

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE No. 878-2024

AN ORDINANCE AMENDING AND SUPPLEMENTING VARIOUS CHAPTERS OF THE BOROUGH CODE, SPECIFICALLY CHAPTERS 12 (ANIMAL CONTROL), 14 (WATER & SEWER), 20 (BUILDING & CONSTRUCTION); AND 30 (STORMWATER REGULATIONS); REPEALING ALL CONFLICTING AND INCONSISTENT ORDINANCES AND PROVIDING PENALTIES FOR THE VIOLATION HEREOF.

WHEREAS, every New Jersey municipality has what is called a Municipal Separate Storm Water System that collects, transports, and may treat stormwater via pipes and channels; and

WHEREAS, to operate a Stormwater System, a municipality must obtain a permit from the State of New Jersey, which is known as the MS4 Permit, which allows stormwater collected in the MS4 to be discharged directly into streams, lakes, rivers, bays, and ponds; and

WHEREAS, the MS4 permit imposes multiple requirements or conditions, which functions to reduce the amount of polluted runoff, thereby improving the stormwater management and ultimately improving the water quality of our lakes, streams, bays, and ponds; and

WHEREAS, in 1999 the USEPA issued its stormwater rules establishing how MS4w should be regulated under federal law through State permitting programs; and

WHEREAS, the Borough has recently received an MS4 permit and as a consequence thereof the Borough is required to amend certain ordinances and to enact new ordinances to comply with the conditions of such permit;

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL, THE GOVERNING BODY OF THE BOROUGH OF AVALON, in the County of Cape May and State of New Jersey as follows:

The allegations of the preamble are adopted as findings of facts and the Code of the Borough of Avalon is hereby supplemented and amended as hereinafter provided:

SECTION ONE
AMENDS CHAPTER 12 OF THE BOROUGH CODE

§ 12-7.5 Soiling and Defilement; Cleanup and Disposal Required; Property Damage.
[2000 Code § 12:13-7]

No person owning, keeping, or harboring a ~~dog~~ **pet** shall permit or suffer it to do any injury or to do any damage to any lawn, shrubbery, flowers, grounds, or property. Unless immediate cleanup and disposal is undertaken. no person owning, harboring, keeping, walking or in charge of any ~~dog~~ **pet** shall cause, suffer, permit or allow such ~~dog~~ **pet** to defecate on any common thoroughfare, street, sidewalk, passageway, road, bypath, play area, park or any place where people congregate or walk or upon any boardwalk, beaches or beachfront in this Borough or upon any public property whatsoever or upon any private property without the permission of the owner of the private property in the last instance. "Proper cleanup and disposal" shall mean that such person shall immediately remove all feces and droppings deposited by such ~~dog~~ **pet** which removal shall be in a sanitary manner by shovel, container, disposal bag or some other similar device, and said feces and droppings shall be removed by said person from the aforesaid designated areas and disposed of by said person in a sanitary manner, so as to prevent any noxious odors, attraction of vermin or any other public health nuisance to neighbors. **This subsection shall not apply to nor be enforced against individuals with disabilities recognized by the Americans With Disabilities Act who rely upon service animals to aid them in their disability.**

§ 12-20.1 Feeding Wild and/or Stray Domestic Animals Restricted.

[2000 Code § 12:18A-1]

a. Except as provided in Section **12-16**, no person shall attract or feed any wildlife of any type including but not limited to wild and/or stray domestic animals, stray cats; stray dogs; seagulls; Canada geese or skunks **in any public park or other property owned or controlled by the Borough** of Avalon. Nothing contained herein shall prohibit persons from feeding birds on their private property using bird feeders or other similar receptacles. This section shall not apply to an Animal Control Officer in the performance of his/her official duties or to State and/or Federal wildlife officials in the performance of their official duties.

b. No person shall allow any cat to roam free within the Borough of Avalon in a manner to enter upon any area of the Borough designated by State or Federal agencies as areas reserved for protected or endangered species of birds.

c. No person shall abandon any animal within the Borough of Avalon.

SECTION TWO

AMENDS CHAPTER 14 OF THE BOROUGH CODE

DELETE THE FOLLOWING:

§ 14-21 Discharges Generally This section shall be repealed and amended and restated as follows:

NEW SECTION:

Section 14-21 is hereby amended and supplemented and shall hereafter read as follows:

§§ 14-21.1; 14-21,2; and 14-21.3 are hereby amended and shall hereafter read as follows:

§ 14-21 Improper Disposal of Waste**

§ 14-21.1 Purpose:

An ordinance to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the Borough of Avalon to protect the environment, public health, safety, and welfare, and to prescribe penalties for failure to comply.

