumption in accordance with the following schedule:

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Quarterly Minimum	Quarterly Allowance (Gallons)	Surcharge over Minimum	
		Surcharge per 1,000 Gallons	Gallons over Minimum
\$28.70	6,000	\$3.20	6,001—30,000
		3.40	30,001—50,000
		3.60	50,001—100,000
		3.95	100,001 and up

- B. Rates for Sewerage. Sewer rates are based upon the water consumed as metered and recorded by the borough water department. In the event that customers of the borough water and sewer department receive water service, the sewer rate will be based upon the actual amount of sewerage flow generated by that customer as measured by the borough. The sewer rate charge shall be determined by multiplying the water rate by a factor of .32 for borough sewer expenses and 2.07 for Manasquan River Regional Sewer Authority expenses. There will be a minimum charge of five dollars and ninety-eight cents (\$5.98) for borough sewer expenses and a minimum charge of thirty-eight dollars and seventy-one cents (\$38.71) for Manasquan River Regional Sewer Authority expenses on a quarterly basis with a six thousand (6,000) gallon quarterly allowance.
- C. Collection of Rents and Charges. All bills submitted for water and sewer rents and charges shall be submitted and collected on a quarterly basis. All water and sewer bills are due and payable immediately upon receipt. Water and sewer bills which remain unpaid for a period thirty (30) days from the date of their receipt shall accrue interest at the rate established by the borough council by resolution.
- D. Water and Sewer Supplied Outside Borough Limits. When the mayor and council of the borough shall agree to supply water or sewer service or both outside of borough limits to residential and nonresidential users, the rents and charges for the supply of water and/or sewer service shall be in accordance with subsections A and B of this section.
- E. Industrial Waste. Industrial users shall be required to comply with USEPA and/or NJDEP pretreatment requirements as adopted and enforced by the Manasquan River Regional Sewer Authority and the Ocean County Utilities Authority Service Agreements and all applicable rules and regulations of such agencies.
- F. Special Permission for Temporary Use of Water. Upon special application and for special purposes temporary in nature where water may be required, the borough may supply water to an applicant for temporary use. Any person desiring temporary use of the borough water supply system must submit an application to the collector of water and sewer rents specifying the date, time and location when water service shall be required and the purpose for which the water service is required. The water and sewer collector shall have sole discretion for authorizing or denying the temporary use application. The water and sewer collector at their sole discretion may require the governing body of the borough to decide whether to authorize the temporary use of water. Any person temporarily using the borough water system shall not use in excess of eighteen thousand five hundred (18,500) gallons. A minimum charge for such use in the amount of one hundred fifty dollars (\$150.00) is



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payable in advance to the collector of water and sewer rents. The one hundred fifty dollars (\$150.00) must be paid at the time the written application for temporary use of water is submitted to the borough. All connections for the temporary use of water to the borough water system shall be under the direct supervision and control of authorized agents or employees of the borough water and sewer department.

G. Reserved.

H. Automatic Increase in Fees; Posting.

1. All charges set forth in subsections A., B. and F., above, shall be automatically increased 1.5 percent per annum, compounded, each April 1st of every ensuing calendar year after initial adoption of this subsection unless the borough council adopts a resolution within the first three months of a calendar year waiving the increase for that particular calendar year.
2. On or before April 15th of each calendar year, a schedule of the current charges reflecting the annual increase, unless such increase is waived as provided above, shall be posted on the official borough website and shall be available in the office of the water and sewer collector. Failure of such schedule to be available at either or both locations shall not affect or negate any automatic increase provided for in this section.

(Ord. 2007/24 § 1 (part); Ord. 9/97; Ord. 38/95; prior code § 15-8)

(Ord. No. 2009/6, § I, 5-4-09; Ord. No. 2010/19, § I, 12-20-10; Ord. No. 2012/9, § I, 4-2-12; Ord. No. 2013/5, 5-20-13; Ord. No. 2016/12, § I, 12-19-16)

### **13.04.090 Power to curtail use of water.**

The mayor and council at all times shall have the right, upon recommendation of the superintendent of public works, to curtail the use of water for nonessential purposes whenever a water shortage is created or is likely to be created for any reason whatsoever, and upon resolution duly adopted by the mayor and council authorizing same. The mayor shall issue a proclamation to this effect, which shall become binding and effective upon all users of the water at the expiration of twenty-four (24) hours from the time the proclamation is then issued. Thereafter, any person who shall violate or use water contrary to the proclamation shall be deemed to have violated this chapter and shall be subject to the penalties prescribed for such violation. The proclamation shall specify the length of time that the same is to be in effect and no such proclamation shall be effective for more than thirty (30) days at a time. If at the end of the thirty (30) day period no further proclamation is issued, then the same shall expire at either the time set forth in the proclamation or at the end of thirty (30) days from the date thereof. Nothing herein contained shall be construed so as to prevent interruption of service in the event of an emergency or catastrophe, and the borough shall in no event be responsible for such interruption of service, either directly or indirectly, by reason of such interruption of service, and no deduction shall be made in any of the rates or charges by reason of such interruption.

(Prior code § 15-9)

### **13.04.100 Prohibited waste.**

Sewage or trade waste which may interfere with the proper operation of the sewage disposal plant shall not be emptied into the sanitary sewerage system, and the superintendent of public works is authorized to discontinue sewerage service to any property if his or her directions to cease emptying such materials into the sanitary sewer system are not complied with.

