

ORDINANCE #2024-36-OAB

"AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING CHAPTER 35 DEVELOPMENT STANDARDS TO CREATE A NEW SUBSECTION ENTITLED "PRIVATELY-OWNED SALT STORAGE"

July 15, 2024

WHEREAS, the New Jersey Department of Environmental Protection has promulgated proposed Ordinances to be adopted by municipalities as part of Stormwater Management and the requirements of the 2023 Tier A MS4 permit renewal requirements to at a minimum adopt and enforce a community wide ordinance for privately owned salt storage, and

WHEREAS, this Ordinance to be adopted by a municipality is to prevent stored salt and other deicing materials from being exposed to stormwater.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Berkeley, County of Ocean, State of New Jersey, as follows:

SECTION 1. Chapter 35 of the Township Code of the Township of Berkeley, entitled "Development Standards" is hereby amended to create new subsection 69 entitled "Privately-Owned Salt Storage" shall read as follows:

§35-69 Privately-Owned Salt Storage

§35-69-1 Purpose:

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

This ordinance 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 Berkeley Township to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§35-69-2 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 Chapter 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.

DE-ICING MATERIALS

Shall mean any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

IMPERVIOUS SURFACE

Shall mean a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

- A. "Storm drain inlet" means the point of entry into the storm sewer system.
- B. "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.
- C. "Person" means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
 - D. "Resident" means a person who resides on a residential property where de-icing material is stored.

§35-69-3. 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:
 - 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.

(1) 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;

5. Containers must be sealed when not in use; and

6. The site shall be free of all de-icing materials between April 16th and October 14th.

B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 -April 15.

C. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.

- 1. Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

§35-69-4 Exemptions:

Residents 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 or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

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 Section III above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

§35-69-5. Enforcement:

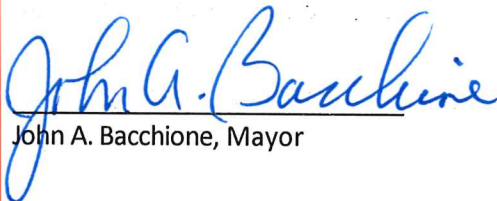
This ordinance shall be enforced by the Code Enforcement during the course of ordinary enforcement duties.

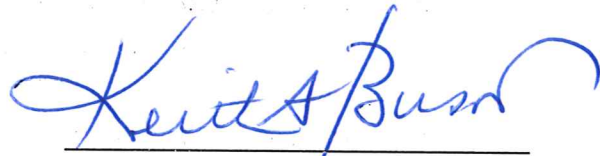
§35-69-6. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall, upon conviction, be liable to the penalty(ies) stated in Chapter 1, § 1-5, of the Revised General Ordinances of the Township of Berkeley.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

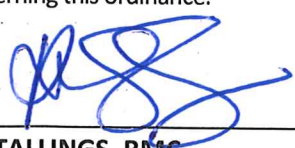
SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.


John A. Bacchione, Mayor


Keith Buscio, Council President
Angelo Guadagno, Council Vice President

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on July 15, **2024**, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the **19th day of August 2024**, at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.


KAREN STALLINGS, RMC
Township Clerk, Township of Berkeley



DASTI, McGUCKIN, McNICHOLS, CONNORS, ANTHONY & BUCKLEY

Jerry J. Dasti †
Gregory P. McGuckin
Timothy J. McNichols ‡
Martin J. Buckley
Kelsey A. McGuckin-Anthony
Christopher J. Connors
Thomas E. Monahan π
Patrick F. Varga
Joseph F. Mackolin, Jr.

π Certified Civil Trial Attorney
† N.J.L.G.A. Municipal Law Diplomate
Ω Member of NJ and FLA Bar
‡ Member of NJ and PA Bar

A Professional Corporation

Tax ID 22-3450668

www.dmmlawfirm.com

620 West Lacey Road

Forked River, NJ 08731

P 609-971-1010

F 609-971-7093

Email Address: pvarga@dmmlawfirm.com

July 25, 2024

Of Counsel

Charles E. Schlager, Jr. ‡
George F. Murphy, Jr. π Ω
Elizabeth Mackolin Dasti ‡
Robert E. Ulaky

Toms River Office:

506 Hooper Avenue

Toms River, NJ 08753

P 732-349-2446

F 732-349-1590

Sea Girt Office:

2150 Highway 35, Suite 250

Sea Girt, NJ 08750

P 732-295-3000

F 732-349-1590

Karen Stallings, Municipal Clerk
Township of Berkeley
627 Pinewald-Keswick Road
Bayville, NJ 08721

Re: Ordinance #24-36-0A: An Ordinance of the Township of Berkeley, County of Ocean, State of New Jersey, Amending Chapter 35, Development Standards to Create a New Subsection, Entitled "Privately-Owned Salt Storage"

Ordinance #24-38-OA: An Ordinance Amended Chapter 35, Section 23-2, Tree Removal/Replacement of the Code of the Township of Berkeley, County of Ocean, State of New Jersey

Ordinance #24-42-OA: An Ordinance of the Township of Berkeley, County of Ocean, State of New Jersey, Amending and Supplementing Article XI, Entitled "Zoning District Regulations", so as to Amend Section 35-106.7 Entitled "Corridor-Node (CN) Overlay Zone Regulations"

Dear Ms. Stallings:

At the July 18, 2024 meeting, the Planning Board in accordance with N.J.S.A. 40:55D-26, undertook a review of the above referenced Ordinances. Please accept this response and report to the Mayor and Counsel pursuant to the statutory formulation as discussed hereinabove.

