

BOROUGH OF FLEMINGTON
ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 11 “UTILITIES” OF THE BOROUGH OF FLEMINGTON CODE TO PROVIDE FOR THE CONNECTION AND USE OF THE MUNICIPAL WATER AND SEWAGE SYSTEM OF THE BOROUGH AND THE ASSESSMENT OF FEES THEREFOR

WHEREAS, the Borough of Flemington (“Borough”) owns and operates a sanitary sewerage system for the collection of wastewater for transmission to sewerage treatment facilities of the Raritan Township Municipal Utilities Authority and for ultimate discharge to the Waters of the State; and

WHEREAS, the Borough owns and operates a potable water system for the transmission and supply of water to the users in the Borough; and

WHEREAS, the Borough has expended substantial public funds to construct, operate, maintain, renew, replace and improve the municipal water and sewerage system consisting of water and sewer lines, mains, works, connections and other real and personal property and appurtenances for the transmission and supply of potable water and the collection and disposal, in a sanitary manner, of any wastewater, including residential and/or non-residential wastewater, originating within the Borough; and

WHEREAS, the maintenance of the municipal water and sewerage systems in proper functioning condition, and the repair and replacement of the same as needed, foster public health and safety in the Borough; and

WHEREAS, the statutes and regulations of the State of New Jersey, including N.J.S.A. 40A:26A-1 et seq., and N.J.S.A. 40A:31-1 et seq. authorize the establishment and alteration of rates, rentals and other charges to be charged to users of the municipal water and sewerage systems; and

WHEREAS, the statutes and regulations of the State of New Jersey, including N.J.S.A. 40A:31-11, as well as other applicable laws, provide for the connection of properties lying within the Borough to the municipal water supply system and the authority to assess a connection charge therefor calculated in accordance with the aforesaid statute, for the purpose of recovering from new connectors, and connectors that materially increase the level of use and impose a greater demand on the sewerage system, a fair payment towards the cost of the system heretofore paid for by the current and prior connectors; and

WHEREAS, the statutes and regulations of the State of New Jersey, including N.J.S.A. 40A:26A-11, as well as other applicable laws, provide for the mandatory connection of properties lying within the Borough to the municipal sewerage system and the authority to assess a connection charge therefor calculated in accordance with the aforesaid statute, for the purpose of recovering from new connectors, and connectors that materially increase the level of use and impose a greater demand on the sewerage system, a fair payment towards the cost of the system heretofore paid for by the current and prior connectors; and

WHEREAS, additionally, due to changes in the law governing the assessment of connection fees at N.J.S.A. 40A:26A-11.1, N.J.S.A. 40A:26A-11.2, N.J.S.A. 40A:26A-11.3, N.J.S.A. 40A:31-11, N.J.S.A. 40A:31-11.1, N.J.S.A. 40A:31-11.2, and N.J.S.A. 40A:31-11.3, it has become necessary that the Borough revise and amend Chapter 11 of the Code of the Borough of Flemington entitled “Utilities.”

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Flemington in the County of Hunterdon, and State of New Jersey as follows:

STATEMENT OF PURPOSE: *Ordinance regulating the use of the municipal water and sewage systems, and the establishment of rates, rentals, charges and connection fees therefore, pursuant to N.J.S.A. 40A:26-1 et seq. and N.J.S.A. 40A:31-10 et seq.*

Section 1. Chapter 11 “Utilities” of the Code of the Borough of Flemington (“Code”) is hereby amended in its entirety, as follows:

§ 11-1 WATER USE.

§ 11-1.1 Regulations.

[Ord. No. 2012-11; Ord. No. 2015-6; amended 4-22-2019 by Ord. No. 2019-9]

1. The following regulations shall be considered a part of the contract with every person who uses water, and the fact of using water shall be considered as expressing assent on the part of the user to be bound thereby:
 - a. All applications for the use of water shall be made by the owner or owners representative of the property on Flemington Water & Sewer Allocation Form A furnished by the Water Department and shall state fully all uses to which the water is to be applied, and should it subsequently be required for other purposes, notice shall be given by the owner before any change is made.
 - b. A supply of water for building or other special purposes shall be separately applied for.
 - c. "Service connection" shall mean a pipe or pipes connected to the main and extending into privately or publicly owned property or premises for supplying Borough water thereto.
 - d. "Tapping" or "making a tap" shall mean the physical act of breaking into a main to install a service connection.
 - e. "Water service tap installation" shall mean the curb box and the portion of the service connection which connects the curb box to the water main and lies generally within the street right-of-way.
 - f. "User service line" shall mean the length of pipe, lying generally outside of the street right-of-way, which connects the curb box to the building to be served with water, and shall include a water meter installed in an underground pit, as directed by and to the specifications of the Borough of Flemington Water Department. Installation of meters in any building shall be performed only when, and as permitted by, the Water Department, upon the Department's determination that the meter installation in an underground pit is not feasible. The user or property owner shall be responsible for installation of the user service line, except that water meters on all user service lines not exceeding a two-inch diameter shall be provided and installed by the Water Department.
 - g. Where a tap for a service connection to any water main is required, application shall be made either by the property owner or by the licensed plumber contracting or doing the plumbing work a blank Flemington Water & Sewer Allocation Form A will be furnished by the Water Department, and the

applicant shall pay a connection charge consisting of two separate fees: a service connection fee, and a water tap installation fee.

- h. “Private Fire Hydrant” shall mean a fire hydrant located on privately owned property which is serviced by a private water main supplied by the Borough’s Water supply.
- i. “Fire Suppression Service” shall mean piping extending from the water supply main in the street to the premises for purposes of fire protection or fire sprinklers.
- j. “Private water main” shall mean a water main not owned by the Borough of Flemington supplying water to privately owned property, including but not limited to industrial, residential, corporate, office complexes, etc. which are connected through a private water main.
- k. The service connection fee shall be as indicated in § 11.1.2, Fees, and shall be computed in the following manner to represent a fair payment toward the cost of the system:
 - (a) The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by the Borough of Flemington to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the Borough shall be added to all capital expenditures made by the Borough not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year.
 - (b) Any gifts, contributions or subsidies to the Borough of Flemington received from, and not reimbursed or reimbursable to any federal, state, county or municipal government or agency or any private person, and that portion of amounts paid to the Borough of Flemington by a public entity under a fully executed water service agreement which is not repaid to the public entity by the Borough of Flemington, shall then be subtracted.
 - (c) The remainder shall be divided by the total number of service units served by the Borough of Flemington at the end of the immediately preceding fiscal year of the Borough, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector. In attributing service units to each connector, the estimated average daily flow of water for the connector shall be divided by the average daily flow of water to the average single-family residence in the authority's district and rounded to the next highest service unit, to produce the number of service units to be attributed. The number of service units is thereafter multiplied by the connection fee for water connection, per §11.1.2, Water Connection Fee, to establish the connection fee. The flow from a multi-unit building may be aggregated for the purpose of determining a connection fee.
 - (d) Fire line connection fee. There shall be imposed for each fire line connected to the Borough water main the sum set forth in §11.1.2.
 - (e) Additional Connection Fee for Material Increase in Water Usage
 - i. For a property connected to the water system for less than 20 years, the Borough shall charge

an additional connection fee for an addition, alteration, or change in use that materially increases the level of use and imposes a greater demand on the water system, but does not involve a new physical connection of the property to the water system.

ii. The connection fee authorized by subsection (i) of this section shall be equal to the amount by which the increased use and demand on the water system exceeds the use and demand that existed prior to such addition, alteration, or change in use.

iii. Nothing in this section shall be construed to preclude the Borough from charging a new or additional connection or tapping fee for any new or additional connection of a property to the water system, or for any increase in the size of an existing connection or for any new construction of additional service units connected to the water system that materially increases the level of use or demand on the water system.

iv. As used in this section, “materially increases” means any increase in the number of service units; or any other change which increases the level of use or demand on the sewerage system by 15 percent or more over the highest actual annual use and demand that existed during the prior 10-year period immediately preceding the addition, alteration, or change in use; provided, however, that, if the property has been connected to the water system for less than 10 years, the average level of use and demand shall be calculated based on the actual period of connection.

(f) Credits

i. The Borough shall provide a credit applicable toward a connection fee to be charged for a reconnection of a disconnected property that was previously connected to the water system, provided that:

(a) the property has been connected to the water system for at least 20 years; and

(b) service charges have been paid for the property in at least one of the last five years.

ii. The credit required under subsection (i) of this section shall be calculated as follows:

(a) If the reconnection does not require any new physical connection or does not increase the nature or size of the service or the number of services units, or does not expand the use of the water system, the credit shall be equal in amount to the new connection fee.

(b) If the reconnection requires a new physical connection, increases the nature or size of the service or the number of service units, or expands the use of the water system, the credit shall be equal in amount to any connection fee previously paid for the property, and the Borough shall charge the difference between the credit and the connection fee for the new use or class.

(c) If no connection fee was ever paid for the property, but all service charges due and owing on the property have been paid for at least 20 years, the credit shall be equal in amount to the new connection fee; provided, however, that any charges due and owing pursuant to paragraph (b) of this subsection shall be paid.

(d) If no connection fee was ever paid for a disconnected property that is to be reconnected and which was previously connected to the water system for at least 20 years and all service charges due and owing on the property have not been paid for at least 20 years, the Borough shall charge, in

addition to any charges due and owing pursuant to sub-section (b), a connection fee equal to the lesser of:

(i) 20 percent of the service charges that would have been paid based upon the usage for the last full year that the property was connected to the water system for the period from the date of the disconnection from the water system to the date of the new connection; or

(ii) the new connection fee.

iii. A credit shall not be allowed under this section for a property that has been disconnected from the water system for more than five years.

iv. As used in this section, “disconnected property” means a property that has been physically disconnected from the water system or a property not physically disconnected but to which service has been discontinued without payments being made. A “disconnected property” shall not include a property that has been temporarily disconnected from the water system or to which service has been discontinued without payments being made for less than 12 consecutive months and is being reconnected as it existed, prior to the temporary disconnection or discontinuance of service.

(g) Affordable Housing Projects

i. With respect to the construction of affordable housing projects, including any affordable housing units in inclusionary projects, a 50% reduction in the connection fee shall be applied to new connections to the Borough water system. This reduction shall only apply to affordable housing units and shall not apply to market rate housing.

ii. For units previously connected to the Borough's system that were demolished or refurbished to allow for new affordable housing units and for which a connection fee was previously paid, a credit against the connection fee to be assessed for connection with the water system shall be applicable to any affordable housing units, including affordable housing units in inclusionary projects. The credit shall be the connection fee previously assessed and paid for connection with the water system for units previously connected to the Borough's system.

iii. The connection fee assessable against an affordable housing owner, for units previously connected to the Borough's system that were demolished or refurbished to allow for new affordable housing units, including affordable housing units in inclusionary projects, shall be the lesser of the reduced rate provided for in subsection (i) of this section, or the current non-reduced rate applicable to other types of housing developments minus the credit provided under subsection (ii) of this section for units for which a connection fee or tapping fee was previously paid, provided that said affordable housing owner can establish the connection fee or tapping fee was previously assessed and paid for connection with the system. If the same cannot be established, the reduced rate provided for in subsection (i) of this section shall be assessed.

(h) The service connection fee shall be recomputed at the end of each fiscal year by the Borough of Flemington, after a public hearing is held, and shall be indicated in § 11.1.2, Fees. The revised connection fee shall be imposed upon those who subsequently connect in that fiscal year to the system.

(i) The foregoing notwithstanding, the Borough of Flemington shall not impose any charges or fees in excess of the cost of water actually used for any sprinkler system required to be installed in any

residential health care facility pursuant to the Health Care Facilities Planning Act, P.L. 1971, c. 136 (N.J.S.A 26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the Rooming and Boarding House Act of 1979, P.L. 1979, c. 496 (N.J.S.A 55:13B-1 et al.) and regulations promulgated thereunder. The Borough of Flemington shall not impose fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

- (j) In accordance with N.J.S.A. 40A:31-12, the combination of the water service connection fee and water service charges shall be such that the revenues of water supply facilities shall be adequate to pay the expense of operation and maintenance of the water supply facilities, including improvements, extensions, enlargements and replacements to water supply facilities, reserves, insurance, principal and interest on any bonds, and to maintain such reserves or sinking funds therefor as may be required under the bond covenants or any contracts, or as may be deemed necessary or desirable.
 - (k) It shall be the responsibility of the person making application for a water connection permit to provide sufficient information for the Borough to determine the number of service units or credits. Costs incurred by the Borough, including its professionals, in determining the connection fee shall also be the responsibility of the person making application for a connection through the establishment of an escrow account.
2. Water service initial connection or change in size connection.
- (a) The service initial connection fee shall be as indicated in § 11.1.2, Fees. The change in use connection fee shall be calculated in accord with § 11-1.1(f).
 - (b) Water service taps shall be performed under the supervision of the Water Department Superintendent or his agent. It shall be the owner's or applicant's responsibility to hire a private contractor to perform the installation at the owner's or applicant's expense.
- (1) The owner or applicant shall be responsible for reasonable inspection fees, and shall post with the Borough of Flemington an initial inspection escrow in the amount set forth in § 11.1.2, Fees. The owner or applicant shall be advised of any anticipated shortage in escrow account of inspection fees, and shall post and pay such fees in escrow and as determined by the Water Department before any further inspection shall be conducted or final approval granted.
 - (2) Where a road opening permit is required by local municipal ordinance, owner or applicant shall be responsible to secure the road opening permit.
 - (c) No water service connection or user service line shall be installed unless it conforms to specifications promulgated by the Water Department. A copy of such specifications shall be kept on file with the Water Department and shall be open to inspection by any person interested. The installation shall be done by a plumber qualified to do plumbing work under municipal regulations.
- i. Type K copper lines shall be used for all service lines from the meter to the curb box if said lines do not

exceed 1 1/4 inches in diameter. Larger diameter service lines shall be Class 52 ductile iron pipe.