§ 14-21.2 Definitions:

For the purpose of this section, 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.

A. "Municipal separate storm sewer system (MS4)" means 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 [insert name of municipality] or other public body, and is designed and used for collecting and conveying stormwater.

B. "Person" means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

C. "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.

§ 14-21.3 Regulated Activities:

The spilling, dumping, or disposal of materials other than stormwater that causes the discharge of pollutants to the municipal separate storm sewer system operated by the Borough of Avalon is prohibited.

§ 14-21.4 Exemptions:

- A. Potable water line flushing and discharges from potable water sources, excluding the discharge of filter backwash and first flush water from potable well development/redevelopment activities utilizing chemicals in accordance with N.J.A.C. 7:9D. The volume of first flush water, which is a minimum of three times the volume of the well water column, shall be handled and disposed of properly;
- B. Uncontaminated ground water (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising ground waters);
- C. Air conditioning condensate (excluding contact and non-contact cooling water; and industrial refrigerant condensate);
- D. Irrigation water (including landscape and lawn watering runoff);
- E. Flows from springs, riparian habitats, wetlands, water reservoir discharges and diverted stream flows;
- F. Residential car washing water and dechlorinated swimming pool discharges from single family residential homes;
- G. Sidewalk, driveway, and street wash water;
- H. Flows from firefighting activities including the washing of fire fighting vehicles;
- I. Flows from clean water rinsing of beach maintenance equipment immediately following use and only if the equipment is used for its intended purpose;
- J. Rinsing of beach maintenance equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.
- K. Flows from clean water rinsing of equipment and vehicles used in the application of salt and deicing materials. Prior to rinsing, all equipment shall be cleaned using dry methods such as shoveling and sweeping. Recovered materials are to be returned to storage or properly discarded; and
- L. Rinsing of deicing equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

§ 14-21.5 Enforcement:

This SECTION shall be enforced by the Borough Code Enforcement Official / Officers and by the Zoning Official.

§ 14-21.6 Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine no less than \$100 and to those penalties specified in Sections 1-5.1 et seq. of this Code.

***Reference: NJ Department of Environmental Protection – Model Ordinance regarding Improper Disposal of Waste*

§ 14-23.3 Unauthorized Connections.

[2000 Code § 14:2-12.3]

§ 14-23.3 subsections a and b are hereby repealed and have been replaced by the provisions of § 14-21.1 through § 14-21.6 inclusive.

SECTION THREE
AMENDS CHAPTER 20 OF THE BOROUGH CODE

§ 20-5.7 Pool Maintenance; Discharges; Permit Required.

- a.** Permits shall not be required for standard backwash procedures, however standard backwash shall be drained into the sanitary sewer system and shall not, under any circumstances, be drained into the storm water collection system.
- b.** Disinfection: Equipment shall be provided for the disinfection of all pool water. The disinfectant shall be introduced into the recirculation system ahead of the filters.
- c.** Any and all discharges of any pool or spa shall require a Discharge Permit issued by the Zoning Officer in accordance with the provisions of § **27-7.2c2(o)**. The failure of any responsible party to obtain a Discharge Permit shall subject such person to the penalty provisions of this section. For the purpose of this section, "discharge" shall mean and include the removal or emptying of any pool or spa, either completely or partially, of water that has been or is likely to have been treated with chemicals. Regardless of whether or not the water has been treated with chemicals a discharge permit shall be required. This discharge shall be made only to the sanitary sewer system and under no circumstances shall such discharge be made to the Borough's storm water collection system, nor may such discharge be made to the ground. Each swimming pool or spa shall clearly disclose on the plans the location of the sanitary sewer clean-out and all pool discharges shall be made through the use of such sanitary sewer clean-out.

ADD NEW SECTION AS FOLLOWS:

d. In addition to the requirements set forth in subsections a, b, and c, above, all pool discharges shall also be subject to the requirements set forth in § 14-21.1 through § 14-21.6 inclusive. In the event of any conflict or inconsistency between the above subsections and the provisions of § 14-21.1 through § 14-21.6 inclusive, the latter provisions shall take precedence.