(Prior code § 15-10)

**13.04.110 Traps.**

Grease traps or other appliances necessary to protect the sanitary sewerage system from stoppage shall be installed by property owners at their own expense when notified to do so in writing by the superintendent of public works. The property owner shall also maintain the grease traps or other appliances to the satisfaction of the superintendent of public works. If any owner or occupant of any premises neglects or refuses to comply with such written notice within a reasonable time the borough council shall have the right to deny such owner or occupant the use of the sanitary sewerage system.

(Prior code § 15-11)

**13.04.120 Testing of meters.**

Meters three-fourths inch to two inches in size will be tested upon application of any property owner, but if on test it registers no more than one hundred three percent (103%) nor less than ninety-seven percent (97%) of the water passed on full capacity the property owner shall pay fifteen dollars (\$15.00) as the cost of such test. Meters three inches or over will be tested at the property owner's expense.

(Prior code § 15-12)

**13.04.130 Discontinuance of water/special water readings.**

A. The property owners or their authorized representative desiring to discontinue the use of water and sewer services must give at least twenty-four (24) hours' notice, in writing, to the collector of water and sewer rents, with a request that the service be shut off and discontinued, and a final bill be rendered. The written request must set forth the address of the property, the reason for the reading, the preferred date and time of the service termination and the address to which this final bill shall be sent. The owner and/or the owner's representative must be present for the reading of all inside meters. The fee for this special reading is twenty-five dollars (\$25.00) which shall be added to the final bill. An additional fee of ten dollars (\$10.00) will be charged to turn the water on after such discontinuance. All fees shall be payable to the collector of water and sewer rents.

The service of an occupied building will not be terminated at the request of the owner or landlord without proof of a minimum of five days' notice to the tenant by the owner or without proof of appropriate judicial approval.

**B. Special Water Readings.**

1. Where service is not desired to be discontinued, special water meter readings will be made upon written request for same to the collector of water and sewer rents. The written request must be made at least twenty-four (24) hours in advance and shall set forth the address of the property, the reason for the reading, the preferred date and time of the reading and the address to which this final or special bill shall be sent. The fee for this special water reading is thirty dollars (\$30.00) which shall be added to the final or special bill in the event of a transfer or to the next bill for the property. The owner and/or the owner's representative must be present for the reading of all inside meters. All fees shall be payable to the collector of water and sewer rents.
2. Property owners may request a special water reading for the purpose of determining credit for filling of pools. The special pool credit readings must be made not more than twenty-four (24) hours before and after the pool has been filled. All requests must be in writing and be made at least twenty-four (24) hours in advance and shall set forth the address of the property, the reason for the reading, the preferred date and time of the readings and the address to which this special bill shall be sent. The fee for this special reading, before and after pool filling, is twenty-five dollars (\$25.00) which shall be added to the final bill in the event of a transfer or to

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the next bill for the property. The owner and/or the owner's representative must be present for the reading of all inside meters. All accounts of the property owner with the borough must be current in order to obtain the special pool credit reading. All fees shall be payable to the collector of water and sewer rents.

- C. Failure of the owner and/or the owner's representative to be present at the time of the reading so as to provide access to inside meters will void the request. The requested readings will be done only after re-application and payment of fees.

(Ord. 2007/24 § 1 (part); Ord. 2005/7 § 2; Ord. 29/95: prior code § 15-13)

### **13.04.140 Delinquent bills.**

- A. Interest on Delinquent Bills—Termination of Service. Any bill or part thereof rendered for water and sewer usage not paid within thirty (30) calendar days of the date rendered will accrue interest on the outstanding balance from the date rendered at the rate established by the borough council by resolution. Any bill unpaid sixty (60) calendar days after it is rendered shall be considered delinquent, and subject to termination of service procedures.

In this instance, the collector of rents shall cause a notice to be served on the property owner and tenant that service will be terminated if payment in full is not received in ten (10) calendar days. The collector may, at his or her discretion, based upon the payment history of the account and the size of the delinquent balance, enter into a payment plan with the property owner or tenant. In the case of a tenant, the owner must acknowledge his or her agreement to the payment plan. The failure to make the agreed upon payments shall be cause for the immediate termination of service. Accounts with outstanding balances being paid through a payment schedule may be omitted from the annual tax lien sale by the tax collector if approved by resolution of the borough council. The superintendent of public works shall terminate the service of any customer who fails to comply with these payment procedures.

- B. Dispute—Arrearage—Appeal—Determination. Any person receiving a notice of delinquency by the collector of rents who has a legitimate dispute regarding the amount of arrearage alleged by the collector shall serve a notice of appeal specifying the reasons for refusal to pay the bill rendered by the collector. Within seven calendar days after receipt of such notice of appeal, the superintendent of public works shall provide the aggrieved person an opportunity to present argument relating to such bill. The superintendent shall forthwith determine the validity of the grievance and determine whether or not the bill so submitted was proper and should be paid. Should the superintendent determine that the aggrieved party's position is correct, he or she may make whatever adjustments are necessary to insure that a correct water and sewer bill is submitted to the aggrieved party and that payment is rendered forthwith. Should the superintendent determine that the aggrieved party's argument bears no merit, he or she shall present his or her determination to the affected person. If the affected person has not paid the account within seven calendar days of receiving the notice, the service will be terminated. The affected person may appeal the decision of the superintendent of public works to the mayor and council, and this appeal will stay the termination of service until the appeal is resolved.

In addition to any and all other costs/charges involved, there shall be a thirty dollar (\$30.00) fee added to any account to offset the cost of providing the termination notices and shutting off of the service.