- ii. Any run of copper water line 1 1/4 inches in diameter or less and less than 100 feet in length shall be one continuous run without couplings unless otherwise approved, in writing, by the Water Superintendent.
- (d) The service initial connection or change in size connection fee shall be due and payable upon the filing of an application for a water connection permit with the Borough of Flemington Water Department on such forms and subject to such information, documentation and data as may be required by the Water Department. Any extra inspection costs shall be due and payable prior to the water service being activated.
- (e) If the Water Supervisor or his designee determine that a water department employee shall be present during the installation of a water line, the property owner shall be billed for such services in accordance with the collective bargaining agreement in place at the time services are rendered. These costs shall be due and payable prior to the water service being activated.

§ 11-1.2 Fees.

[Ord. No. 2012-11; Ord. No. 2015-6; Ord. No. 2015-18; Ord. No. 2016-14; amended 8-27-2018 by Ord. No. 2018-16; 4-22-2019 by Ord. No. 2019-9]

The following annual charges, rentals and rates are hereby fixed to be charged to all customers, both private, commercial and governmental:

a. Meter service.

Meter Size		
(inches)	Per Quarter	Per Year
5/8	\$64.50	\$258.00
3/4 short	\$64.50	\$258.00
3/4	\$103.75	\$415.00
1	\$158.25	\$633.00
1 1/2	\$261.00	\$1044.00
2	\$356.25	\$1,425.00
3	\$648.00	\$2592.00
4	\$1133.25	\$4533.00
6	\$1945.00	\$7780.00

b. Additional use charges.

1. From zero to 5,000 gallons used during quarter: \$2.88 per 1,000 gallons.
2. From 5,001 to 19,000 gallons used during quarter: \$5.95 per 1,000 gallons.

3. From 19,001 to 49,000 gallons used during quarter: \$7.15 per 1,000 gallons.
 4. From 49,001 to 99,000 gallons used during quarter: \$8.05 per 1,000 gallons.
 5. From 99,001 to 599,000 gallons used during quarter: \$9.00 per 1,000 gallons.
 6. From 599,001 to 999,000 gallons used during quarter: \$10.20 per 1,000 gallons.
 7. From 999,001 and above gallons used during the quarter: \$10.50 per 1,000 gallons.
- c. Fire service.

Fire Service	Annual Charge
Fire Suppression, three inches	\$690.00
Fire Suppression, four inches	\$1500.00
Fire Suppression, six inches	\$2040.00
Fire Suppression, eight inches	\$3878.00
Standby tank connection, two inches	\$246.00
Standby tank connection, three inches	\$336.00
Standby tank connection, four inches	\$366.00
Standby tank connection, six inches	\$516.00
Standby tank connection eight inches and up	\$792.00

An approved detector check valve shall be installed in each fire service connection by applicant. Initial filling of standby tanks and each subsequent filling of standby tanks shall be charged at the same rate as meter service charges. An activated detector check valve shall indicate at least a tank filling and the user shall be charged accordingly.

- d. Permit fees.

Permit Fee	Rate	Off-Hours Rate
Turning water on		\$200.00
Turning water off		\$200.00
Turning water off for non payment	\$75	
Turning water back after non payment	\$75	\$200
Testing of meter		
Remove meter	\$75.00	\$200.00
Special meter reading	\$60.00	\$200.00
Water Connection Fee	\$5,473.00	
Hydrant flow test per scheduled site visit:	\$275.00	Initial hydrant, \$100 Each additional hydrant

e. Allocation Form Fees.

Allocation Form A Fee	Rate
Live extensions review	\$500
Water reservation small project	\$250
Water reservation large project	\$1,500

f. Will Serve Fees.

Will Serve Fee		Will Serve Extension Fee
Will serve letter small project	\$100	\$50
Will serve letter large project	\$250	\$125

g. Field Service Charges.

[Ord. 2008-6; Ord. No. 2015-6; Ord. No. 2017-7]

Field Service Charges

In the event that the Borough needs to make a repair to a leak for a customer or for a contractor the following fees will apply.

a. Equipment Hourly Rates:

1. Backhoe: \$100.00
2. Dump truck: \$75.00
3. Service truck: \$75.00
4. All parts: materials shall be billed at cost plus an administration fee, which fee shall be based upon the time expended at the rates established in the collective bargaining agreement in place at the time services are rendered.

Labor shall be as follows: The current rate in which the Collective Bargaining Agreement stipulates including time and a half for all non-regular business hours.

h. All senior citizens, disabled persons or surviving spouses that meet the requirements set forth in N.J.S.A 54:4-8.40 et seq, shall qualify for a 10% reduction on the meter service charges outlined in section a.

§ 11-1.3 Water Meter Requirements.

[Ord. No. 2013-12; Ord. No. 2015-6; Ord. No. 2017-7; amended 4-22-2019 by Ord. No. 2019-9]

All water must be metered. The Water Department will furnish all meters.

All water meters must be accompanied by a radio read meter reading device located on the outside of the building in a location agreed upon by the property owner and the Water Department.

- a. No one but an authorized employee of the Water Department shall turn any valves or curb stops connecting a user's property to the water mains.
- b. The property owner must at all times protect the water meter from frost and from hot water, or any other detrimental use or condition that may harm the meter. The property owner shall be held responsible for the repair and upkeep of the meter and for damage resulting from his neglect. The property owner shall be held responsible for the repair and upkeep of the plumbing pipes and valves connected to the meter; said pipes and valves must be kept in such a condition as to facilitate the removal and or the replacement of the meter without threat of damage to the pipes and valves.
- c. The water meter and remote meter reading device shall be installed and shall remain in a location that is readily accessible to the Water Department and which has been approved by the Water Department. Absent special circumstances, the water meter is to be located as close to the entrance of the water line into the building as possible. The water meter and remote meter reading device may not be blocked or covered up.
- d. The location of the water meter and the remote reading device may not be changed without written permission from the Water Department.
- e. The Water Department may shut off the water supply of any customer found to be in noncompliance of any section of § **11-1.3**. Whenever the valve or curb stop has been shut off for noncompliance, turnoff and turn on charges as specified in § **11-1.2d** shall apply.
- f. The Borough of Flemington can require a property owner to install a meter in either a pit (if less than 1-1/4") or in an above-ground enclosure ("hot box") when necessary to ensure proper tracking of water use. Such requirement will be conveyed to the property owner by the Borough in writing by certified and regular mail.

1. The property owner is responsible for all costs associated with the installation and construction of the meter and meter pit or hot box, including any fees required for a road opening permit.

2. Water meters must be installed by a properly licensed plumber and meter pits and hot boxes must be installed / constructed by a properly licensed contractor. The property owner will have an opportunity to hire its own contractor(s) to install a meter pit or hot box under the direction of the Water Department and Borough Engineer.

3. If the property owner fails to install meter in a meter pit or hot box within 90 days from receipt of the written initial request, the Borough of Flemington may either:

(a) install the meter. The cost of such installation shall be based upon rates established in accordance with the collective bargaining agreement in place at the time services are rendered, calculated to

the nearest quarter of an hour, and shall be charged against the property serviced by said meter, and shall remain a lien and be collected in the same manner as the water rent; and/or

(b) Discontinue and shut off the water services without further notice until the required installations are made by the property owner in accordance with this section.

§ 11-1.4 Billings; Delinquent Accounts.

[Ord. 2-1965, SS 6 & 7; Ord. 1-1979, SS 6—8; Ord. 3-1990, SS 1, 2; Ord. 9-1992, S 1; Ord. 2008-6; Ord. No. 2015-6; Ord. No. 2016-14]

- a. The rentals and charges for water shall be billed quarterly. Bills shall become due on the date due shown on the bill. Should any bill or part thereof rendered for rental and charged for water remain unpaid for a period of ten days, said bill or part thereof shall be considered delinquent and subject to payment of interest at the prevailing rate fixed for interest on delinquent real estate taxes from the due date until such time as the bill is paid in full. Rental charges for water shall be a lien upon the premises connected until paid and be collectible, together with interest, costs and penalties in the same manner provided by law for the collection of taxes upon real estate.
- b. All meters and billing shall be listed in the office of the Flemington Water Department under the name of the property owner and he is responsible for payment of same.
- c. Once an account becomes delinquent in an amount in excess of \$50.00 for a period of 90 days the water department shall shut off the water supply. Whenever the valve or curb stop has been shut off for non payment, turn off and turn on charges as specified in § 11-1.2d shall apply in addition to the full amount of the delinquent bill plus interest.
- d. A delinquency notice will be sent to a delinquent account owner once an account becomes delinquent for thirty days warning the customer of the pending shut off and the date shut off will occur.
- e. A door knocker will be hung once a delinquent account reaches 60 days past due notifying the account owner of the date the water service will be turned off.
- f. Payment must be made to the utility clerk via cash or certified check clearing all delinquent balances and interest 24 hours prior to the pending shut off date.

§ 11-2 NEW CONNECTIONS.

§ 11-2.1 Building Connection Required.

[Ord. 3-1968, S 1; Ord. 17-1995, S 5; Ord. 2008-6; Ord. No. 2015-6]

The construction or drilling of a private water supply system for human consumption, irrigation or any other purposes whatsoever shall be prohibited after August 1, 1995, provided that any private residences having an already approved private water supply system shall not be required to connect to the public water supply system within the Borough.

§ 11-2.2 Alteration of Private Water System.

[Ord. 3-1968, S 2; Ord. 17-1995, S 5; Ord. 2008-6; Ord. No. 2015-6]

- a. Where a resident having a private water supply system serving the residence connects to the public water supply system of the Borough, the private system shall be capped off and sealed in accordance with applicable State and local regulations and shall not thereafter be used for any purposes whatsoever.
- b. However, nonresidential users who connect to the public water supply system may continue use of a previously approved private water system, but (i) only for purposes of irrigation or other purposes not connected with human consumption or use and (ii) only if the owner or users have installed and the water department has approved a reduced pressure zone back flow preventive device as provided under the regulations adopted pursuant to this New Jersey Safe Drinking Water Act, N.J.A.C. 7:10-10.1 et seq.

§ 11-2.3 Connection Required for Occupancy Permit.

[Ord. 3-1968, S 3; Ord. 17-1995, S 5; Ord. 2008-6; Ord. No. 2015-6]

No certificate of occupancy shall be issued for any new construction having a human water supply system until the new construction has been connected to the Borough water supply system for the purposes of supplying water for human consumption or any other purpose and all connection fees and all other fees associated with the connection are paid in full.

§ 11-2.4 Leaks in Water Lines.

[Ord. 2008-6; Ord. No. 2015-6]

- a. After the water department has notified the property owner or user of a leak in the line, by regular or certified mail, the owner or user has one (1) week from the date of notification to make repairs. After one (1) week, water service will be shut off until repairs are made. Fees for this service are outlined in section 11.1.2 Fees section d.
- b. For purposes of paragraph a above, property owners or users shall be responsible for the water lines from the right-of-way line of the street or the curb stop, whichever is nearest to the water main in the street.
- c. If the Water Supervisor or his designee determine a water department employee shall be present during the repair of a water line, the property owner shall be billed for this service and costs shall be due and payable within 30 days or service will be disconnected.

§ 11-2.5 Line extensions.

[Added 4-22-2019 by Ord. No. 2019-9]

- a. All water main line extensions shall be made at the expense of the applicant therefor, except as hereinafter set forth, after determination by the Mayor and Council through the Public Works Committee that the Water Department has adequate distribution capacity and pressure to service the same and that the same can be accomplished in accordance with the Master Water Plan design for future expansion and, otherwise, that the same is in the best interests of the existing customers of the Water Department. The applicant shall submit five copies of a water utility plan, plus a review fee of \$500 to the Water Department for said waterline extension. After approval by the Water Department, the terms and conditions of such extension as agreed upon shall be formalized in a written agreement between the applicant and the Borough. The applicant shall be responsible for the costs of all engineering and legal

fees incurred by the Borough to review the water utility plan and prepare the written agreement. In the event that the engineering and legal costs are less than the review fee, the balance shall be returned to the applicant.