SECTION FOUR
AMENDS CHAPTER 30 – STORMWATER REGULATIONS – OF THE BOROUGH CODE TO ADD A NEW SECTION

§ 30-11 MITIGATION PLAN.

[Ord. No. 574-2006 § 11]

Few, if any, projects will meet the threshold for a major development. However, it is anticipated that a major project would have difficulty in meeting DEP Standards. As such, the Borough of Avalon will consider granting variances — exceptions to the standards. See Municipal Stormwater Management Plan.

§ 30 – 12 Privately -Owned Salt Storage

§ 30-12.1. Purpose:

The purpose of this section 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 the Borough of Avalon to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 30-12.2 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.

- 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.

§ 30-12-3. 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 fifty 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. All such temporary and/or permanent structures must also comply with all other local ordinances, including building and zoning regulations.]
- D. 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.

§ 30-12.4 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.

§ 30-12.5 Enforcement:

This ordinance shall be enforced by the Borough Code Enforcement Official / Officers and the Zoning Official during the course of ordinary enforcement duties.

§ 30-12.6 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 result in those penalties specified in Sections 1-5.1 et seq. of this Code.

ADD NEW SECTION AS FOLLOWS:

§ 30-12-13 STORMWATER PROGRAM COORDINATOR; APPOINTMENT

§ 30-12-13.1 Position; Appointment; Term.

There is hereby created the position of Stormwater Program Coordinator (hereafter sometimes referred to as "SPC") who shall be appointed either by Executive Order of the Mayor or by Resolution of the Borough Council.

The Stormwater Program Coordinator may be the Borough Engineer or some other suitable person, or entity, including a third-party consultant, who is qualified to and has the requisite knowledge to manage and administer the implementation and compliance the Stormwater Program in the Borough.

The individual so appointed shall serve for an indeterminate term and shall be subject to removal by the respective appointing authority, either the Mayor or Borough Council depending on the person or entity making the appointment.

The position of the Stormwater Program Coordinator, for administrative purposes only, is assigned to, but shall not be part of, the Department of Public Works and Utilities (DPWU).

§ 30-12-13.2 Duties.

The Stormwater Program Coordinator shall have the knowledge to manage the implementation of, and compliance with, the State issued MS4 – Tier A Municipal Stormwater General Permit. In addition, the Coordinator shall:

- a. Make specific recommendations, when necessary or advisable, to the Mayor and Borough Council concerning the development, updating, implementation and enforcement of the MS4 stormwater program, the primary objective of which shall be to implement best management practices and other measures that are designed to reduce the discharge of pollutants from the Borough's municipal maintenance yards and other ancillary operations, to the maximum extent practicable pursuant to N.J.A.C. 17:14A-25.6(a)11 and CFR 122.34(a) to protect water quality, and to satisfy the applicable water quality requirements of the Clean Water Act.
- b. Make recommendations concerning the modification of the Borough's MS4 stormwater program (including applicable plans and ordinances) to conform with applicable new legislation or new or amended regulations.
- c. Assist the Borough, through specific recommendations in developing, updating, implementing, and maintaining a written Stormwater Pollution Prevention Plan, or SPPP, that documents the Borough's MS4 stormwater program and describes and make recommendation for the measures necessary for compliance with all permit conditions.
- d. Coordinate the Borough's implementation of its MS4 stormwater program, permit conditions, and SPPP.
- e. Sign and date the SPPP.
- f. Complete and submit the Municipal Stormwater Regulation Program (MSRP) Annual Report consistent with the MS4 General Permit and specifically Part IV.K thereof.

§ 30-13 to § 30-16 [Reserved]

§ 30-17 PENALTIES. [This section shall be renumbered as 30-17 and any subsequent sections shall be numbered sequentially]

[Ord. No. 574-2006 § 12]

Any person, firm or corporation who violates this chapter shall, upon conviction of the violation, be subject to the penalty stated in Chapter 1, Section 1-5. Each day of continued operation after service of notice of violation upon the applicant, shall be considered a separate offense allowing the imposition of additional separate fines and penalties. In addition, thereto, upon such conviction, the person, firm, or corporation violating any provision of this chapter shall be subject to revocation of any license issued.

SECTION 5. REPEALER. All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

SECTION 6. SEVERABILITY. If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause, or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect immediately upon final adoption and publication as required by law.

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading of the Municipal Council of the Borough of Avalon on April 10, 2024. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 24th day of April, 2024 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 4:00 pm and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

C. DANIELLE NOLLETT
Borough Clerk