- C. Restoration of Service. In the event of service discontinuance, service shall not be restored until the collector of rents has received all arrearages, including interest and special charges. The fee for a restoration of service shall be thirty dollars (\$30.00), and sixty dollars (\$60.00) for restoration after hours, which fee shall be paid in advance of the restoration of service. "After hours" shall be considered to be any time before or after eight-thirty a.m. to three p.m., Monday through Friday. The collector may accept a predetermined payment schedule in lieu of payment in full, subject to the conditions cited in subsection A of this section.

(Ord. 2007/24 § 1 (part); Ord. 6/95 § 4: prior code § 15-14)

**13.04.150 Collector of water and sewer rents.**

- A. Appointment. A collector of water and sewer rents and charges shall be appointed for a term of two years by a majority of the council. The collector shall have charge of the issuing of permits for all connections to be made with the water and sewer mains in the borough and the keeping in a book, to be provided by the council, of accounts between the borough and the consumers of water and those owning property connected with the sewer.
- B. Duties.
  - 1. Every month the collector shall render to the council a statement and report of all the receipts from water and sewer rents and charges and permits issued, a copy of which report shall be furnished to the superintendent of public works. All moneys collected by him or her, together with a copy of his or her report, shall be turned over to the treasurer.
  - 2. The collector shall perform such other duties as may be required by the council. At the expiration of his term of office he shall turn over and deliver to his successor all books, papers or other property of the borough in his or her custody or under his or her control.
  - 3. The collector shall render to those using the water and sewer, on a quarterly basis, a statement showing the amount of water and sewer used in the past quarter. In case the amount due is not paid within sixty (60) days from the date the bill was rendered, it shall be the duty of the collector to proceed against such delinquent account in a manner provided by this chapter.
  - 4. The collector shall receive all water and sewer rents and charges for which a statement has been rendered to those using water and sewer provided by the borough.
  - 5. The collector shall have direct control and supervision of all billing clerks and staff having responsibility for the preparation, dissemination and collection of water and sewer accounts.
- C. Bond. The collector shall, before entering upon the duties of his or her office, enter into a bond to the borough in the sum of ten thousand dollars (\$10,000.00) with sureties to be approved by the council conditioned for the faithful performance of his or her duties.

(Ord. 6/95 § 3; prior code § 15-15)

**13.04.160 Fire lines.**

- A. Meters. Every person, firm, partnership or corporation owning premises serviced by the Freehold Borough water system and wherein in a fire line, fire hydrants, or automatic sprinkler system is located, shall have installed at their own cost and expense, a proper detector device which is a specialized check valve assembly which includes a main line check valve and an external, or internal, meter by-pass check at such appropriate location as designated and approved by the superintendent of public works of the borough.
- B. Notification. All persons, firms, partnerships or corporations who fall within the provisions of subsection A of this section shall be notified by the superintendent of public works of the provisions.

(Prior code § 15-16)

**13.04.170 Mandatory hookup and connection to public sewerage system.**

- A. Connections Required. Whenever there has been or shall have been established within the municipal limits of the borough public system of sewerage disposal operated and maintained by the borough or by any public agency lawfully created for such purpose by the government body thereof, and in pursuance thereof sewerage disposal lines have been installed in the bed of any street, public or private, the owners of any and all buildings fronting or located upon such street or streets, shall be

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required at their own expense, to make connections from such buildings to the sewerage disposal system.

- B. Time Required for Connection and Hookup. The owner of every existing house, building or structure and the owner of every building, house or structure therein to be constructed or acquired, which may be occupied or used by human beings located on the property along the line of any public sewerage created pursuant to the provisions of the sewerage authority law, PL 1946, Chapter 138 as amended and supplemented in Title 40, Chapter 14A of the Revised Statutes of New Jersey, now or hereafter constructed or acquired in the borough, shall within thirty (30) days after the date on which notice has been given to connect and hookup, connect and hookup the sewerage facilities emanating from such house, building or structure from such sewerage system.
- C. Inspection and Approval of Proposed Connections. The superintendent of public works or his or her authorized agent is empowered to inspect and examine any such proposed connection and to approve or disapprove the manner, method and materials utilized in making such connection.
- D. Failure of Property Owner to Connect. If, after notice given as hereinafter provided, the owner of any property affected hereby shall neglect to make such sewer connection, the governing body may cause such connection to be made under the direction of the superintendent of public works or his or her authorized agent, or award a contract for the making of such connection.
- E. Notice to Property Owner of Borough Intention to Connect. Before proceeding to make any such connection or awarding any contract for the making thereof, the governing body shall cause notice of such proposed connection to be given to the owner of any properties affected thereby in the manner provided by law.
- F. Connection by Borough—Charges to be Special Assessment. When any such sewer connection shall be made either by the borough or by contract awarded thereby, a true and accurate account of the cost and expense shall be kept and apportioned to the property or properties thereby connected, and a true statement of such costs under oath shall be forthwith filed by the superintendent of public works with the clerk. The committee shall examine the same, and if properly made, shall confirm it and file such statement with the tax collector of the borough who shall thereupon file the charge as a special assessment.
- G. Interest on Charges; Property Lien. Every such sewer connection charge shall bear interest and penalties from the same time and at the same rate as assessments for local improvements and from the time of confirmation shall be at first and paramount lien against the respective property or properties so connected to the sewerage system to the same extent as assessments for local improvements and shall be collected and enforced in the same manner.
- H. Industrial and Commercial Properties. If any such house, building or structure referred to in subsection A of this section shall be used for industrial or commercial purposes, the owner thereof shall within thirty (30) days after the date on which notice has been given to connect and hookup, connect and hookup the sewerage facilities emanating from the sewerage system, under and pursuant to rules and regulations which rules and regulations are respectively on file in the offices of the superintendent of public works of the borough.
- I. Failure to Comply With Provisions—Violation and Penalty. Any person, association or corporation who shall violate this section by failing to comply with any order issued in accordance with the provisions hereof within thirty (30) days after notice by a proper officer of the board of health of the borough to make the required connections, shall upon complaint by the secretary, or other proper officer, of the board of health, or by any other person, upon conviction, be subject to a fine of twenty-five dollars (\$25.00). An additional fine of ten dollars (\$10.00) shall be provided for each day of delay after the expiration of the thirty (30) days in which the provisions of the order or notice are not complied with.