- b. No water main line extension agreement shall provide for any refund to the installer thereof for all or any part of the cost thereof based upon taps thereto or usage therefrom, and no contribution to the cost thereof shall be made by the Borough except as provided in § 11.1.1c and except as provided by the following:
 - 1. Nothing herein contained is intended to limit the right of the Borough to make water main line extensions as a local improvement and assess the costs thereof against properties benefited thereby in accordance with N.J.S.A. 40A:31-13 and 14 where the application of such method of improvement shall be deemed fair, equitable and impartial as among all persons similarly circumstanced.
 - 2. Nothing herein contained is intended to limit the right of the Borough to make water main line extensions, with the cost thereof to be allocated or paid in whole or in part by a method other than as otherwise set forth in this subsection based upon supervening public interest, or to modify an established pattern of allocating the cost of water main line extensions where altered circumstances reasonably so dictate.

§ 11-2.6 Water reservation application and contract.
[Added 4-22-2019 by Ord. No. 2019-9]

- a. Applicability. Any applicant, with the consent of the property owner, within the service area of the Borough of Flemington water system, may apply to the Borough of Flemington Water Department for water reservation. An application for water reservation is required for any proposed project that will require the construction of a new water main extension for the service or any project that will generate an increase in demand, as determined in accordance with N.J.A.C. 7:10-12. If necessary, the applicant shall be responsible to extend the Borough's water main to the property and to construct other water system improvements as may be necessary to reliably serve the proposed development in accordance with the Borough's standards and any applicable water service agreement and any reasonable standards established by the Water Department's consulting engineer.
- b. Definitions. As used in this section, the following terms shall have the meanings indicated:

BOROUGH OF FLEMINGTON WATER SYSTEM SERVICE AREA

Shall be depicted on the water service area map maintained and periodically updated by the Borough of Flemington Water Department, showing all existing properties served, limits of existing water distribution system infrastructure, and surrounded by a service area boundary.

LARGE WATER PROJECT

Any project not fitting the definition of a "small water project" for which the water reservation requested is greater than 1,000 gallons per day or requires water system extension permits from the New Jersey Department of Environmental Protection.

PUBLIC WORKS COMMITTEE

Shall refer to two members of the governing body appointed by the Mayor whose responsibility shall be the supervision, management and control of the Flemington Water Department. Any decision of the Public Works Committee is subject to the review and approval of the Mayor and Council of the Borough of Flemington.

QUARTERLY LETTER OF WATER AVAILABILITY

The letter published by the Borough of Flemington Water Department which defines the amount of water available at the time of publication of the letter. Developers are advised that such quarterly letter of water availability is subject to the progress and volume of water reservation applications by other applicants as well as the variable nature of existing system demands and that they pursue their land use development and regulatory approvals needed to secure eligibility for water reservation application at their own risk. The Borough cannot and does not guaranty that the quantities of water set forth in the quarterly letter of water availability will exist in the future but will make its best efforts to produce those quantities subject to regulation and oversight by the New Jersey Department of Environment Protection (DEP), regulations of the water availability and other factors.

SMALL WATER PROJECT

Any project for which the water reservation amount requested is less than 1,000 gallons per day.

WATER RESERVATION

The binding commitment of the Flemington Water Department to provide potable water service in sufficient quality and quantity to a proposed project in accordance with applicable water system regulations and standards. Project-specific conditions may require the formulation and execution of a project-specific agreement addressing water supply and infrastructure improvements beyond that established by the water reservation ("water agreements"). A water reservation is valid for one year and can be renewed in accordance with the review and renewal procedures set forth herein.

WILL SERVE LETTERS

The ability for the Flemington Water Department to provide a nonbinding, written confirmation of water availability for a particular project located within the Flemington Water Department's service area. Said approval will only be provided if there is currently adequate capacity in the Borough's water supply systems based on a firm capacity calculation as defined by the NJDEP in N.J.A.C. 7:10-11.6(a), using a peak daily demand as defined herein and prescribed under N.J.A.C. 7:10-11.4(a)(7), as well as sufficient water allocation established by the NJDEP in its water allocation permits issued to the Borough of Flemington Water Department. The receipt of a will serve letter by an applicant does not preclude an applicant from applying for water reservation as indicated above.

- c. Application. The application for water reservation shall be on the forms prescribed by the Water Department, which shall include but not be limited to the following:
 - 1. The name and address of the applicant;
 - 2. The address of the property and the tax lot and block designation;

3. A description of the existing use of the property;
4. A description of the proposed use of the property and/or the type of building(s) to be constructed thereon;
5. An approved preliminary and/or final subdivision plan, site plan and/or any necessary variance approval, general development plan, zoning permit or redevelopment plan of the proposed project indicating the number of proposed lots and the proposed uses on each lot.
6. Proof of submission to the Council on Affordable Housing requesting substantive certification and/or an approved letter from the Council on Affordable Housing which provides substantive certification for municipally funded affordable housing projects, or a court-ordered final judgment of response as it relates to affordable housing within the municipality in question;
7. An estimate of the average daily water usage required by the proposed use of the property;
8. An estimate of the dates of anticipated water service connection and water meter installation to the Borough's water system;
9. An agreement by the applicant to abide by and accept all of the provisions of this chapter and such rules and regulations as may be promulgated by the Borough; and
10. Any additional information as may be required by the Water Department or its consulting engineer to assist in the processing of said application.

d. Application priority.

1. All applications for water reservation will be reviewed for completeness and, once deemed complete, assigned a water reservation number and forwarded for review based upon the order in which they were received by the Water Department Clerk. The priority in terms of allocating capacity shall be based upon the order in which water reservation applications are approved by the Public Works Committee, with the exception of affordable housing projects that are fully funded by the municipality and can provide proof of submission to the Council on Affordable Housing requesting substantive certification and/or written confirmation from the New Jersey Council on Affordable Housing (COAH) that their project has received substantive certification and/or a court-ordered final judgment of repose as it relates to affordable housing within the municipality in question. Projects that fall under this category shall receive priority and, if their application for water reservation is deemed complete, shall have their water immediately reserved so long as the other conditions in this section have been met. In the event a municipality has its substantive certification rescinded by COAH, or should it abandon the approved project, it will relinquish its rights to its approved water reservation, and said allocation will be available for future applicants.
2. Unless explicitly listed in this section or required by state or federal law, no other factors shall determine the priority of a water reservation.

e. Time limit.

1. From the date of issue, an approved water reservation shall require a contract prepared by the Borough of Flemington to be fully executed by and between the Borough and the applicant that, among other things, shall incorporate all the terms and conditions of this section. No approval of a water reservation shall be effective in the absence of the aforementioned fully executed contract. An approved water reservation shall be valid for a period of one year. Within 60 days of the expiration of the water reservation, the Water consulting engineer shall conduct a review of the water reservation and may request supplemental information from the applicant in order to establish the validity and currency of the water reservation. Applicants must maintain their eligibility for water reservation by conforming to the conditions of their applicable land use approvals, obtaining regulatory approvals and documenting the efforts taken to advance the proposed project. To extend the validity period of the approved water reservation, developers must establish that they have acted diligently and taken all reasonable steps to advance the development of the proposed project. They must demonstrate they have diligently pursued any required land use approvals, secured or diligently pursued any other necessary approvals from other agencies and acquired all necessary rights-of-way or easements. Developers may be required to show evidence they have met these goals to preserve their water reservation.
 2. The water reservation shall be void unless water service is actually extended to the subject property during the time period which the water reservation is valid. The water reservation may be renewed for longer periods at the discretion of the Public Works Committee to coincide with the expiration date of or an extension granted for a permit issued by NJDEP to construct/modify/operate public waterworks facilities relating to the subject project. The applicant must apply to the Public Works Committee for any such extensions in writing.
 3. In the event that the water service connection is not completed within the period set forth above, the water reservation shall expire if not renewed, and any portion of the water reservation for which connections have not been made will revert to the Borough for use in addressing other water reservation applications.
- f. Water reservation fee. A water reservation fee in an amount to be determined in accordance with the rules and regulations of the Water Department shall be paid to the Water Department at the time of application and at each renewal. Nonpayment of the water reservation fee will result in termination of the water reservation.
- g. Transfer of water reservations. Transfer of an approved water reservation is prohibited, with the exception of affordable housing projects located within the same municipality, provided that all interested parties consent. A water reservation within the Borough's water supply system shall not be traded, sold or otherwise reallocated by an applicant, unless the property identified in the water reservation is sold to a new owner, in which case the water reservation will run with the land to the extent necessary to affect the intent of the water reservation. Water reservations for any project on specific parcels of land shall not be assignable to any other project. In the event that a project is abandoned or the construction of the same does not utilize the entire water reservation granted to it, the unused allocation shall revert to the Borough and shall become available for water reservation in

accordance with the procedures set forth in this subsection. Should the scope of a project change and additional water allocation is required, the incremental increase in allocation requested shall be treated as a new water reservation application.

- h. Small project water reservation applications and contract.
 - 1. Application fee. An application fee, as provided in § 11.1.2, shall be submitted upon the filing of the application. Said fee shall be used by the Borough to cover the administrative costs associated with the review of the application.
 - 2. Application review. Applications for water reservation as defined above shall be reviewed by the Water Superintendent and/or Water Engineer, who in turn will provide a recommendation to the Public Works Committee. A water reservation, if approved by the Public Works Committee, shall be issued upon receipt of a fully executed contract prepared by the Borough of Flemington by and between the Borough and the applicant that, among other things, shall incorporate all the terms and conditions of this section. No water reservation shall be approved unless the Water Superintendent and/or Water Engineer determines that there is currently adequate capacity in the Borough's water supply systems based on a firm capacity calculation as defined by the NJDEP in N.J.A.C. 7:10-11.6(a), using a peak daily demand as defined herein and prescribed under N.J.A.C. 7:10-11.4(a)(7), as well as sufficient water allocation established by the NJDEP in its water allocation permits issued to the Borough of Flemington Water Department. No approval of a water reservation shall be effective in the absence of the aforementioned fully executed contract.
 - 3. Application determination. The Public Works Committee shall approve or deny the application within 30 business days of receipt of a complete application. The Borough reserves the right to extend the time for the rendering of the aforesaid decision for a period not to exceed five business days if additional time is required for processing said application. The failure of the Borough to render a decision within the aforesaid time period shall constitute a denial of the application without prejudice.
 - 4. Monthly report. The Water Superintendent or Engineer will prepare and submit a monthly report to the Water Department indicating the number and total estimated usage of approved small project water reservation applications.
- i. Requests for will serve letters for small projects.
 - 1. Request fee. A will serve letter request fee, as provided in § 11.1.2, shall be submitted upon the filing of the application. Said fee shall be used by the Borough to cover the professional and administrative costs associated with the review of the request.
 - 2. Request review. Requests for will serve letters as defined above shall be reviewed by the Water Superintendent and/or water engineer, who in turn will provide a recommendation to the Public Works Committee. A will serve letter shall be issued, provided that a determination is made that there is currently adequate capacity in the Borough's water supply systems based on a firm capacity calculation as defined by the NJDEP in N.J.A.C. 7:10-11.6(a), using a peak daily demand as defined herein and

prescribed under N.J.A.C. 7:10-11.4(a)(7), as well as sufficient water allocation established by the NJDEP in its water allocation permits issued to the Borough of Flemington Water Department.

3. Review determination. The Public Works Committee shall approve or deny the request within 30 business days of receipt of a complete application. The Borough reserves the right to extend the time for the rendering of the aforesaid decision for a period not to exceed five business days if additional time is required for processing said application. The failure of the Borough to render a decision within the aforesaid time period shall constitute a denial of the request without prejudice.
4. Expiration of will serve letter.
 - (a) All will serve letters will expire 90 days after the date of issuance by the Flemington Water Department. Upon expiration, the applicant relinquishes its rights to its approved "will serve," and said allocation will be available for future applicants.
 - (b) Upon written request by the applicant prior to the aforementioned expiration date, applicants can request said approval be extended. Applicants will be eligible for no more than three additional ninety-day extensions should they be requested. Under no circumstances will an applicant be granted additional extensions other than what is previously indicated above. Upon expiration of the requested extension(s), the applicant relinquishes its rights to its approved "will serve," and said allocation will be available for future applicants.
5. Extension request fee. A will serve letter extension request fee, as provided in § 11.1.2, shall be submitted upon the filing of the extension request. Said fee shall be used by the Borough to cover the professional and administrative costs associated with the review of the request.
- j. Large project water reservation applications and contract.
 1. Application fee. An application fee, as provided in § 11.1.2, shall be submitted upon the filing of the application. Said fee shall be used by the Borough to cover the administrative and professional consulting costs associated with the review of the application.
 2. Application review. Applications for water reservation for large projects shall require the approval of the Public Works Committee. The Public Works Committee's consulting engineer shall prepare and submit a report to the Public Works Committee concerning the nature of the allocation, the status of any required NJDEP applications, an evaluation of any required system improvements necessary to serve the project as well as an updated analysis of the water system's firm capacity and peak daily demand. Specifically, the Water consulting engineer shall evaluate the application against the Water Utility's available firm capacity and allocation limits as prescribed by regulations found at N.J.A.C. 7:10 and N.J.A.C. 7:19. The report shall also address technical details of the proposed project's service connection and water-related improvements, including but not limited to materials, equipment, regulations, easements, metering, etc. Applications will be recommended for approval when no physical, technical, financial or regulatory constraints prevent service to the proposed project.