Conclusion: In accordance with its responsibilities, under N.J.S.A. 40:55D-26, the Planning Board concluded that the amendments were not inconsistent with the Township's Development Regulations and Master Plan. I trust this information is of assistance to the Mayor and Counsel.

Should you have any questions, please do not hesitate to contact me.

PROUDLY SERVING OUR CLIENTS AND THE COMMUNITY FOR OVER 40 YEARS

As always, we thank you for your time and attention to our matter.

Very truly yours,

Patrick F. Varga
PATRICK F. VARGA
For the Firm

PFV:aae

cc: Gabrielle Napolitano, Board Secretary

AFFIDAVIT OF PUBLICATION

State of New Jersey, County of Hudson, ss:

Hayden Lipsky, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of The Press of Atlantic City, a newspaper printed and published in the City of Linwood, distributed in the following counties: Atlantic, Camden, Cape May, Cumberland, Gloucester, and Ocean and mailed to various parts of the State of New Jersey, the United States, and foreign countries, does hereby certify that the Notice was published in The Press of Atlantic City on:

PUBLICATION DATES:

Jul. 23, 2024

NOTICE ID: PEI9a9Le5GSm4r9JtV6I

PUBLISHER ID: COL6519

NOTICE NAME: 07-15-24 Meeting Ordinances

Publication Fee: 100.44

All interested parties may rely upon the representations contained herein limited solely to the authenticity of the Notice accompanying this Certification to be an accurate reproduction of the same and the date upon which it was published.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

(Signed) Hayden Lipsky

VERIFICATION

State of New Jersey
County of Hudson

SHANNEA H HOLMES
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires August 1, 2026

Subscribed in my presence and sworn to before me on this: 07/26/2024

Shanea H. Holmes

Notary Public

Notarized remotely online using communication technology via Proof.

07-15-24 Berkeley Township Notice of Pending and Adopted Ordinances

07-15-24 Berkeley Township Notice of Pending and Adopted Ordinances
24-35-OA

AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO-COMCAST OF NEW JERSEY, LLC. TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE MUNICIPALITY OF BERKELEY, OCEAN COUNTY, NEW JERSEY

24-36-OA

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING CHAPTER 35 DEVELOPMENT STANDARDS TO CREATE A NEW SUBSECTION ENTITLED "PRIVATELY OWNED SALT STORAGE"

24-37-OA

AN ORDINANCE AMENDING IN ITS ENTIRETY CHAPTER 35-74 "STORMWATER CONTROL - NON-PINELANDS AREA", OF THE CODE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN AND STATE OF NEW JERSEY ENTITLED LAND DEVELOPMENT.

24-38-OA

AN ORDINANCE AMENDING CHAPTER 35, SECTION 23-2 TREE REMOVAL / REPLACEMENT OF THE CODE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN AND STATE OF NEW JERSEY

24-39-OA

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE VACATION OF PORTIONS OF MICHAEL AVENUE (BETWEEN HARDING AVENUE AND ROLAND AVENUE) ABUTTING BLOCK 552, LOTS 17-22, BLOCK 558, LOTS 32-34 AND BLOCK 558, LOTS 29-31

24-40-OA

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER II, ENTITLED "ADMINISTRATION" SO AS TO AMEND SECTION 2-6.5.6, ENTITLED "MARRIAGE AND CIVIL UNION CEREMONIES"

24-41-OA

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER XII, ENTITLED "PROPERTY MAINTENANCE" SO AS TO AMEND SECTION 12-6.8, ENTITLED "FEES" (LEAD BASED PAINT INSPECTION FEES)

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on July 15, 2024, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 19th day of August, 2024, at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Copies of the Ordinance will be provided upon request from the Clerk's office at the address above, during regular business hours and can be found online at www.berkeleypointnj.org

Karen Stallings, RMC

Township Clerk, Township of Berkeley

Berkeley Township Notice of Ordinance Adoption

24-33-OAB

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY AUTHORIZING THE DONATION OF BLOCK 780, LOTS 5-8, 10-13, 15, 17, 19, 21-40, 45-48, BLOCK 781, LOTS 1-8, 10, 12, 14, 22, 24 & 38, BLOCK 782, LOTS 16, 18, 20, 22, 24, 26, 28 & 30, BLOCK 783, LOTS 1-22, BLOCK 784, LOTS 8-21, BLOCK 785, LOTS 1-4, 9-20, 22, 24-48, BLOCK 786, LOTS 1-26, 28, 30-48, BLOCK 787, LOTS 1-8, 14, 17, 36-46, 51 & 52, BLOCK 796, LOTS 5-25, BLOCK 1014.01, LOTS 1-7, 14 & 16, BLOCK 1014.02, LOTS 1-20 AND BLOCK 1014.03, LOT 1 TO THE COUNTY OF OCEAN, IN ACCORDANCE WITH N.J.S.A. 40A:12-13 (Cedar Creek Campground)

24-34-OAB

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY AUTHORIZING THE DONATION OF BLOCK 882.16, LOT 89, TO THE COUNTY OF OCEAN, IN ACCORDANCE WITH N.J.S.A. 40A:12-13 (Mill Creek)

Foregoing Ordinances were duly passed after Public Hearing held March 18, 2024 at a regular meeting of the Township of Berkeley and were approved by the Mayor on 7/15/2024

Printer Fee: \$100.44

Pub Date: July 23rd, 2024

Order #: COL6519