(Prior code § 15-17)

**13.04.180 Prohibitions.**

- A. Cesspool Construction—Maintenance Unlawful. It is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage on any lot within the borough.
- B. Discharge of Sewage or Polluted Waters into Natural Outlet Unlawful. It is unlawful to discharge to any natural outlet within the borough or in any area under the jurisdiction of the borough any sewage or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this chapter. The term "natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
- C. Deposit of Garbage or Waste on Property Unlawful. It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the borough or in any area under the jurisdiction of the borough any human or animal excrement, garbage or other objectionable waste.
- D. Penalties. Any person, association, or corporation who shall violate the provisions of this section shall, upon conviction be subjected to a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00).

(Prior code § 15-18)

**Chapter 13.08 WASTEWATER COLLECTION AND TREATMENT SYSTEM**

**Sections:**

[13.08.010 Purpose and policy.](#)

[13.08.020 Definitions.](#)

[13.08.030 Prohibitions and limitations.](#)

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[13.08.130 Enforcement.](#)

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**13.08.010 Purpose and policy.**

It is the policy of the borough, and the purpose of this chapter pertaining to discharges into the wastewater collection and treatment system of the borough, to comply with applicable water quality

requirements and effluent limitations, national standards of performance, toxic and pretreatment effluent standards and any other discharge criteria which are required or authorized by state or federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into the borough's system.

(Prior code § 15A-1)

**13.08.020 Definitions.**

A. Interpretation of Terms. Unless otherwise defined herein, terms shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation. Waste constituents and characteristics shall be measured by standard methods unless expressly stated, or as established by federal or state regulatory agencies.

B. Definitions.

"Building sewer" means a sewer conveying wastewater from the premises of a user to a community sewer.

"Beneficial uses" means uses of the waters of the state that may be protected against quality degradation include, but are not necessarily limited to, domestic, municipal, agricultural, and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by federal or state law.

"Community sewer" means a sewer owned and operated by the borough or other public agency tributary to a treatment facility operated by the borough or the authority.

"Compatible pollutant" means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the borough's National Pollutant Discharge Elimination System (NPDES) permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree.

"Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not the waters of the state are affected.

"Critical user" means a user who is required to obtain a permit, as defined in Section 13.08.060(A).

"Holding tank waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

"Incompatible pollutant" means any pollutant which is not a compatible pollutant as defined in this section. The pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to Section 307(c) of the Federal Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guideline defining best practicable control technology currently available pursuant to Section 301(b) and 304(b) of the Federal Act, provided, that if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to uses of such treatment works shall be correspondingly reduced for that pollutant; and, provided further, that even when the effluent limitations guideline for each industry category is promulgated, a separate provision will be proposed concerning the application of such guideline to pretreatment.

"Manager" means the superintendent of public works of the borough or his designated representative.

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"Pretreatment" means treatment of wastewaters from sources before introduction into the borough system.

"Federal Act" means the Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the Environmental Protection Agency pursuant to the Act.

"Mass emission rate" means the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the "mass emission rate" shall mean pounds per day of a particular constituent or combination of constituents.

"Nuisance" means anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

"Person" means any individual, partnership, firm, association, corporation or public agency including the State of New Jersey and the United States of America.

"Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. Pollution may include contamination.

"Premises" means a parcel of real estate including any improvements thereon which is determined by the borough to be a single user for purposes of receiving, using and paying for service.

"Unpolluted water" means water to which no constituent has been added, either intentionally or accidentally which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

"User" means any person that discharges, causes or permits the discharge of wastewater into a community sewer.

"User classification" means a classification of user based on the 1972 edition of the Standard Industrial Classification (SIC) Manual prepared by the Executive Office of Management and Budget.

"Waste" means includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

"Wastewater" means waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.

"Wastewater constituents and characteristics" means the individual chemical, physical bacteriological and radiological parameters, including volume and flowrate and such other parameters that serve to define, classify or measure the contents, quality, quantity, and strength of wastewater.

"Waters of the state" means any water, surface or underground, including saline waters within the boundaries of the state.

(Prior code § 15A-2)

### **13.08.030 Prohibitions and limitations.**

- A. Prohibitions on Discharges. No person shall discharge to a community sewer wastes which cause, threaten to cause, or are capable of causing either alone or by interaction with other substances:
1. A fire or explosion;
  2. Obstruction of flow in a sewer system or injury of the system or damage to the wastewater collection, treatment or disposal facilities;