3. Application determination.

- (a) The Public Works Committee shall approve or deny the application by resolution within 60 days of receipt of a complete application. The Public Works Committee reserves the right to extend the time for the rendering of the aforesaid decision for a period not to exceed 30 days if additional time is required for processing said application. The failure of the Borough to render a decision within the aforesaid time period shall constitute a denial of the application without prejudice.
 - (b) If an application is approved by the Public Works Committee, a formal resolution will be prepared by the Municipal Attorney authorizing the water reservation to the applicant. The resolution may contain such terms and conditions as are reasonably necessary to guarantee compliance with all federal, state, county and local statutes, rules, and regulations. In addition, the applicant shall be required to enter into a contract prepared by the Borough of Flemington to be fully executed by and between the Borough and the applicant that, among other things, shall incorporate all the terms and conditions of this Ordinance. No approval of a water reservation shall be effective in the absence of the aforementioned fully executed contract.
- k. Requests for "will serve" letters for large projects.
- 1. Request fee. A will serve letter request fee, as provided in § 11.1.2, ~~of \$250~~ shall be submitted upon the filing of the application. Said fee shall be used by the Borough to cover the professional and administrative costs associated with the review of the request.
 - 2. Request review. Requests for will serve letters as defined above shall be reviewed by the water engineer, who in turn will provide a recommendation to the Public Works Committee. A will serve letter shall be issued, provided that a determination is made that there is currently adequate capacity in the Borough's water supply systems based on a firm capacity calculation as defined by the NJDEP in N.J.A.C. 7:10-11.6(a), using a peak daily demand as defined herein and prescribed under N.J.A.C. 7:10-11.4(a)(7), as well as sufficient water allocation established by the NJDEP in its water allocation permits issued to the Borough of Flemington Water Department.
 - 3. Review determination. The Public Works Committee shall approve or deny the request within 60 business days of receipt of a request. The Borough reserves the right to extend the time for the rendering of the aforesaid decision for a period not to exceed 30 business days if additional time is required for processing said application. The failure of the Borough to render a decision within the aforesaid time period shall constitute a denial of the request without prejudice.
 - 4. Expiration of will serve letter.
 - (a) All will serve letters will expire 90 days after the date of issuance by the Flemington Water Department. Upon expiration, the applicant relinquishes its rights to its approved "will serve," and said allocation will be available for future applicants.
 - (b) Upon written request by the applicant prior to the aforementioned expiration date, applicants can request

said approval be extended. Applicants will be eligible for no more than three additional ninety-day extensions should they be requested. Under no circumstances will an applicant be granted additional extensions other than what is previously indicated above. Upon expiration of the requested extension(s), the applicant relinquishes its rights to its approved "will serve," and said allocation will be available for future applicants.

5. Extension request fee. A will serve letter extension request fee, as provided in § 11.1.2, shall be submitted upon the filing of the extension request. Said fee shall be used by the Borough to cover the professional and administrative costs associated with the review of the request.

§ 11-3 EMERGENCY WATER USE RESTRICTIONS.

§ 11-3.1 Purpose; Intent.

[Ord. 2008-6; Ord. No. 2015-6, Prior ordinance history includes portions of Ordinance Nos. 27-1993, 14-997 and 17-1999]

Protracted periods of high temperatures and limited rainfall may cause excessive demands upon public and private water systems in the Borough of Flemington. A temporary lack of sufficient water capacity may result in a lowering of the normal water levels of the sources of water supply to the Flemington Water Department. Excessive demands upon private water systems in the Borough may result in a lowering of the normal water levels of the sources of water supply to the Flemington Water Department. The excessive use of water during the spring, summer and fall months caused by sprinkling of lawns, filling of swimming pools, car washing and other similar use not related to the use of water for domestic and sanitary purposes and fire protection may cause a serious reduction in adequate pressure in the water distribution systems of the Flemington Water Department. In the interest of the health, safety and welfare of the inhabitants of the Borough of Flemington and those residents of Raritan Township supplied with water by the Flemington Water Department, it is necessary to take all reasonable precautions and measures promptly to conserve water and maintain such water pressure as is necessary for sanitary, domestic and firefighting purposes.

§ 11-3.2 Authorization to Declare Emergency.

[Ord. 2008-6; Ord. No. 2015-6]

In case of an emergency where the available supply of water becomes dangerously low, the Borough Council of the Borough of Flemington is hereby authorized to declare by resolution, the existence of a water emergency. The resolution (hereinafter referred to as the "declaration") adopted by the Borough Council, shall state that an emergency exists requiring the implementation of measures for the conservation of water for domestic, sanitary and fire protection purposes. The declaration of emergency shall specify whether the emergency is one requiring full curtailment or partial curtailment of nonessential water usage as defined in §§ **11-3.3** and **11-3.4**, respectively.

§ 11-3.3 Full Curtailment of Nonessential Water Use.

[Ord. 2008-6; Ord. No. 2015-6]

Full curtailment of nonessential "water use" shall mean an absolute prohibition of the use of water from private wells and the Flemington Water Department system for:

- a. The sprinkling, watering or irrigation of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers or any other vegetation;

- b. The washing of automobiles, trucks, trailers, or any other type of mobile equipment, except in commercial car wash establishments;
- c. The washing of sidewalks, walkways, driveways, porches and other outdoor surfaces;
- d. The washing of the outside of dwellings; the washing of the inside and outside of office buildings;
- e. The washing and cleaning of any business or industrial equipment and machinery;
- f. The operation of any ornamental fountain or other structure making a similar use of water; and
- g. The filling of swimming and wading pools except bona fide public and club pools.

§ 11-3.4 Partial Curtailment of Nonessential Water Use.
[Ord. 2008-6; Ord. No. 2015-6]

Partial curtailment of nonessential water use shall mean the prohibition of the use of water from private wells and the Flemington Water Department system for all uses described in paragraphs a through g of § **11-3.3** except that such uses are permitted in accordance with the following zone schedule:

- a. Zone 1: All properties west of Main Street, North Main Street and South Main Street:

Tuesday night from 7:00 p.m. to Wednesday morning at 7:00 a.m.; and, Friday night from 7:00 p.m. to Saturday morning at 7:00 a.m.

- b. Zone 2: All properties east of Main Street, North Main Street and South Main Street:

Wednesday night from 7:00 p.m. to Thursday morning at 7:00 a.m.; and,

Saturday night from 7:00 p.m. to Sunday morning at 7:00 a.m.

The occurrence of a holiday on a permitted day in a particular zone or on nonpermitted days shall not affect the schedule established herein.

§ 11-3.5 Publication and Posting of Declaration.
[Ord. 2008-6; Ord. No. 2015-6]

Immediately following the passage of any emergency declaration hereinabove described, copies of the declaration shall be published in a newspaper circulated in the Borough of Flemington and posted in Borough Hall.

§ 11-3.6 Effect of Declaration.
[Ord. 2008-6; Ord. No. 2015-6]

The declaration of any emergency shall be conclusive of the fact of the existence of such emergency and shall be binding upon all persons upon the filing of the same in the office of the Borough Clerk and the publication and posting thereof as provided in § **11-3.5**.

§ 11-3.7 Termination of Declaration.
[Ord. 2008-6; Ord. No. 2015-6]

The declaration of emergency shall continue in full force and effect, except as amended, until terminated by a resolution of termination adopted by the Borough Council. Immediately following the passage of any resolution of termination, copies thereof shall be published in a newspaper circulated in the Borough of Flemington and posted in Borough Hall.

§ 11-3.8 Inspections.

[Ord. 2008-6; Ord. No. 2015-6]

During a declared water emergency, all premises receiving water from private wells and from the Flemington Water Department system shall be subject to inspection between sunrise and sunset by Flemington Water Department employees or any other person duly authorized and appointed by the Borough Council to perform inspections to oversee compliance during the water emergency. It shall be a violation of this subsection for any person to hinder, obstruct, delay, resist or prevent any such inspection as is described herein. Nothing herein shall be deemed to limit the power of the police department of the Borough of Flemington to conduct a search of any premises at any time when it has probable cause to believe that a violation of this section has been committed.

§ 11-3.9 Use of Water During Emergency to Be a Violation.

[Ord. 2008-6; Ord. No. 2015-6]

It shall be a violation of this section for any person to use water from a private well or the Flemington Water Department system at any time during a water emergency in a manner prohibited by any declaration issued pursuant to this section. The Water Superintendent, Public Works Supervisor, or their designee shall request the Flemington Borough Police, the Code Enforcement Official or Employee of the Flemington Water Department to issue (1) written warning to the property owner. If the property owner fails to comply the property owner shall be fined \$1,000.00 per occurrence.

§ 11-3.10 Continuing Use Deemed Health Hazard; Notice of Violation; Abatement of Hazard.

[Ord. 2008-6; Ord. No. 2015-6]

In the event that there is on any premises a continuing usage of water from a private well or the Flemington Water Department system by any person in a manner prohibited by any declaration issued pursuant to this section, such continuing usage is hereby declared to be a health hazard. The owner, occupant and/or operator of the premises whereon the violation is occurring shall be served with written notice of the violation by the delivery to any such owner, occupant and/or operator or the agent or employee of any of the same actually on the premises. If no such person is present, the notice shall be posted on the premises. If, after the passage of one hour from the delivery or posting of such notice, the health hazard has not been abated, any employee of the Borough of Flemington or Flemington Water Department is hereby authorized to enter upon the premises to abate the health hazard. Thereafter, the Borough of Flemington or the Flemington Water Department, as the case may be, shall assess the costs of such abatement against the owner, operator and/or occupant of the premises.

§ 11-3.11 Violations.

[Ord. 2008-6; Ord. No. 2015-6; amended 4-22-2019 by Ord. No. 2019-9]

The Public Works Director of the Borough of Flemington, the Water Superintendent or their designee shall have the authority to enforce the provisions of this chapter by the discontinuance of water service for failure

to pay any amount owing within 30 days after the date the amount is due and payable while under an Emergency Water Curtailment order, if written notice of the proposed discontinuance of service and of the reasons therefor has been given, within at least 10 days prior to the date of discontinuance, to the owner of record of the property in accordance with N.J.S.A. 40A:31-13. In the event that notice is provided by mail, the notice requirements shall be satisfied if the mailing is made to the last known address of the owner of record and is postmarked at least 10 days prior to the date of discontinuance. If water service is discontinued for a violation of this chapter, the fee to have the service resumed shall be equal to the fees as provided in § 11.1.2 for non-payment.

§ 11-3.12 Separate Violations.

[Ord. 2008-6; Ord. No. 2015-6]

Each and every day in which a violation of any provision of this section exists shall constitute a separate violation.

§ 11-3.13 Severability.

[Ord. 2008-6; Ord. No. 2015-6]

If any subsection or paragraph of this section is declared to be unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such subsection or paragraph shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining subsections or paragraphs of this section.

§ 11-3.14 Field Service Charges.

[Ord. 2008-6; Ord. No. 2015-6; Ord. No. 2017-7]

In the event that the Borough needs to make a repair to a leak for a customer or for a contractor the fees established at § 11.1.2 will apply.

§ 11-3.15 Line Stopping Fee.

[Ord. 2008-6; Ord. No. 2015-6; Ord. No. 2017-7]

If a contractor breaks or damages a Borough water main and/or halts water service to any home or business, or to a private water service that causes detriment to the entire Borough Water system, the Borough Water Department or a qualified contractor hired by the Borough Water Department, shall repair the break and bill the contractor or responsible party causing the break for the cost of these repairs, plus an administration fee, which fee shall be based upon the time expended at rates established in the collective bargaining agreement in place at the time services are rendered.

§ 11-3.16 Inspections and Calibrations.

[Ord. 2008-6; Ord. No. 2015-6; Ord. No. 2017-7]

- a. Inspections on Sale of Property: The Borough shall have the right to enter homes and/or businesses to inspect for meters that may have been altered or damaged and to verify that all meters are up to date and read outs are accurate. Fee \$30.00/inspection.

