



## State of New Jersey Council on Local Mandates Complaint

The form is to be completed and signed by the Claimant's attorney or other authorized representative, identified under Part I (B).

### I (A). Information regarding the Claimant (include title if a County Executive or Mayor):

Name of Claimant (and title if applicable): Roxbury Township

### Claimant contact information:

Mailing Address: 1715 Route 46

City: Ledgewood State: New Jersey Zip Code: 07852

Phone: 973-448-2002 Fax: 973-448-2111

E-mail address: rathsc@roxburynj.us

### I (B). Name of person preparing this document, and title or relationship to Claimant (e.g., legal counsel, business administrator, superintendent):

Name: Christopher Rath

Title/Relationship: Township Manager

### Contact information for person identified in Part I (B):

Mailing Address: 1715 Route 46

City: Ledgewood State: New Jersey Zip Code: 07852

Phone: 973-448-2002 Fax: 973-448-2111

E-mail Address: rathsc@roxburynj.us

### II. The Complaint:

1. Claimant alleges that the following statute, rule, or regulation is an unfunded mandate in violation of the New Jersey Constitution, article VIII, § 2, ¶ 5 and N.J.S.A. 52:13H-2, because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for its implementation:

NJAC 7:14A-15.15 Tier A Municipal Stormwater General Permit NJ0141852 - Refuse Container and Private

2. The above-cited statute, rule, or regulation became effective on:

Statute effective March 1, 2009 and Ordinances effective Sept. 2010.

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COUNCIL ON LOCAL MANDATES

3. The following is the basis for the claim made herein that the statute, rule, or regulation identified in paragraph II (1) is an unfunded mandate:

Roxbury Township recently introduced the attached Ordinance as required by the NJAC 7:14A-15.15 Tier A Municipal Storm-Water General Permit NJ0141852. This ordinance requires that all Municipalities ensure compliance with the recent storm-water regulation. In order to comply with this unfunded NJDEP regulation, the Township is mandated to act as the enforcement agent to ensure that all outdoor dumpsters and other refuse containers exposed to storm-water are covered at all times. This mandate will require numerous hours of work from Township employees. This unfunded mandate exposes the Township to additional expenditures without revenues from the State, further aggravating the economic tax burdens on the Tax payers of Roxbury.

The adoption and enforcement of this ordinance is required by the NJDEP and must be reported in the Roxbury Township's Annual Storm-Water Report which is submitted to the State. Failure to adopt the said Ordinance will subject the Township to extensive fines.

The Mayor and Township Council requests your immediate review and response to this inquiry.

Note: The text provided in paragraph II (3) is to be used for the Pleading Summary published on the Council's web site. If more space is needed, please attach additional sheet(s).

4. State Claimant's estimate of the additional direct expenditures required to implement the statute, rule or regulation identified in paragraph II (1), together with:
- a description of the frequency of the estimated expenses (i.e. annual, monthly), and
  - a specification of the basis for the estimate.

The additional direct expenditures required to enforce the ordinances are estimated as follows:

I. Refuse Container Ordinance Enforcement

-1 inspector X 5 hours per week(avg.) = 5 hours X \$50.00/hour = \$250/week

-1 project coordinator X 2.5 hours per week(avg.) X \$100.00/hour = \$250/week

Total = \$500/week

\$500/ week X 52 weeks = \$26,000 per year

II. Private Catch Basin Retrofitting Ordinance Enforcement

-1 inspector X 2 hours per week(avg.) = 2 hours X \$50.00/hour = \$100/week


-1 project coordinator X 1 hour per week(avg.) X \$100.00/hour = \$100/week

Total = \$200/week

\$200/week X 52 weeks = \$10,400 per year

Total Cost Estimated to enforce both ordinances on a yearly basis is \$36,400.

Note: If more space is needed, please attach additional sheet(s).

|   |   |
|---|---|
| 5. Does Claimant seek injunctive relief? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/><br>If yes, on attached sheet(s), provide a description of the nature and extent of imminent irreparable injury that will result to Claimant in the absence of injunctive relief.                   |   |
| 6. Claimant attaches:<br><input checked="" type="checkbox"/> Resolution (of county/municipal governing body or of board of education), which is incorporated herein by reference, or<br><input type="checkbox"/> Copy of notice of intention to file a complaint provided to governing body.                    |   |
| <b>WHEREFORE, Claimant demands judgment by the Council that the statute, rule, or regulation identified in paragraph II (1) above is an unfunded mandate pursuant to the New Jersey Constitution, Art. VIII, § 2, ¶ 5 and N.J.S.A. 52:13 H-2, and that it shall cease to be mandatory in effect and expire.</b> |   |
| <br>[Signature of person preparing this document].<br>Date: <u>September 27, 2010</u>  | <u>Christopher Rath</u><br>Name (typed or printed) of person signing<br><u>Township Manager</u><br>Title (typed or printed) of person signing |
| Total number of attached pages: <u>          </u>   |   |

[Print Form](#)

**TOWNSHIP OF ROXBURY**

**ORDINANCE NO. 16 -10**

**AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY AND ADOPTING REGULATIONS FOR THE MAINTENANCE OF REFUSE CONTAINERS AND THE RETROFITTING OF PRIVATE STORM DRAIN INLETS AS REQUIRED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION IN CONNECTION WITH THE DEPARTMENT'S WATER QUALITY MANAGEMENT PLANNING RULES**

**WHEREAS**, the Township has been required to adopt regulations, including the regulation of refuse containers and the retrofitting of private storm drain inlets in accordance with the Department of Environmental Protection's Water Quality Management Planning Rules (N.J.A.C. 7:15-3.4) as a mandatory "additional measure" in the Township's Municipal Stormwater General Permit; and