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3. Danger to life or safety of personnel;
  4. A nuisance or prevention of the effective maintenance or operation of the sewer system;
  5. Air pollution by the release of toxic or malodorous gases or malodorous gas-producing substances;
  6. Interference with the wastewater treatment process;
  7. The borough's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process;
  8. A detrimental environmental impact or a nuisance in the waters of the state or a condition unacceptable to any public agency having regulatory jurisdiction over the borough;
  9. Discoloration or any other condition in the quality of the borough's treatment works effluent in such a manner that receiving water quality requirements established by law cannot be met;
  10. Conditions at or near the borough's treatment works which violate any statute or any rule, regulation, or ordinance of any public agency or state or federal regulatory body;
  11. Quantities or rates of flow which overload the borough's collection or treatment facilities or cause excessive borough collection or treatment costs, or may use a disproportionate share of the borough facilities.
- B. Prohibitions on Storm Drainage and Ground Water.
1. Storm water, ground water, rain water, street drainage, subsurface drainage or yard drainage shall not be discharged through direct or indirect connections of a sump pump or any other means of conveyance into a community sanitary sewer owned or operated by the borough.
  2. Any person who is convicted of violating any provision of this section shall be fined not less than fifty dollars (\$50.00) for a first offense and not less than one hundred dollars (\$100.00) for each subsequent offense.
- C. Prohibition on Unpolluted Water. Unpolluted water including but not limited to cooling water, process water or blowdown from cooling towers or evaporative coolers shall not be discharged through direct or indirect connection to a community sewer unless a permit is issued by the borough. The borough may approve the discharge of such water only when no reasonable alternative method of disposal is available.
- If a permit is granted for the discharge of such water into a community sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the borough.
- D. Limitations on Radioactive Wastes. No person shall discharge or cause to be discharged, any radioactive waste into a community sewer.
- E. Limitations on Use of Garbage Grinders. Waste from garbage grinders shall not be discharged into the sanitary sewer system unless the borough health officer provides a certification that the use of a garbage grinder alleviates a public health nuisance in the disposal of kitchen wastes due to the unique circumstances in effect at a specific location. If such a condition should exist, the borough health officer, in conjunction with the public works superintendent and plumbing subcode official, shall approve the design and installation of the garbage grinder in order to insure that the waste from grinder shall not adversely affect the sewer main into which the waste is discharged.
- F. Limitations on Point of Discharge. No person shall discharge any substances directly into a manhole or other opening in a community sewer other than through an approved building sewer, unless, upon written application by the user and payment of the applicable user charges and fees, the borough issues a permit for such direct discharges.
- G. Limitations on Wastewater Strength.
1. No person shall discharge wastewater containing in excess of:  
0.1 mg/l arsenic

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0.2 mg/l cadmium

2.0 mg/l copper

1.0 mg/l cyanide

1.0 mg/l lead

0.01 mg/l mercury

1.0 mg/l nickel

0.2 mg/l silver

0.5 mg/l total chromium

3.0 mg/l zinc

2. No person shall discharge any wastewater:
  - a. Having a temperature higher than 150°F (65.5°C);
  - b. Containing more than three hundred (300) milligrams per liter of oil or grease of animal or vegetable origin;
  - c. Containing more than one hundred (100) milligrams per liter of oil or grease of mineral or petroleum origin;
  - d. Having a pH lower than 6.0 or higher than 9.0;
  - e. Containing in excess of 0.02 mg/l total identifiable chlorinated hydrocarbons which cannot be removed by the borough's wastewater treatment process;
  - f. Containing in excess of 1.0 mg/l phenolic compounds which cannot be removed by the borough's wastewater treatment process.
3. Effluent limitations promulgated by the Federal Act or State of New Jersey law, shall apply in any instance where they are more stringent than those in this chapter. Under Section 307(b) of the Act, Federal pretreatment standards are designed to achieve two purposes, to protect the operation of publicly owned treatment works, and to prevent the discharge of pollutants which pass through such works inadequately treated. Users in industrial categories subject to effluent guidelines issued under Section 304(b) of the Act, which are discharging incompatible pollutants to publicly owned treatment works, are required to adopt the best practicable control technology currently available as defined by the administrator pursuant to Section 304(b) of the Act. Limitations on wastewater strength in subsection (G)(1) and (2) of this section may be supplemented with more stringent limitations pursuant to Section 13.08.060(C):
  - a. If the borough determines that the limitations in subsection (G)(1) and (2) of this section may not be sufficient to protect the operation of the borough's treatment works; or
  - b. If the borough determines that the limitations in subsection (G)(1) and (2) of this section may not be sufficient to enable the borough's treatment works to comply with water quality standards or effluent limitations specified in the borough's National Pollutant Discharge Elimination System (NPDES) permit.

(Prior code § 15A-3)

**13.08.040 Wastewater volume determination.**

- A. Metered Water Supply. User charges and fees shall be applied against the total amount of water used from all sources unless, in the opinion of the borough, significant portions of water received are not discharged to a community sewer. The total amount of water used from public and private sources shall be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the borough.
- B. Metered Wastewater Volume and Metered Diversions. For users where, in the opinion of the borough, a significant portion of the water received from any metered source does not flow into the community sewer because of the principal activity of the user or removal by other means, the user charges and fees shall be applied against the volume of water discharged from such premises into the community sewer. Written notification and proof of the diversion of water must be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the borough and at the user's expense. Such meters may measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be tested for accuracy at the expense of the user when deemed necessary by the manager.
- C. Estimated Wastewater Volume for Users without Source Meters. For users where in the opinion of the borough, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the borough. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

(Prior code § 15A-4)

**13.08.050 Discharge reports—Additional required information.**

The borough may require that any person discharging, or proposing to discharge, wastewater into a community sewer file a periodic discharge report. The discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, number and classification of employees, or other information which relates to the generation of waste including wastewater constituents and characteristics in the wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they may not normally be discharged. In addition to discharge reports, the borough may require information in the form of wastewater discharge permit applications and self-monitoring reports.