- b. Calibrations: With appointment, the Flemington Water Department can enter a building to calibrate a water meter. If access is not granted, water service will be shut off. § 11-3.17 Irrigation Charges.

[Ord. 2008-6; Ord. No. 2015-6; Ord. No. 2016-14; Ord. No. 2017-7; amended 4-22-2019 by Ord. No. 2019-9]

Irrigation Definition: Anyone that has a buried lawn water device shall be required to have a separate meter and shall be charged at the following rate:

- a. From 0 to 5,000 gallons used during quarter: \$5.00 per 1,000 gallons.
- b. From 5,001 to 19,000 gallons used during quarter: \$6.50 per 1,000 gallons.
- c. From 19,001 to 49,000 gallons used during quarter: \$8.00 per 1,000 gallons.
- d. From 49,001 to 99,000 gallons used during quarter: \$8.75 per 1,000 gallons.
- e. From 99,001 to 599,000 gallons used during quarter: \$9.50 per 1,000 gallons.
- f. From 599,001 to 999,000 gallons used during quarter: \$10.25 per 1,000 gallons.
- g. From 999,001 and above gallons used during the quarter: \$10.75 per 1,000 gallons.

§ 11-3A OUTDOOR LANDSCAPE WATER CONSERVATION.

§ 11-3A.1 Outdoor Landscape Water Use Restrictions.

Restrictions on outdoor landscape water use apply to all customers of the Flemington Water Department unless expressly exempted in § 11-3A.5. Exemptions. Such water use shall conform to the following outdoor landscape water use restrictions:

- a. Lawn watering with a hose or hose-end sprinkler.
 - 1. Such watering may be performed on Tuesdays and Thursdays only, between the hours of 6:00 a.m. and 9:00 a.m. or between 5:00 p.m. and 8:00 p.m.;
 - 2. The watering of any single area shall not exceed 30 minutes per day;
 - 3. Flowers, shrubs and vegetables may be watered as needed with a hand-held hose equipped with an automatic shut-off nozzle;
 - 4. No hose or hose-end watering shall be permitted when it is raining.
- b. Irrigating lawns and landscapes with automatic irrigation systems equipped with a conventional irrigation controller (this includes all systems that do not have a "SMART" controller as defined in § 11-3A.1c).
 - 1. Such water may be performed only on Tuesdays and Thursdays, between the hours of 6:00 a.m. and 9:00 a.m., or between 5:00 p.m. and 8:00 p.m.;

2. Operation of any irrigation zone equipped with spray (mist) heads shall not exceed 15 minutes per zone. Operation of any irrigation zone equipped with rotary sprinkler heads shall not exceed 30 minutes per zone.
- c. Irrigation with systems equipped with a SMART controller.
 1. To qualify for this provision, the SMART controller must have met the minimum requirements of IA-SWAT protocol testing. Lists of climate-based and sensor based controllers that have successfully completed the protocol testing can be found at <http://www.irrigation.org/SWAT/Industry/ia-tested.asp>.
 2. The property owner must register the SMART controller with the municipality, which shall then issue the property owner a yard placard that must be displayed to signify that the property is irrigated with a SMART controller.
 3. The SMART controller must be programmed by an EPA WaterSense Partner who holds a New Jersey Landscape Irrigation Contractor Certificate pursuant to N.J.S.A. 45:5AA-3.
 - (a) The SMART controller must be programmed to irrigate on Tuesdays and Thursdays only, between the hours of 6:00 a.m. and 9:00 a.m., or 5:00 p.m. and 8:00 p.m.;
 - (b) Proper sprinkler head data and accurate soil/plant/irrigation information must be entered;
 - (c) The SMART controller programming data shall be posted at the controller;
 - (d) The WaterSense Partner must make a minimum of two site visits after the initial programming to adjust and fine-tune the irrigation schedule.
- d. Irrigation systems programmed and monitored by an irrigation manager.
 1. The property owner must designate a qualified person as the irrigation manager and register that person and his/her defining qualifications with the municipality, which shall then issue the property owner a yard placard that the owner must display signifying that the property is irrigated by an irrigation manager.
 2. The irrigation manager must be an EPA WaterSense Partner or show evidence of successfully completing one of the approved courses listed below:
 - (a) Rutgers University Continuing Education Course, Irrigation Systems: Scheduling;
 - (b) Irrigation Association's online course, Landscape Irrigation Scheduling;
 - (c) A comparable course offered by a recognized continuing education facility or professional association.
 3. A property-specific irrigation program shall be developed by the irrigation manager based on plant variety, soil type, exposure, slope, precipitation rate, and irrigation efficiency.

4. Weekly adjustments shall be made to the irrigation schedule based on current evapotranspiration (ET) rates or weather conditions.
 5. If it is found that an irrigation manager does not follow any of the terms prescribed in this subsection, they may be disqualified from acting as a properties irrigation manager.
- e. Provisions applicable to all automatic irrigation systems.
1. Such systems shall be equipped with an operational automatic rain sensor device that disables the system when a predetermined amount of rainfall has occurred. Each rain sensor device shall be capable of and programmed to interrupt the automatic irrigation cycle when 1/4 inch of rain has fallen.
 2. Any work performed on a system as a result of any inspection made by the homeowner or a professional must be in compliance with the Landscape Irrigation Contractor Certification Act of 1991 (N.J.S.A. 45:5AA-3).
 3. Flowers and shrubs irrigated with drip or micro irrigation may be watered on Tuesdays and Thursdays only, between the hours of 6:00 a.m. and 9:00 a.m. or 5:00 p.m. and 8:00 p.m.
- f. All new irrigation systems must comply with the following:
1. The system must be installed by an EPA WaterSense Partner who holds a New Jersey Landscape Irrigation Contractor Certificate pursuant to N.J.S.A. 45:5AA-3.
 2. New Jersey Irrigation Best Management Design Practices, as listed below, must be followed, which require:
 - (a) Designing a system that insures sufficient operating pressure at the sprinkler head;
 - (b) Dividing irrigated areas into hydro-zones of turf and plants with similar water requirements;
 - (c) Creating zoning systems according to exposure;
 - (d) Considering the soil type so the sprinkler irrigation precipitation rate is compatible with the soil infiltration rate or dividing the zone runtimes into multiple short cycles;
 - (e) Providing separate control of sloped areas;
 - (f) Preventing sprinkler heads from overthrowing onto driveways, roads, and sidewalks;
 - (g) Providing for separate irrigation for parkway strips between curbs and sidewalks that minimizes overthrow onto walks, pavement, and other impervious surfaces;
 - (h) Using pressure regulating technology as necessary to ensure sprinkler heads operate within the manufacturer's recommended range. The pressure regulation may be:

- (1) A pressure regulation device at the point of connection;
 - (2) Pressure regulation at each remote control valve;
 - (3) Pressure regulation at the sprinkler head;
 - (4) A combination of the above.
- (i) Irrigating all flowers and shrubs with drip and/or micro-irrigation;
 - (j) Including check valves in low sprinkler heads to prevent low-point drainage;
 - (k) Having a pressure regulating device and wye strainer on each drip/micro control valve.
3. The system must have a SMART controller capable of estimating or measuring depletion of available plant soil moisture and operating the irrigation system only to replenish the water as needed while minimizing excess water use.
 - (a) The SMART controller must have undergone SWAT testing and be listed on the Irrigation Association website www.swatirrigation.org;
 - (b) The SMART controller must be programmed by an EPA WaterSense Partner who holds a New Jersey Landscape Irrigation Contractor Certificate pursuant to N.J.S.A. 45:5AA-3.
- (1) Proper sprinkler head data and accurate soil/plant/irrigation information must be entered;
 - (2) The SMART controller programming data shall be posted at the controller;
 - (3) The WaterSense partner must make a minimum of two site visits after the initial programming to adjust and fine-tune the irrigation schedule.
- g. Upon a Declaration of Water Emergency by the Borough governing body, additional restrictions may be imposed and shall supersede the restrictions in this section.
 - h. State of New Jersey requirements shall supersede those identified in this section in all cases in which the State requirement is more stringent.

§ 11-3A.2 **Violations.**

- a. Violations of § 11-3A include knowingly or recklessly watering or irrigating or permitting irrigation of lawn or landscape on owned, leased, or managed property that results in the following:
 1. Watering during any form of precipitation;
 2. Water leaking from any irrigation equipment;
 3. Water puddling on landscape or impervious surfaces;

4. Water run-off from irrigated property;
 5. Irrigating on days not permitted in this section;
 6. Irrigating at hours not permitted in this section.
- b. Violators of these guidelines and requirements are subject to fines and penalties as described in § 11-3A.4, Penalties.
 - c. All water users in the Borough of Flemington are responsible for preventing the above-referenced violations.

§ 11-3A.3 Enforcement of Water Conservation Guidelines.

The water use restrictions and automatic rain sensor requirement imposed pursuant to this section shall be enforced by Flemington Water Department staff. Whenever a staff member shall find a violation of the water use restrictions such authorized official shall issue a written warning and explain the penalties for a second and third offense, as provided in § 11-3A.4. The staff member shall keep such records as may be reasonable and necessary for the purpose of determining the persons and businesses that have been warned upon a first offense. The staff member is hereby empowered to write summons for the violation of the water use restrictions imposed pursuant to this section.

§ 11-3A.4 Penalties.

After a warning for a first offense in accordance with § 11-3A.3 above, any person or business that thereafter violates the water use restrictions imposed pursuant to this section shall be subject to the penalty provisions provided in § **11-3**, Emergency Water Use Restrictions.

§ 11-3A.5 Exemptions.

The restrictions outlined in § 11-3A do not apply to the following:

- a. Outdoor water use from rain water harvesting, gray water, or reclaimed water are exempt from the provisions of the section. Use of gray or reclaimed water must have an approved NJPDES permit issued through the NJDEP.
- b. Outdoor water use for commercial farms producing harvestable crops, commercial nurseries, sod farms and golf courses are exempt from the provisions of the section.
- c. Outdoor irrigation necessary for one day only where treatment with an application of chemicals require immediate watering to preserve an existing landscape or to establish a new landscape, which shall be scheduled through the Flemington Water Department.
- d. Outdoor irrigation necessary for the establishment of newly sodded lawns or landscaping within the first 21 consecutive days of planting, which shall be scheduled through the Flemington Water Department.
- e. Visually supervised operation of an irrigation system by a person in compliance with the New Jersey Landscape Irrigation Contractor Certification Act of 1991 (N.J.S.A. 45:5AA-1) and at the minimum rate necessary in order to check system condition and effectiveness, which shall be scheduled through the

Flemington Water Department.

§ 11-3B (**RESERVED**)

§ 11-4 **SEWER FEES AND RULES AND REGULATIONS.**

Prior ordinances codified in this § **11-4** include Ordinance Nos. 2-1973, 4-1973, 5-1973, 6-1973, 2-1974, 8-1979, 29-1979, 2-1982, 2-1986, 4-1988. Ord. No. 2017-7 deleted material previously codified in subsections 11-3B.1 through 11-3B.16. Prior history includes Ord. No. 2012-7. This § 11-4 as adopted by Ordinance No. 2-1989 became effective January 1, 1989.

§ 11-4.1 **Definitions.**

Definitions of words and phrases as used in this section shall be as follows:

- a. A sewer rental unit sometimes hereinafter referred to as "unit," shall be considered to be the equivalent of a flow of 300 gallons of effluent per day.
- b. The word employee used herein, shall include proprietors and part-time employees.
- c. B.O.D. denoting biochemical oxygen demand, shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under laboratory procedure in five days at 20 degrees C, expressed in parts per million, ppm, by weight.
- d. R.T.M.U.A- shall mean Raritan Township Municipal Utilities Authority.
- e. The words sanitary sewer utility system shall mean the Borough of Flemington Sewer Utility System.
- f. The word Borough shall mean Borough of Flemington.
- g. The word meter shall mean a device which measures and indicates a flow rate of sewerage or water.

§ 11-4.2 **Prohibitions.**

[Ord. 14-1997, S 2]

- a. Prohibitions.
 1. Within the service area, it shall be unlawful for any person to place, deposit, or permit to be deposited, in an unsanitary manner upon public or private property, any human or animal excrement, garbage, or other objectionable waste.
 2. Within the service area, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, package plant, or other facility intended for, or used for, the disposal of sewage or wastewater.
- b. Connection and use of public sewers required.
 1. The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the service area and abutting on any street, alley or right-of-way in which there is now located, or may, in the future be located, a public sanitary sewer of the Borough of

Flemington, are hereby required, at the owner's expense, to install suitable toilet facilities therein and to connect such facilities directly with the public sewer in accordance with the provisions of this section within 120 days after the date of official notice to do so. No connection shall be made to the system trunk unless authorized in writing by the administrative authority and a permit has been issued therefor.

- c. Abandonment of private facilities. At such time as the public sewer becomes available to a property and a connection is made to the sewer, any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled within 180 days with a suitable material approved by the Hunterdon County Board of Health.