**WHEREAS**, the Township Council wishes to adopt the regulations set forth in this Ordinance in accordance with the Department of Environmental Protection's requirements.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Roxbury, in the County of Morris and State of New Jersey, as follows:

**Section 1.** Chapter 22, Health Regulations, Article 7, Garbage and Refuse, is hereby amended and supplemented by the addition of the following new subsection 22-7.10, Refuse Containers, to read in its entirety, as follows:

**"§22-7.10 Refuse Containers.**

**§22-7.10.1 Purpose.**

This ordinance requires dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping,

leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Township of Roxbury and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

#### **§22-7.10.2 Definitions.**

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Municipal separate storm sewer system (MS4) – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Township of Roxbury, and is designed and used for collecting and conveying stormwater.
- b. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Refuse container – any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.
- d. Stormwater – means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.
- e. Waters of the State – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

#### **§22-7.10.3 Prohibited Conduct.**

- a. Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.
- b. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system operated by the Township of Roxbury.

#### **§22-7.10.4 Exceptions to Prohibition.**

- a. Permitted temporary demolition containers;
- b. Litter receptacles (other than dumpsters or other bulk containers);
- c. Individual homeowner trash and recycling containers;
- d. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit; and
- e. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup).

#### **§22-7.10.5 Enforcement.**

This ordinance shall be enforced by the Police Department and/or other Municipal Officials of the Township of Roxbury.

#### **§22-7.10.6 Penalties.**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed five hundred (\$500.) dollars for each container that is not covered in accordance with the requirements of this subsection."

**Section 2.** Chapter III, Police Regulations, is hereby amended and supplemented by the addition of a new Section 3-27 entitled "Private Storm Drain Inlet Retrofitting," which shall read, in its entirety, as follows:

### **"3-27**

#### **Private Storm Drain Inlet Retrofitting**

##### **§ 3-27.1 Purpose.**

This ordinance requires the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer

system(s) operated by the Township of Roxbury so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

### **§ 3-27.2 Definitions.**

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Municipal separate storm sewer system (MS4)— a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Township of Roxbury, and is designed and used for collecting and conveying stormwater.
- b. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Storm drain inlet- an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.
- d. Waters of the State – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

### **§ 3-27.3 Prohibited Conduct.**

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

- 1. Already meets the design standard below to control passage of solid and floatable materials; or
- 2. Is retrofitted or replaced to meet the standard in Subsection 3-27.4 below prior to the completion of the project.

#### **§ 3-27.4 Design Standard.**

Storm drain inlets identified in Subsection 3-27.3 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Paragraph 3 below.

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

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

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

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

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

3. This standard does not apply:

a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

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

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

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

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



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

#### **§ 3-27.5 Enforcement.**

This ordinance shall be enforced by the Police Department and/or other Municipal Officials of the Township of Roxbury.

#### **§ 3-27.6 Penalties.**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed five hundred (\$500.) dollars for each storm drain inlet that is not retrofitted to meet the design standard."

**Section 3.** This Ordinance may be renumbered for codification purposes.

**Section 4.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 5.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 6.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

**NOTICE IS HEREBY GIVEN**, that the foregoing Ordinance was introduced in writing at a meeting of the Mayor and Township Council of the Township of Roxbury, County of Morris and State of New Jersey, held of the 14th day of September, 2010, introduced and read by title and passed on the first reading and that the said Governing Body will further consider the same for second reading and final passage thereon at a meeting to be held on the 28th day of September, 2010, at 7:30 p.m., prevailing time, at the Municipal Building in said Township, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens in interest shall have an opportunity to be heard concerning same.

INTRODUCED: September 14, 2010

ADOPTED:

Attest:

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Amy E. Rhead, Acting Township Clerk

EFFECTIVE DATE:

**RESOLUTION NO. 10-275**

**A RESOLUTION AUTHORIZING THE TOWNSHIP OF ROXBURY TO FILE  
A COMPLAINT WITH THE COUNCIL ON LOCAL MANDATES IN  
RESPONSE TO THE NJDEP REQUIREMENT THAT ALL  
MUNICIPALITIES ADOPT REGULATIONS TO ENSURE COMPLIANCE  
WITH RECENT STORM-WATER REGULATIONS**

**WHEREAS**, the NJDEP mandates that the Township adopt regulations and act as an enforcement agent to ensure that all outdoor dumpsters and other refuse containers exposed to storm-water are covered at all times to prohibit the spilling, dumping and leaking of refuse into the storm-water system operated by the Township of Roxbury; and

**WHEREAS**, the said unfunded mandate requires that the Township Police Department and/or other Municipal Officials enforce the above noted regulations; and

**WHEREAS**, the unfunded mandate requires expenditures from the Township without revenues from the State, further aggravating the economic tax burdens on the Taxpayers of Roxbury; and

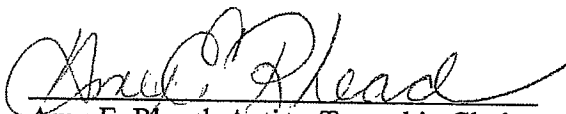
**WHEREAS**, the adoption and enforcement of this Ordinance is required by the NJDEP and must be reported in Roxbury Township's Annual Storm-Water Report which is submitted to the State; and

**WHEREAS**, the Township of Roxbury is subject to extensive fines if the said Ordinance is not submitted with the Annual Storm-Water Report.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Roxbury in the County of Morris and State of New Jersey that the Township Manager is hereby authorized and directed to prepare and file a complaint with the Council on Local Mandates in regard to this matter.

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be provided to the Township Manager and Township Engineer for preparation, execution and filing of the complaint.

**ADOPTED:** September 14, 2010

  
Amy E. Rhead, Acting Township Clerk