(Prior code § 15A-5)

**13.08.060 Waster discharge permits.**

- A. Mandatory Permits. All critical users proposing to connect or to discharge into a community sewer must obtain a wastewater discharge permit before connecting to, or discharging into, a community sewer. All existing critical users connected to or discharging into a community sewer must obtain a wastewater discharge permit within ninety (90) days after the effective date of this chapter. For purposes of his chapter, a "critical user" is defined as any user whose user classification is identified in the Standard Industrial Classifications (SIC) Manual in any of Divisions A, B, D, E, and I and who:
  - 1. Has a discharge flow of fifty thousand (50,000) gallons or more per average work day;
  - 2. Has a flow greater than five percent of the flow in the borough's wastewater treatment system;
  - 3. Has in his or her wastes toxic pollutants in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act;

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4. Is found by the manager to have significant impact, either singly or in combination with other contributing industries on the treatment or collection system.
- B. Permit Application. Users seeking a wastewater discharge permit shall complete and file with the borough an application in the form prescribed by the borough and accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:
1. Name and address of applicant;
  2. Volume of wastewater to be discharged;
  3. Wastewater constituents and characteristics including, but not limited to those mentioned in Section 13.08.030(G) as determined by a laboratory approved by the borough;
  4. Time and duration of discharge;
  5. Average and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
  6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;
  7. Description of activities, facilities and plant process on the premises including all materials, processes and types of materials which are or could be discharged;
  8. Each product produced by type, amount and rate of production;
  9. Number and type of employees and hours of work;
  10. Any other information as may be deemed by the borough to be necessary to evaluate the permit application.

The borough will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the borough may issue a wastewater discharge permit subject to terms and conditions provided herein.

- C. Permit Conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges and fees established by the borough. The conditions of wastewater discharge permits shall be uniformly enforced by the manager in accordance with this chapter, and applicable state and federal regulations. Permits may contain the following:
1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
  2. The average and maximum wastewater constituents and characteristics;
  3. Limits on rate and time of discharge or requirements for flow regulations and equalization;
  4. Requirements for installation of inspection and sampling facilities;
  5. Pretreatment requirements;
  6. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;
  7. Requirements for submission of technical reports or discharge reports;
  8. Requirements for maintaining plant records relating to wastewater discharge as specified by the borough, and affording the borough access thereto;
  9. Mean and maximum emission rates, or other approximate limits when incompatible pollutants are proposed or present in the user's wastewater discharge;
  10. Other conditions as deemed appropriate by the borough to insure compliance with this chapter.

- D. Duration of Permits. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. If the user is not notified by the borough thirty (30) days prior to the expiration of the permit, the permit shall be extended one additional year. The terms and conditions of the permit may be subject to modification and change by the borough during the life of the permit as limitations or requirements as identified in Section 13.08.030(G) are modified and changed. The user shall be informed of any proposed changes in his or her permit at least thirty (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- E. Transfer of a Permit. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- F. Revocation of Permit. Any user who violates the following conditions of the permit, or any conditions of this chapter, or applicable state and federal regulations, is subject to having his or her permit revoked:
  - 1. Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge;
  - 2. Failure of the user to report significant changes in operations, or wastewater constituents and characteristics.

(Prior code § 15A-6)

#### **13.08.070 Monitoring facilities.**

Where necessary or desirable in the opinion of the manager, the user shall install a suitable control manhole in the building sewer to facilitate observation and monitoring. Such manholes, or any other monitoring facility, when required, shall be accessible and safely located and shall be installed in accordance with plans approved by the manager. The manholes, including any flow valves, or other monitoring devices required by the manager, shall be installed by the user at his cost and expense and shall be maintained by him or her so as to be safe and accessible at all times.

(Prior code § 15A-7)

#### **13.08.080 Inspection and sampling.**

- A. Authorized Officials to Inspect and Sample. The user shall allow the manager, the head of the state water pollution control agency, the regional administrator of the environmental protection agency and/or their authorized representatives, upon the presentation of credentials:
  - 1. To enter upon the user's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this chapter;
  - 2. To have access to, and copy at reasonable times, any records required to be kept under the terms and conditions of this chapter;
  - 3. To inspect at reasonable times any monitoring equipment or monitoring method required in this chapter;
  - 4. To sample at reasonable times any discharge of pollutants;
  - 5. To inspect the operation of their treatment facilities.
- B. Analytical and Sampling Methods. The analytical and sampling methods used shall conform to the latest edition of the reference methods listed below or to guidelines under the Federal Act. However,

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different but equivalent methods are allowable if they receive the prior written approval of the manager.

1. Standard Methods for the Examination of Water and Wastewaters, 13th edition, 1971, American Public Health Association. New York, New York 10019;
2. A.S.T.M. Standards, Part 23, Water; Atmospheric Analysis, 1972, American Society for Testing and Materials, Philadelphia, Pa. 19103;
3. Methods for Chemical Analysis of Water and Wastes, April, 1971, Environmental Protection Agency, Water Quality Office. Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, Ohio 45202.

The user shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation, as required by the manager, to insure accuracy of instruments.

(Prior code § 15A-8)

### **13.08.090 Pretreatment.**

Users shall make wastewater acceptable under the limitations established herein before discharging to any community sewer. Any facilities required to pretreat wastewater to a level acceptable to the borough shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the borough for review, and shall be acceptable to the borough before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the borough under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to, and be acceptable to, the borough.

Pretreatment standards promulgated by or under the Federal Act or the State of New Jersey shall apply in any instances where they are more stringent than those in this chapter.

(Prior code § 15A-9)

### **13.08.100 Protection from accidental discharge.**

Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. Such facilities shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the borough for review, and shall be acceptable to the borough before construction of the facility.

The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this section.

(Prior code § 15A-10)

### **13.08.110 Confidential information.**

- A. Availability of Information. All information and data of a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the borough that the release of such information would

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divulge information, processes or methods which would be detrimental to the user's competitive position.