§ 11-4.3 Permit and Fee Required for Sewer Connection.

[Ord. 2-1989, S 2; Ord. 3-1989, SS 1, 3; Ord. 18-1995, S 1; Ord. 19-1995, S 1; Ord. 14-1997, S 1; Ord. 2004-23; Ord. 2005-32, S 1; Ord. No. 2015-22; Ord. No. 2016-14]

- a. No person shall make connection to the sanitary sewer utility system without first completing a Flemington Water & Sewer allocation Form A and obtaining a will serve letter from Flemington Sewer Utility.
- b. All applications for sewer service shall be made by the owner or owners representative of the property on Flemington Water & Sewer Allocation Form A. Form A to be furnished by the Sewer Department and shall state fully all uses to which the sewer is to be applied, and should it subsequently be required for other purposes, notice shall be given by the owner before any change is made.

<u>Allocation Form A Fee</u>	<u>Rate</u>	
Form A review small project	\$250	
Form A review large project (TWA)	\$1,500	
<u>Will Serve Fee</u>		<u>Will Serve Extension Fee</u>
Will serve letter small project	\$100	\$50
Will serve letter large project (TWA)	\$250	\$125

- c. Connection fees.

A connection fee of \$5,000.00 shall be charged and collected for each equivalent unit as set forth in schedule of units in § 11-4.4 or pursuant to the NJDEP Regulation N.J.A.C. 7:14A-23 for each property located within the Borough of Flemington. Each application will be reviewed and considered by the Sewer Superintendent in conjunction with the Borough Engineer to determine which schedule of units is most applicable. Said payment being due and payable in advance to the Borough of Flemington Sewer Utility System before the time the connection or tie-in is made. The amount of the connection fee shall be recomputed by the Borough at the beginning of each calendar year in accordance with N.J.S.A. 40:14A-8. Notwithstanding the previous

sentences, for purposes of calculating the connection fee, the equivalent units for commercial or professional establishments (including government offices) as described in § 11-4.4a,7, shall be the quotient of one-tenth of the gross square footage divided by 300, and rounded to the next highest equivalent unit. For purposes of calculating the connection fee or age restricted housing units the equivalent units shall be the quotient of the anticipated wastewater flow, as calculated in accordance with New Jersey Department of Environmental Protection (NJDEP) flow criteria, divided by 300, and rounded to the next highest equivalent unit. The anticipated wastewater flow shall be the product of the number of each type of unit times the appropriate flow criteria. The number of equivalent units is thereafter multiplied by the connection fee for sewer connection to establish the connection fee.

- d. The flow from a multi-unit building may be aggregated for the purpose of determining a connection fee.

e. Additional Connection Fee for Material Increase

- i. For a property connected to the sewerage system for less than 20 years, the Borough shall charge an additional connection fee for an addition, alteration, or change in use that materially increases the level of use and imposes a greater demand on the sewerage system, but does not involve a new physical connection of the property to the sewerage system.
- ii. The connection fee authorized by subsection (i) of this section shall be equal to the amount by which the increased use and demand on the sewerage system exceeds the use and demand that existed prior to such addition, alteration, or change in use.
- iii. Nothing in this section shall be construed to preclude the Borough from charging a new or additional connection or tapping fee for any new or additional connection of a property to the sewerage system, or for any increase in the size of an existing connection or for any new construction of additional service units connected to the sewerage system that materially increases the level of use or demand on the sewerage system.
- iv. As used in this section, “materially increases” means any increase in the number of service units; or any other change which increases the level of use or demand on the sewerage system by 15 percent or more over the highest actual annual use and demand that existed during the prior 10-year period immediately preceding the addition, alteration, or change in use; provided, however, that, if the property has been connected to the sewerage system for less than 10 years, the average level of use and demand shall be calculated based on the actual period of connection.

f. Credits

- i. The Borough shall provide a credit applicable toward a connection fee to be charged for a reconnection of a disconnected property that was previously connected to the sewerage system, provided that:
 - (a) the property has been connected to the sewerage system for at least 20 years;
and

(b) service charges have been paid for the property in at least one of the last five years.

ii. The credit required under subsection (i) of this section shall be calculated as follows:

(a) If the reconnection does not require any new physical connection or does not increase the nature or size of the service or the number of services units, or does not expand the use of the sewerage system, the credit shall be equal in amount to the new connection fee.

(b) If the reconnection requires a new physical connection, increases the nature or size of the service or the number of service units, or expands the use of the sewerage system, the credit shall be equal in amount to any connection fee previously paid for the property, and the Borough shall charge the difference between the credit and the connection fee for the new use or class.

(c) If no connection fee was ever paid for the property, but all service charges due and owing on the property have been paid for at least 20 years, the credit shall be equal in amount to the new connection fee; provided, however, that any charges due and owing pursuant to paragraph (b) of this subsection shall be paid.

(d) If no connection fee was ever paid for a disconnected property that is to be reconnected and which was previously connected to the sewerage system for at least 20 years and all service charges due and owing on the property have not been paid for at least 20 years, the Borough shall charge, in addition to any charges due and owing pursuant to sub-section (b), a connection fee equal to the lesser of:

(i) 20 percent of the service charges that would have been paid based upon the usage for the last full year that the property was connected to the sewerage system for the period from the date of the disconnection from the sewerage system to the date of the new connection; or

(ii) the new connection fee.

iii. A credit shall not be allowed under this section for a property that has been disconnected from the sewerage system for more than five years.

iv. As used in this section, “disconnected property” means a property that has been physically disconnected from the sewerage system or a property not physically disconnected but to which service has been discontinued without payments being made. A “disconnected property” shall not include a property that has been temporarily disconnected from the sewerage system or to which service has been discontinued without payments being made for less than 12 consecutive months and is being reconnected as it existed, prior to the temporary disconnection or discontinuance of service.

g. Affordable Housing Projects

i. With respect to the construction of affordable housing projects, including any affordable housing units in inclusionary projects, a 50% reduction in the connection

fee shall be applied to new connections to the Borough sewerage system. This reduction shall only apply to affordable housing units and shall not apply to market rate housing.

- ii. For units previously connected to the Borough's system that were demolished or refurbished to allow for new affordable housing units and for which a connection fee was previously paid, a credit against the connection fee to be assessed for connection with the sewerage system shall be applicable to any affordable housing units, including affordable housing units in inclusionary projects. The credit shall be the connection fee previously assessed and paid for connection with the sewerage system for units previously connected to the Borough's system.
- iii. The connection fee assessable against an affordable housing owner, for units previously connected to the Borough's system that were demolished or refurbished to allow for new affordable housing units, including affordable housing units in inclusionary projects, shall be the lesser of the reduced rate provided for in subsection (i) of this section, or the current non-reduced rate applicable to other types of housing developments minus the credit provided under subsection (ii) of this section for units for which a connection fee or tapping fee was previously paid, provided that said affordable housing owner can establish the connection fee or tapping fee was previously assessed and paid for connection with the system. If the same cannot be established, the reduced rate provided for in subsection (i) of this section shall be assessed.

- h. It shall be the responsibility of the person making application for a sewer connection permit to provide sufficient information for the Borough to determine the number of equivalent units or credits that are proposed for connection. Costs incurred by the Borough, including its professionals, in determining the connection fee shall also be the responsibility of the person making application for a sewer connection through the establishment of an escrow account.

§ 11-4.4 Sewer Charges.

[Ord. No. 2013-4; Ord. No. 2015-7; Ord. No. 2016-14; amended 4-22-2019 by Ord. No. 2019-9]

- a. Sewer charges shall be made by the Borough of Flemington Sewer Utility System to the owners of real property upon which buildings stand in the Borough at the sanitary sewer rental or as outlined in the chart below:

	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>
Annual fee per unit	450.00	465.00	480.00	495.00	510.00	525.0
Usage per 1,000 gal	2.50	2.65	2.80	2.95	3.10	3.25

All rates to be in effect on Jan 15 of the above year.

- 1. Single family dwelling 1 unit

2.	Multiple family dwellings (2 or more) per dwelling	1 unit
3.	Boarder's room in a single or multi-family residential dwelling, per room	1/2 unit
4.	Boarding house, per person	1/2 unit
5.	Hotel or motel, per room	1/2 unit
6.	Restaurant with bar	5 units Plus 1 unit for every 10 seats
7.	Commercial or professional establishment (including government offices):	
	With 3 or less employees	1 unit
	4 to 8 employees	2 units
	9 to 12 employees	3 units
	13 to 16 employees	4 units
	Each additional 4 employees over 16	1 unit
8.	Laundromat, per washing machine	1 1/4 units
9.	Church	1 unit
10.	Church with kitchen	2 units
11.	Schools	1/12 unit Per student plus 1 unit for each 4 employees
12.	Automatic-drive-through car wash	10 units
13.	Manual self-service car wash, per bay	2 units
14.	Service station	1 1/4 units
15.	Tavern	5 units
16.	Club	1 unit
17.	Club with bar	5 units
18.	Restaurant, per 10 seats	1 unit
19.	Movie theater, per seat	1/70 unit
20.	Professional office with residential dwelling	1 unit
21.	Industrial user, per 4 employees (or metered and sampling basis)	1 unit
22.	Jail	40 units
23.	Fairgrounds	60 units
24.	Public restrooms (or metered and sampling basis)	7 units

If the above schedule results in a fractional unit for the project, the number of units shall be increased to the nearest whole unit.

Users with private wells shall pay the fixed cost for operations and capital costs of the Borough of Flemington Sewer Utility System, plus the calculated amount of 60,000 annual gallons of variable cost charges.

- b. All charges for service shall be billed quarterly in accordance with the schedule set up by the Borough of Flemington Sewer Utility System, copies of which are available at the Office of the Sewer Utility System, Borough Hall, 38 Park Avenue, Flemington New Jersey. Such sewer charges are based upon estimated annual operating and capital costs due and owing to R.T.M.U.A. and the operation and capital costs of the Borough of Flemington Sewer Utility System, and may be increased a maximum of two percent per year hereafter.
- c. Should any bill or part thereof rendered for sewer usage remain unpaid for a period of ten days, said bill

or part thereof shall be considered delinquent and subject to payment of interest at the prevailing rate fixed for interest on delinquent real estate taxes from the due date until such time as the bill is paid in full. Charges for use of sewers shall be a lien upon the premises connected until paid and be collectible, together with interest, costs and penalties in the same manner provided by law for the collection of taxes upon real estate.

- d. Where premises or a building are occupied by more than one use set forth in § 11-4.4 hereof, or by a combination of such uses, the charge will be determined by applying the aforesaid rates to each use.
- e. With respect to charges for properties which shall be connected for the first time with the sewer utility system from and after the effective date of this section, the charge for the first quarterly billing period shall be a percentage of the fixed cost charge hereinabove set forth, equal to the percentage of the quarterly period remaining after such connection. The following quarterly bill will include the variable charge based on the actual water usage during the initial connection quarter.
- f. All senior citizens, disabled persons or surviving spouses that meet the requirements set forth in N.J.S.A 54:4-8.40 et seq., shall qualify for a 10% reduction on the annual fee per unit outlined in section a.

§ 11-4.5 Right of Inspection.

[Ord. 2-1989, S 4.; Ord. 14-1997, S 1]

The officers, agents and employees of the Borough of Flemington, the Borough of Flemington Sewer Utility System and the R.T.M.U.A. shall have unrestricted access at reasonable hours to all premises served by the Borough of Flemington Sewer Utility System to inspect the collection system and to see that the requirements regarding the use of the customer's sewer connection are being observed. Additionally, any owner of property which discharges industrial waste into the sewer utility system shall, at the owner's expense, provide suitable facilities to enable samples of such wastes to be collected for analysis and further permit the authorized representatives above-named to collect such samples from users within the Borough.

§ 11-4.6 Damage to Property.

[Ord. 2-1989, S 5; Ord. 14-1997, S 1]

Any damage to pipes, manholes, treatment facilities, appurtenances or any other property of the Borough, the Borough of Flemington Sewer Utility System or R.T.M.U.A. caused by the carelessness or neglect or noncompliance with any applicable rule or regulation herein or otherwise established pursuant to law shall be paid for by the customer, upon demand, upon presentation of a bill therefor.

§ 11-4.7 Prohibited Discharge.

Under no circumstances will any of the following be discharged, directly or indirectly, into the sanitary sewer utility system:

- a. Stream, storm, roof, surface, subsurface or other water.
- b. Any toxic substances, such as gasoline, benzene, naphtha, fuel oil or other inflammable or explosive liquid, solid or gas.
- c. Any liquid having a temperature higher than 150 degrees F.

