

ORDINANCE 2024-18

ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 150, "PROPERTY MAINTENANCE," OF THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH TO ESTABLISH ARTICLE VI, "PRIVATELY-OWNED SALT STORAGE" OF CHAPTER 150 OF THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH

WHEREAS, on July 17, 2023, the New Jersey Department of Environmental Protection ("NJDEP") amended its Stormwater Management Regulations, N.J.A.C. 7:8-1.1 et seq.; and

WHEREAS, the NJDEP has promulgated a model Privately-Owned Salt Storage ordinance to establish requirements for the storage of salt and other solid de-icing materials on privately owned property to prevent salt and other solid de-icing materials from being exposed to stormwater; and

WHEREAS, establishing requirements for the storage of salt and other de-icing materials on private property protects the environment, public health, safety and welfare; and

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kenilworth (the "Borough") now wishes to adopt the within ordinance based on the NJDEP Privately Owned Salt Storage model ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey as follows:

SECTION 1. The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 150 "Property Maintenance," Article VI "Privately-Owned Salt Storage" of the Borough Code shall be adopted as follows:

§ 150-49 Purpose:

The purpose of this Article is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This article establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in the Borough of Kenilworth to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

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§ 150-50 Definitions:

For the purposes of this Article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When consistent 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. “De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.
- B. “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.
- C. “Storm drain inlet” means the point of entry into the storm sewer system.
- D. “Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

- 1. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
- 2. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
- 3. The structure shall be erected on an impermeable slab;
- 4. The structure cannot be open sided; and
- 5. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

- E. “Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- F. “Resident” means a person who resides on a residential property where De-icing Material is stored.

§ 150-51 Deicing Material Storage Requirements:

- A. Temporary outdoor storage of De-icing Materials in accordance with the requirements below is allowed between October 15th and April 15th:

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1. Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
2. Loose materials shall be placed at least 50 feet from surface water bodies, Storm drain inlets, ditches and/or other stormwater conveyance channels;
3. Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;
4. Loose materials shall be covered as follows:
 - a. The cover shall be waterproof, impermeable, and flexible;
 - b. The cover shall extend to the base of the pile(s);
 - c. The cover shall be free from holes or tears;
 - d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
 - e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile. Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used; and
5. Containers must be sealed when not in use; and
6. The storage of De-icing materials in anything but a Permanent Structure shall be prohibited between April 16th and October 14th.

B. De-icing Materials should be stored in a Permanent Structure if such a suitable storage structure is available. Provided De-icing Materials are stored in a suitable storage structure, such storage may be permanent, and, thus, such storage of De-icing Materials in a Permanent Structure shall not be restricted to the period between October 15th and April 15th, and may occur year round.

C. All such temporary ~~and/or Permanent~~ Structures must also comply with all other Borough of Kenilworth ordinances, including building and zoning regulations.

D. The property owner, or owner of the De-icing Materials if different than the property owner, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document, in writing, that weekly inspections are conducted to ensure that the conditions of this Article are met. The name of the designated person(s) shall be supplied to the Borough Clerk and Zoning Officer in writing, by the property owner, or owner of the De-icing Materials if different than the property

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owner, at least 24 hours in advance of the outdoor storage of De-icing materials on site and within 24 hours of a different person(s) being designated as the person(s) responsible for operations. The following requirements shall also apply:

1. Inspection records shall be kept on site and made available to the municipality upon request.
2. Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

§ 150-52 Exemptions:

Residents, who do not operate businesses from their homes, may store De-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the De-icing Materials from leaking, spilling out, or otherwise escaping from the container. Under these circumstances, weekly inspections are not necessary, but the repair or replacement of damaged or inadequate containers shall occur within 72 hours of when a Resident becomes aware or should have reasonably been aware, whichever is first, that the container was damaged and/or inadequate.

If containerized (in bags or buckets) De-icing Materials are stored within a Permanent Structure, they are not subject to the storage and inspection requirements in § 150-51. Piles of De-icing Materials are not exempt from the storage and inspection requirements in § 150-51, however, even if stored in a Permanent structure.

This Article does not apply to facilities where the stormwater discharges from De-icing Material storage activities are regulated under another New Jersey Department of Environmental Protection, Division of Water Quality permit.

§ 150-53 Enforcement:

This Article shall be enforced by the Borough Zoning Officer during the course of his/her ordinary enforcement duties.

§ 150-54 Violations and Penalties:

- A. Violations of this Article shall, upon conviction, be subject to the general penalty set forth in Chapter 1, General Provisions, Article I, General Penalty, of the Borough of Kenilworth Code.
- B. Any person(s) who is found to be in violation of the provisions of this Article shall have 72 hours to complete corrective action.

SECTION 4. If any section, paragraph, subdivision, sentence, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, sentence, clause, or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

SECTION 5. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

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SECTION 6. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

Linda Karlovitch, Mayor