- B. Trade Secrets or Secret Processes. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information.
- C. Borough to Notify User. Information accepted by the borough as confidential shall not be transmitted to any governmental agency or to the general public by the borough until and unless prior and adequate notification is given to the user.

(Prior code § 15A-11)

### **13.08.120 Wastewater charges and fees.**

- A. Schedule of Charges and Fees. A schedule of charges and fees shall be maintained by the borough which will enable it to comply with revenue requirements.
- B. Classification of Users. All users shall be classified by assigning each one to a user classification category according to the principal activity conducted on the user's premises and appropriate nonindustrial classifications as determined by the borough. The purpose of such classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics to provide an effective means of source control, and to establish a system of user charges and fees which will insure an equitable recovery of the borough's costs.
- C. Types of Charges and Fees. The charges for each wastewater constituent and characteristic shall be maintained by the borough and set forth in the borough's schedule of charges and fees, which may include but not be limited to:
  - 1. User classification charges;
  - 2. Fees for monitoring;
  - 3. Fees for permit applications;
  - 4. Appeal fees;
  - 5. Charges and fees based on wastewater constituents and characteristics to include industrial cost recovery provisions of the Federal Act.
- D. Determination of User Charges and Fees. When user classification charges are maintained, they should be based upon a minimum basic charge for each premise, computed on the basis of wastewater from a domestic premise with the following characteristics:
  - BOD-250 mg/l
  - COD-375 mg/l
  - Suspended Solids-250 mg/l
  - Oil and Grease-30 mg/l
  - Volume-300 gallons per day per premise.

The charges for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

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The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of that user which may include, but not be limited to, BOD, COD, SS, oil and grease, chlorine demand and volume.

(Prior code § 15A-12)

### **13.08.130 Enforcement.**

#### **A. Accidental Discharges.**

1. **Notification of Discharge.** Users shall notify the borough immediately upon accidentally discharging wastes in violation of this chapter to enable countermeasures to be taken by the borough to minimize damage to the community sewer, treatment facility, treatment processes and the receiving waters.

This notification shall be followed, within fifteen (15) days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed on the borough on account thereof.

2. **Preventive Measures.** Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable the user shall appropriately label such entry points to warn against discharge of such wastes in violation of this chapter.

#### **B. Issuance of Cease and Desist Orders.** When the borough finds that a discharge of wastewater has taken place, in violation of the prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the manager may issue an order to cease and desist and direct that those persons not complying with such prohibitions, limits, requirements or provisions:

1. Comply forthwith;
2. Comply in accordance with a time schedule set forth by the borough;
3. Take appropriate remedial or preventive action in the event of a threatened violation.

#### **C. Submission of Time Schedule.** When the borough finds that a discharge of wastewater has been taking place, in violation of the prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a wastewater discharge permit, the borough may require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.

#### **D. Appeals.**

1. **Appeal to Manager.** Any user, permit applicant or permit holder affected by any decision, action or determination, including cease and desist orders, made by the manager, interpreting or implementing the provisions of this chapter, or in any permit issued herein, may file with the manager a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.
2. **Appeal to Borough Council.** If the ruling made by the manager is unsatisfactory to the person requesting reconsideration, he or she may within ten (10) days after notification of the manager's action, file a written appeal to the borough council. The written appeal shall be heard within thirty (30) days from the date of filing. The borough council shall make a final ruling on the appeal within ten (10) days of the close of the hearing. The manager's decision, action or determination shall remain in effect during such period of reconsideration.



(Prior code § 15A-13)

**13.08.140 Abatement.**

- A. **Public Nuisance.** Discharges of wastewater in any manner in violation of this chapter or of any order issued by the manager as authorized by this chapter, is declared a public nuisance and shall be corrected or abated as directed by the manager. Any person creating a public nuisance shall be subject to provisions of borough codes or ordinances governing such nuisance.
- B. **Injunction.** Whenever a discharge of wastewater is in violation of the provisions of this chapter or otherwise causes or threatens to cause a condition of contamination, pollution, or nuisance, the borough may petition the superior court for the issuance of a preliminary or permanent injunction or both, as may be appropriate in restraining the continuance of such discharge.
- C. **Damage to Facilities.** When a discharge of wastes causes an obstruction, damage or other impairment to borough facilities, the borough may assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's charges and fees.
- D. **Civil Penalties.** Any person who violates any provision of this chapter or permit condition, or who discharges wastewater which causes pollution, or who violates any cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard shall be liable civilly to penalties. The United States Attorney, the attorney general or the borough attorney, upon direction of the borough council, shall petition the superior court to impose, assess and recover the sums as may be applicable.
- E. **Criminal Penalties.** Any person who intentionally or negligently violates any provision of this chapter or permit condition, or who discharges wastewater which causes pollution, or who violates any cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard shall be liable, upon conviction thereof, to a fine not to exceed five hundred dollars (\$500) or to be imprisoned in the county jail for a term of not more than six months, or both, at the discretion of the municipal judge. Every day of violation shall be considered a separate offense.
- F. **Falsifying of Information.** Any person who knowingly makes false statements, representation, record, report, plan or other document filed with the borough or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, shall be punished in accordance with applicable laws governing such falsifications. The attorney of the borough, upon order of the borough council, shall petition the court to impose, assess and recover such sums as may be applicable. In addition, wastewater service may be terminated.
- G. **Termination of Service.** The borough may revoke any wastewater discharge permit, or terminate, or cause to be terminated, wastewater service to any premises if a violation of any provision of this chapter is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution or nuisance as defined in this chapter. This provision is in addition to other statutes, rules or regulations, authorizing termination of service for delinquency in payment.