- d. Any liquid containing more than 100 ppm of fat, oil or grease, or matter containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood or paunch manure.
- e. Any solid or viscous substance capable of causing obstructions or other interference with the proper operation of the sewage treatment plant or sewage collector system.
- f. Any liquid having a pH as determined by the engineers for the Borough, the sewer utility system or R.T.M.U.A. lower than 6.0 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel, or material which would be harmful to the treatment of sewage.
- g. Ground garbage, except the residue from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely in suspension under flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- h. Water produced from any air conditioner or air cooling process, device or machine.
- i. Any liquid from a restaurant or commercial food handling establishment which does not have properly installed and functioning grease interceptors as provided by Chapter VI of the National Standard Plumbing Code.

§ 11-4.8 Right to Install Meters.

The Borough of Flemington Sewer Utility System reserves the right, if, in its opinion, it is deemed desirable, to require the installation of meters on any premises or buildings in the Borough for measuring or determining the volume of water and sewage and to bill for sewer service based on flow reflected by such meter, as opposed to billing on the unit charge set forth in § **11-4.4** hereof.

§ 11-4.9 Grease Interceptors.

Every restaurant and commercial food handling establishment in the Borough shall install and keep in proper operating condition grease interceptors provided for in Chapter VI of the National Standard Plumbing Code a copy of which is on file in the Office of the Borough Clerk, 38 Park Avenue, Flemington, New Jersey.

§ 11-4.10 Assumption of Contractual and Financial Rights and Responsibilities.

- a. The Borough of Flemington Sewer Utility System assumes the obligation to perform all actions required to be performed by the Borough, including the obligation to pay all sums when and if required to be paid by the Borough as set forth in the following contracts:
 1. Contract between R.T.M.U.A. and the Borough dated ~~April 8, 1970, September 15, 1977 and February 26, 1988~~ copies August 27, 2013 of which ~~are~~ is on file in the office of the Borough Clerk and available for inspection;
 2. Contract between Insituform-Metropolitan and the Borough dated August 17, 1988 in the amount of \$804,422.75 for investigation and rehabilitation of portions of the sewer utility system; and
 3. All other contracts not herein specifically set forth presently existing to which the Borough is party, the subject matters of which pertain exclusively to the construction, operation and maintenance of the sewer

utility system.

The Borough of Flemington Sewer Utility System shall succeed to all of the Borough's rights and privileges set forth in the above contracts.

- b. The Borough of Flemington Sewer Utility System assumes the obligation to pay on behalf of the Borough all sums appropriated pursuant to the following bond ordinances including, but not limited to, principal and interest on bonds and bond anticipation notes, when and if issued, expenses permitted in N.J.S.A. 40A:2-20 etc.:
 1. Ordinance 5-1988 entitled "Bond Ordinance Providing for the Investigation and Rehabilitation of Sewer Pipe and Diameter Pipe of the Sewer System in the Borough of Flemington, County of Hunterdon, State of New Jersey, Appropriating \$900,000.00. Therefor and Authorizing the Issuance of \$855,000.00 Bonds or Notes of the Borough for Financing Part of the Cost Thereof," introduced March 14, 1988 and adopted March 28, 1988, a copy of which is on file and available for inspection in the office of the Borough Clerk; and
 2. Ordinances 11-1988 entitled "Bond Ordinance Amending Ordinance No. 5-1988 Providing for the Investigation and Rehabilitation of Sewer Pipe and Diameter Pipe of the Sewer System in the Borough of Flemington, County of Hunterdon, State of New Jersey, in Order to Increase this Appropriation Therefor to \$970,000.00 and to Increase the Amount of Bonds or Notes Authorized to \$921,500.00" introduced July 18, 1988, adopted August 8, 1988, a copy of which is on file and available for inspection in the office of the Borough Clerk.

The Borough of Flemington Sewer Utility System shall succeed to all the Borough's rights to receive any and all grants from the United States Environmental Protection Agency, or other source for the construction and/or rehabilitation of wastewater treatment works.

- c. The Borough of Flemington Sewer Utility System assumes the obligation to comply with the terms of a certain administrative consent order entered into between the Borough and the Division of Water Resources, Department of Environmental Protection dated July 14, 1988, and for the associated fines and penalties that may be assessed thereunder for noncompliance.

§ 11-5 SANITARY SEWER UTILITY.

§ 11-5.1 Establishment of Sanitary Sewer Utility.

A municipal sanitary sewer utility is hereby established within the Borough of Flemington in the County of Hunterdon and the State of New Jersey for the regulation and use of sewers and the sewerage treatment plant, to ensure the proper operation and the protection and preservation of the system, to fix the amount of charges therefor and to provide rules and regulations therefor. Such system, including any treatment plant, pumping stations and appurtenant structures, works and fixtures relating thereto and all extensions and improvements thereof, situate within and without the Borough of Flemington and constructed or acquired at public expense by the Borough of Flemington, shall hereafter be operated, constructed, maintained, managed and controlled by the Borough of Flemington as a publicly owned sewer utility and shall, for accounting purposes, be a separate entity having its own borrowing capacity, its own separate accounts and its own separate property, whether real, personal or mixed, within the meaning of N.J.S.A. 40A:4-33, N.J.S.A. 40A:4-62 and N.J.S.A.

40:63-1 et seq., the amendments thereof and supplements thereto, and all other provisions of other laws applicable.

§ 11-5.2 Title of System.

The sanitary sewer utility system for the Borough of Flemington shall be known as the "Borough of Flemington Sewer Utility System."

§ 11-5.3 Definition of Sewer System.

The sewer system to be operated, constructed, maintained, managed and controlled as a publicly owned sewer utility shall consist of all pipes, conduits, manholes, siphons, pumping and ejecting facilities, force mains, treatment plants and other appurtenances installed on public roads or other public property, rights-of-way, easements or private property by consent of the owner, within and without the boundaries of the Borough of Flemington, owned and maintained by the Borough of Flemington, or its authorized agents, for the express purpose of collecting wastewater. It also includes any such system installed by any private person or public agency within the boundaries of the Borough of Flemington where the provisions of this section are applicable by reason of the valid consent of the owner or operator of said system, or any such system installed or maintained beyond the boundaries of the Borough of Flemington where the provisions of this section are applicable by reason of the valid consent of the owner or operator of said system, or any such system installed or maintained beyond the boundaries of the Borough of Flemington where the provisions of this section are applicable by reason of the valid consent of the municipality in which such system is situated

§ 11-5.4 Sewer Utility Fund.

All monies derived from the operation of the Borough of Flemington Sewer Utility System and any other monies applicable to its support shall be segregated by the Borough and kept in a separate fund which shall be known as the "Borough of Flemington Sewer Utility Fund" and, except as provided in N.J.S.A. 40A:4-35, shall be applied only to the payment of the operating and upkeep costs of the system, capital costs of the system, and the interest and debt redemption charges of any indebtedness now or hereafter incurred by the Borough of Flemington Sewer Utility System. Monies held in the separate fund shall be treated by the officers of the Borough as monies held in trust for the Borough of Flemington Sewer Utility System, and no banking institution accepting any such fund shall divert the monies to any other purpose.

§ 11-5.5 Management and Operation of Sewer Utility.

- a. The management and affairs of the sewer utility system shall be conducted by the Mayor and Borough Council of the Borough of Flemington, which may make such rules and regulations not inconsistent with this section as it shall, from time to time, deem necessary.
- b. The Mayor shall appoint either a sewer utility commissioner or sewer utility system committee which shall oversee the day to day operation of the sewer utility system and be a line of communication between personnel employed by such utility and the Mayor and Borough Council. If the Mayor elects to appoint a committee instead of a sole commissioner, such committee shall consist of three members. The commissioners and committee members, as the case may be, shall be members of the governing body and shall serve for terms of one year commencing January 1 and expiring one year thereafter on December 31. The term of office of the commissioner and committee members, as the case may be, for 1989 shall commence on date of appointment and shall expire on December 31, 1989. All sewer utility

commissioners and committee members shall serve without compensation over and above the compensation to which they are entitled as members of the governing body.

- c. The Mayor shall appoint such full or part-time employees as he shall deem necessary for the proper administration of the business of said sewer utility system.
- d. The salary of all full or part-time employees of the sewer utility system shall be in such amount as shall be, from time to time, fixed by ordinance of the Mayor and Borough Council.
- e. All authorized employees or agents of the Borough and Borough sewer utility system shall have the right to enter any buildings or premises, at reasonable hours, for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works and to carry out any and all other provisions of this section, or subsequent ordinances, rules and regulations adopted by the Mayor and Borough Council for the administration and operation of the sewer utility system.

§ 11-6 PRETREATMENT RULES AND REGULATIONS AS TO FOOD ESTABLISHMENTS.

§ 11-6.1 Definition.

FOOD ESTABLISHMENT

Shall mean any business or other entity that sells, processes, manufactures, makes or otherwise deals in or with and empties into the sewer system food, food by-products, and/or other animal products.

§ 11-6.2 Prohibited Wastes.

The following solid or viscous wastes which will or may cause obstruction to the flow in the sewer lines, or otherwise interfere with the proper operation of the treatment of sewage are prohibited from entering the sewer system; any liquid containing oils, fats, wax, or grease (whether emulsified or not) in excess of 100 mg/l of solvent soluble materials, or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees F (zero degrees and 65 degrees C); improperly shredded garbage, animal guts or tissues, bones, hides, entrails, feathers, spent grains or hops, milk or milk by-products, waste paper and such similar substances as may be designated by the Flemington Borough Sewer Utility.

§ 11-6.3 Installation.

All food establishments shall install such grease traps, filters or other pretreatment facilities and operating procedures designed to prevent such above specified materials from entering the sewer system. A detail of the plan for such grease traps, filters, etc., shall be supplied to the sewerage utility along with an outline of the establishment's operating procedures to prevent entry into the sewer system. Such installation, plans and procedures shall be approved by the sewer utility. In order to identify those traps, filters, etc. which may be malfunctioning or are of a capacity or design inadequate to properly intercept the waste discharged, each food establishment subject to this section shall, at the owner's expense, install a monitoring point(s) on the premises. The monitoring point(s) shall consist of cleanouts extended to be flush with the existing grade at a point on the premises as near to the sanitary sewer main as possible. Access to the monitoring point(s) shall be kept reasonably open to the plumbing subcode official or the sewer utility or its agents. Should a food establishment feel that it should be exempt from some or all of the requirements of this section, they may apply in person or in writing to the sewer utility. The sewer utility may, for good cause shown, waive some or all of the requirements here set forth. Such waiver shall apply only to the then owner and shall be in effect

only so long as the then existing use and/or procedures continue and only so long as there is no evidence that prohibited wastes are entering the sewer system.

§ 11-6.4 Maintenance.

All food establishments shall maintain such traps, filters, etc., in proper working order and they shall perform the necessary operating procedures on a continuous basis. Removal of trapped wastes shall be only by licensed haulers. Each food establishment shall maintain a written record of trap maintenance for a period of three years. All such records shall be readily available for inspection by the Borough at all times.

§ 11-6.5 Inspections.

The plumbing subcode official, sewer utility, its agents or employees, may inspect such filters, traps, etc., and such operating procedures to insure that they are properly installed, maintained, cleaned out and to insure that the operating procedures are being implemented.

§ 11-6.6 Cleanout.

In the event it shall be necessary to clean out, repair and/or replace any sewer line due to failure to install and/or maintain such traps, filters, and/or procedures, the cost of same shall be paid by the owner of such property. In addition, should it become necessary for the Borough to clean out such traps or filters the cost of the same shall be paid by the owner of such property. Failure to pay shall result in the cost of same being added to the sewer bill.

§ 11-6.7 New Establishments.

All new food establishments shall install and have approved such traps, filters, etc. prior to commencing business.

§ 11-6.8 Existing Establishments.

Within 90 days after receipt of notice, all food establishments as of the date of the adoption of this section shall provide the plumbing subcode official with details as to existing traps, filters, pretreatment facilities and operating procedures. Upon review and/or inspection by the plumbing subcode official, said food establishments shall within six months install and implement such traps, filters, pretreatment facilities and/or operating procedures as determined by the plumbing subcode official in order to comply with this section.

§ 11-6.9 Use of Bacteria Products.

Bacteria products used in the maintenance of grease traps, grease interceptors or other pretreatment devices shall be preapproved by the Borough and by the Raritan Township Municipal Utilities Authority (RTMUA). The owners or managers of food establishments that wish to use such products must obtain written approval from the Borough and the RTMUA. Each site wishing to use a product must obtain separate approval. As a minimum, a Material Safety Data Sheet (MSDS) must be submitted to the Borough and the RTMUA for approval of the product prior to beginning treatment. The MSDS, or other information submitted, must identify all active and inactive ingredients of the product.

§ 11-6.10 Inspection Fees.

An annual inspection fee of \$50.00 shall be charged and payable to the Borough of Flemington. In the event a reinspection is necessary, a fee of \$35.00 shall be charged and payable to the Borough of Flemington for each reinspection.

§ 11-6.11 Penalties.

In the event of a failure to provide plans, failure to install and maintain, and/or a failure to comply with operating procedures, or the refusal to allow inspection, the sewer utility may, upon 30 days' notice to

comply, impose such surcharge upon the sewer bill as is reasonably estimated to cover any existing or anticipated added costs due to such failure. Further, in the event of such noncompliance, the sewer utility may, upon 60 days' notice, terminate sewer service by the severance of sewer connection and such shall not be restored until proof of elimination of such noncompliance is supplied. In addition, the sewer utility may seek imposition of a court ordered penalty of up to \$250.00 per day for each day the offense continues.

§ 11-7 SUMP PUMPS.

§ 11-7.1 Connection to Sanitary Sewer System Prohibited.

No sump pump or other device which discharges drainage resulting from rainwater, springs, wells, or other ground water shall be connected to the Borough of Flemington sanitary sewer system.

§ 11-7.2 Sump Pump Certificates.

Prior to the sale of any property located in the Borough of Flemington the seller thereof shall obtain from the Borough of Flemington's Director of Public Works or his/her designee, a certificate stating that no sump pump or other device which discharges drainage resulting from rain water, spring, wells or other ground water or prohibited discharge as defined under § **11-4.7** is connected to the sanitary sewer system in violation of § **11-7.1**. If the seller fails to comply with this or any subsection of this section, the seller and the new owner after the sale will be jointly and severally responsible for said compliance and all resulting penalties.

§ 11-7.3 Application for Certificate; Procedures; Fee.

Certificates of sump pump compliance shall be in accordance with the following procedures:

a. Application; Fee.

Applications for certificates of sump pump compliance shall be filed with the Borough of Flemington Director of Public Works by the seller of the property at least ten days prior to the change in ownership. Applications shall be submitted on the forms supplied by the Borough of Flemington Director of Public Works and shall be accompanied by a fee in the amount of \$25.00.

b. Inspection.

1. Upon receipt of a completed application, the Borough of Flemington Director of Public Works or his/her designee shall conduct an inspection of the property to determine compliance with the standards set forth in § **11-7.2**.
2. The Director of Public Works or his/her designee shall inspect each non-owner occupied residential property, each commercial property and each property with five or more dwelling units to determine compliance with this section. Thereafter, the director of public works or his/her designee shall inspect on a schedule to be determined by the director of public works or his/her designee the property at least once every two years, except that any such property that was sold and received a certificate in compliance with this section during any such two-year period does not have to be inspected during that two-year period. The fees shall be in accordance with § **11-7.3a**.
3. If a violation is discovered during the inspection, the property owner shall be mailed a notice within three business days of the inspection that clearly describes the violation.

§ 11-7.4 Penalties.

In the event of a failure to comply with any subsection of this section, including but not limited a failure to provide plans, comply with the operating procedures, or to timely obtain a sump pump certificate, or the refusal to allow inspection, the sewer utility may, upon 30 days written notice to comply, seek imposition of a court ordered penalty of up to \$250.00 per day for each day the offense continues.

§ 11-8 CROSS CONNECTION CONTROL.

§ 11-8.1 Purpose.

- a. To protect the public potable water supply served by the Borough of Flemington Water Department from the possibility of contamination or pollution by isolating, within its customers internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public water system.
- b. To promote the elimination or control of existing cross-connections, actual or potential, between its customer's in-plant potable water system, and non-potable systems.
- c. To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

§ 11-8.2 Authority.

- a. The Federal Safe Drinking Water Act of 1974, revised 1996, and the statutes of the State of New Jersey, N.J.A.C. 7:10, the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.
- b. Borough of Flemington Ordinances, adopted.

§ 11-8.3 Responsibility.

- a. The water department licensed operator shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back-siphonage of contaminants or pollutants through the water service connection. If, in the judgment of the water department licensed operator, an approved backflow device is required at the city's water service connection to any customer's premises, the licensed operator, or his delegated agent, shall give notice in writing to said customer to install an approved backflow prevention device at each service connection to his premises. The customer shall, within 90 days install such approved device, or devices, at his own expense, and failure or refusal, or inability on the part of the customer to install said device or devices within 90 days, shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

§ 11-8.4 Definitions.

- a. Approved shall mean accepted by, the water department licensed operator as meeting an applicable specification stated or cited in this regulation, or as suitable for the proposed use.
- b. Auxiliary water supply shall mean any water supply, on or available, to the premises other than the purveyor's approved public potable water supply.

- c. Backflow shall mean the flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.
- d. Backflow Preventer shall mean a device or means designed to prevent backflow or back-siphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.
 - 1. Air gap shall mean a physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system. Physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one inch.
 - 2. Atmospheric vacuum breaker shall mean a device which prevents back-siphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.
 - 3. Barometric loop shall mean a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against back-siphonage.
 - 4. Double check valve assembly shall mean an assembly of two independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.
 - 5. Double check valve with intermediate atmospheric vent shall mean a device having two spring loaded check valves separated by an atmospheric vent chamber.
 - 6. Hose bibb vacuum breaker shall mean a device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.
 - 7. Pressure vacuum breaker shall mean a device containing one or two independently operated spring loaded check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).
 - 8. Reduced pressure principle backflow preventer shall mean an assembly consisting of two independently operating approved check valves with an automatically operating differential relief valve located between the two check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.
 - 9. Residential dual check shall mean an assembly of two spring loaded, independently operating check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device.
- e. Backpressure shall mean a condition in which the owner's system pressure is greater than the supplier's

system pressure.

- f. Back-siphonage shall mean the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.
- g. NJDEP shall mean the State of New Jersey Department of Environmental Protection Water Supply Administration.
- h. Containment shall mean a method of backflow prevention which requires a backflow prevention preventer at the water service entrance.
- i. Contaminant shall mean a substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.
- j. Cross-connection shall mean any actual or potential connection between the public water supply and a source of contamination or pollution.
- k. Borough shall mean the Borough of Flemington.
- l. Fixture isolation shall mean a method of backflow prevention in which a backflow preventer is located to correct a cross connection at an in-plant location rather than at a water service entrance.
- m. Owner shall mean any person who has legal title to, or license to operate or habitat in, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.
- n. Person shall mean any individual, partnership, company, public or private corporation, political subdivision or agency of the State of New Jersey, agency or instrumentality of the United States or any other legal entity.
- o. Permit shall mean a document issued by the Borough which allows the use of a backflow preventer.
- p. Pollutant shall mean a foreign substance, that if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably effect such water for domestic use.
- q. Water service entrance shall mean that point in the owner's water system beyond the sanitary control of the Borough; generally considered to be the outlet end of the water meter and always before any unprotected branch.
- r. Licensed operator shall mean the water department licensed operator, or his delegated representative in charge of the Borough of Flemington Water Department, is invested with the authority and responsibility for the implementation of a cross-connection control program and for the enforcement of the provisions of the section.

§ 11-8.5 Administration.

- a. The Borough will operate a cross-connection control program, to include the keeping of necessary records, which fulfills the requirements of the NJDEP's Cross-Connection Regulations and is approved by the NJDEP.
- b. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the Borough's program and the NJDEP's Regulations if a cross-connection is permitted.
- c. If the Borough requires that the public supply be protected by containment, the owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection for that purpose. He may utilize public health officials, or their delegated representatives, to assist him in the survey of his facilities and to assist him in the selection of proper fixture outlet devices, and the proper installation of these devices.

§ 11-8.6 Requirements.

- a. Borough.
 1. On new installations, the Borough will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, will issue permit, and perform inspection as required. Initial and subsequent periodic testing of backflow preventers shall be the sole responsibility of the owner.
 2. For premises existing prior to the start of this program, the Borough will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction, and the time allowed for the correction to be made. Ordinarily, 90 days will be allowed, however, this time period may be shortened depending upon the degree of hazard involved and the history of the device(s) in question.
 3. The Borough will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure satisfactory operation.
 4. The Borough shall inform the owner by letter, of any failure to comply, by the time of the first reinspection. The Borough will allow an additional 15 days for the correction. In the event the owner fails to comply with the necessary correction by the time of the second re-inspection, the Borough will inform the owner by letter, that the water service to the owner's premises will be terminated within a period not to exceed five days. In the event that the owner informs the Borough of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Borough but in no case will exceed an additional 30 days.
 5. If the Borough determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
 6. The Borough shall have on file, a list of private contractors who are certified backflow device testers.

The owner of the building or property will pay all charges for these tests.

7. The Borough will begin initial premises inspections to determine the nature of existing or potential hazards, following the approval of this program by the NJDEP, during the calendar year 2005. Initial focus will be on high hazard industries and commercial premises.
- b. Owner.
1. The owner shall be responsible for the elimination or protection of all cross-connections on his premises.
 2. The owner, after having been informed by a letter from the Borough, shall at his expense, install, maintain, and test, or have tested, any and all backflow preventers on his premises.
 3. The owner shall correct any malfunction of the backflow preventer which is revealed by periodic testing.
 4. The owner shall inform the Borough of any proposed or modified cross-connections and also any existing cross-connections of which the owner is aware but has not been found by the Borough.
 5. The owner shall not install a by-pass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices, installed in a parallel arrangement as necessary to allow testing to take place.
 6. The owner shall install backflow preventers in a manner approved by the Borough.
 7. The owner shall install only backflow preventers approved by the Borough or the NJDEP.
 8. Any owner having a private well or other private water source must have a permit if the well or source is cross-connected to the Borough's system. Permission to cross-connect may be denied by the Borough. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the Borough's system.
 9. In the event the owner installs plumbing to provide potable water for domestic purposes which is on the Borough's side of the backflow preventer, such plumbing must have its own backflow preventer installed.
 10. The owner shall be responsible for the payment of all fees for permits, annual or quarterly device testing as required by the installation type, retesting in the case that the device fails to operate correctly, and second reinspections for noncompliance with Borough or NJDEP requirements.

§ 11-8.7 Degree of Hazard.

The Borough recognizes the threat to the public water system arising from cross-connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principal

backflow prevention devices, double check valves or pressure vacuum breakers.

§ 11-8.8 Permits.

The Borough shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

- a. Cross-connection permits that are required for each backflow prevention device are obtained from the Borough. A fee will be charged for the initial permit and for the renewal of each permit thereafter. Fees are listed under § **11-1.2**
- b. Permits shall be renewed every year and are nontransferable. Permits are subject to revocation and become immediately revoked if the owner should so change the type of cross-connection or degree of hazard associated with the service.
- c. A permit is not required when fixture isolation is achieved with the utilization of a non-testable backflow preventer.

§ 11-8.9 Existing In-Use Backflow Prevention Devices.

Any existing backflow preventer shall be allowed by the Borough to continue in service unless the degree of hazard is such as to supercede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure principle device, or a reduced pressure principal device must be installed in the event that no backflow device was present.

§ 11-8.10 Periodic Testing.

- a. All backflow devices shall be tested and inspected at least annually.
- b. The Borough shall be notified at least 48 hours prior to testing. Borough personnel, if deemed necessary by the Borough, shall witness testing.
- c. The testing shall be conducted during the Borough's regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increased costs to the Borough.
- d. Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair the device will be retested at owners expense to insure correct operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than 30 days after the test date will be established. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two devices is an effective means of the owner insuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.
- e. Backflow prevention devices will be tested more frequently than specified in paragraph a above, in cases where there is a history of test failures and the Borough feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be born by the owner.

§ 11-8.11 Records and Reports.

- a. Records. The Borough will initiate and maintain the following:
 1. Master files on customer cross-connection tests and/or inspections.
 2. Master files on cross-connection permits.
 3. Copies of permits and permit applications.
 4. Copies of lists and summaries supplied to the NJDEP.
- b. Reports.
 1. The Borough will submit the following upon request to the NJDEP.
 2. Initial listing of low hazard cross-connections.
 3. Initial listing of high hazard cross-connections.
 4. Annual update lists of paragraphs 1 and 2 above.
 5. Annual summary of cross-connection inspections.

§ 11-8.12 Fees and Charges.

The Borough will publish a list of fees or charges for the following services or permits:

- a. Initial permit: \$100.00.
- b. Annual permit renewal: \$50.00.
- c. After-hours inspections or tests: \$200.00

Section 2. Conflicts and Severability

- a. Conflicts. All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this ordinance apply.
- b. Severability. Notwithstanding that any provision of this Ordinance may be held invalid or unconstitutional by a court of competent jurisdiction; all remaining provisions of the Ordinance shall continue to be in full force and effect.

Section 3. All other provisions of the Code of the Borough of Flemington shall be unaffected and are hereby continued.

Section 4. This Ordinance shall take effect immediately after final passage and publication as provided by law.

ADOPTED ON FIRST READING
DATED:

SALLIE GRAZIANO,
Borough Clerk

ADOPTED ON SECOND READING
DATED:

SALLIE GRAZIANO,
Borough Clerk

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2021.

BETSY DRIVER
Mayor