(Prior code § 15A-14)

**Chapter 13.12 FLOOD DAMAGE PREVENTION <sup>[1]</sup>**

**Sections:**

[13.12.010 Statutory authorization.](#)

[13.12.020 Definitions.](#)

[13.12.030 General provisions.](#)

[13.12.040 Administration.](#)

[13.12.050 Provisions for flood hazard reduction.](#)

**13.12.010 Statutory authorization.**

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1 et seq. delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Governing Body of the Borough of Freehold, Monmouth County, New Jersey does ordain as follows:

- A. Findings of Fact.
  - 1. The flood hazard areas of the Borough of Freehold are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
  - 2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.
- B. Statement of Purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
  - 1. To protect human life and health;
  - 2. To minimize expenditure of public money for costly flood control projects;
  - 3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - 4. To minimize prolonged business interruptions;
  - 5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
  - 6. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
  - 7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
  - 8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- C. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:
  - 1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
  - 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - 3. Controlling the natural floodplains, stream channels and natural protective barriers which accommodate or channel floodwaters;
  - 4. Controlling filling, grading, dredging, and other development which may increase flood damage; and

5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. No. 2009/15, §§ 1.1—1.4, 9-8-2009)

### **13.12.020 Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter most reasonable application.

"Appeal" means a request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one-percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

"Digital Flood Insurance Rate Map" (DFIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or,
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Historic structure" means a structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary as a registered historic district;
3. Individually listed on a State Inventory of Historic Places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in States without approved programs.

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"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure useable solely for the parking of vehicles building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable nonelevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

"Recreational vehicle" means a vehicle which is (i) built on a single chassis; (ii) four hundred (400) square feet or less when measured at the longest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of construction" for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No.97-348) includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement.

"Variance" means a grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

(Ord. No. 2009/15, § 2.0, 9-8-2009)

**13.12.030 General provisions.**

- A. **Lands to Which This Chapter Applies.** This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Freehold, Monmouth County, New Jersey.
- B. **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazard for the Borough of Freehold, Community No. 345536, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) shown on Index and panel numbers 34025C0143F, 34025C0144F, 34025C0281F, and 34025C0282F, whose effective date is September 25, 2009.

The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Rate Maps are on file at 51 West Main Street, Freehold, New Jersey 07728.

- C. **Penalties for Noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days, or both, for each violation and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Freehold from taking such other lawful action as is necessary to prevent or remedy any violation.
- D. **Abrogation and Greater Restrictions.** This chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter and other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. **Interpretation.** In the interpretation and application of this chapter, all provisions shall be:
  - 1. Considered as minimum requirements;
  - 2. Liberally construed in favor of the governing body; and
  - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- F. **Warning and Disclaimer of Liability.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This chapter shall not create liability on the part of Freehold Borough, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 2009/15, §§ 3.1—3.6, 9-8-2009)

**13.12.040 Administration.**

- A. **Establishment of Development Permit.** A development permit shall be obtained before construction or development begins, including placement of manufactured homes, to determine whether such construction or development is in a floodplain. Application for a development permit shall be made on forms furnished by the construction official and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in

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question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
  2. Elevation in relation to mean sea level to which any structure has been flood-proofed.
  3. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Designation of the Local Administrator. The construction official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.
- C. Duties and Responsibilities of the Administrator. Duties of the construction official shall include, but not be limited to:
1. Permit review.
    - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
    - b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
  2. Use of other base flood and floodway data. The construction official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source.
  3. Information to be obtained and maintained.
    - a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  4. Alteration of Watercourses.
    - a. Notify adjacent communities and the New Jersey Department of Environmental Protection Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
    - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.
- D. Variance Procedure.
1. Appeal board.
    - a. The Monmouth County Board of Appeals as established by the Borough of Freehold shall hear and decide appeals and requests for variances from the requirements of this chapter.
    - b. The Monmouth County Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the construction official in the enforcement or administration of this chapter.
    - c. Those aggrieved by the decision of the appeal board, or any tax payer, may appeal such decision to the Law Division of the Superior Court as provided in N.J.A.C. 5:23A-2.3d.
    - d. In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors and standards specified in other section of this chapter; and

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- (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site; and
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- e. Upon consideration of the factors of subsection 13.12.040D.1.d. and the purpose of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- f. The construction official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.
2. Conditions for variances.
- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items ((1)—(11)) in subsection 13.12.040D.1.d. have been fully considered.

As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances shall only be issued upon:
- (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection 13.12.040D.1.d., or conflict with existing local laws or ordinances.

- e. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. No. 2009/15, §§ 4.1—4.4-2, 9-8-2009)

**13.12.050 Provisions for flood hazard reduction.**

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.
  - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
  - b. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
2. Construction materials and methods.
  - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Utilities.
  - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
  - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems, and discharge from the systems into floodwaters;
  - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
  - d. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. Subdivision proposals:
  - a. All subdivision proposals shall be consistent with the need to minimize flood damage;
  - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas electrical and water systems located and constructed to minimize flood damage;
  - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
  - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five acres (whichever is less).
5. Manufactured homes.
  - a. Manufactured homes shall be anchored in accordance with subsection 13.12.050A.1.b.
  - b. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.



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(Ord. No. 2009/15, §§ 5.1—5.1-5, 9-8-2009)

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FOOTNOTE(S):

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**Editor's note**— Ord. No. 2009/15, §§ 1.1—5.1-5, adopted Sept. 8, 2009, did not specifically amend the code; therefore, said provisions have been included as herein set out, at the editor's discretion. ([Back](#))