

ORDINANCE NO. 870

**AN ORDINANCE OF THE BOROUGH OF HOPEWELL,
COUNTY OF MERCER, NEW JERSEY, ESTABLISHING
REGULATIONS TO PROTECT THE MUNICIPAL
SEPARATE STORM SEWER SYSTEM AS REQUIRED
BY NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION AND AMENDING
“THE REVISED GENERAL ORDINANCES OF THE
BOROUGH OF HOPEWELL, 1975”**

WHEREAS, effective January 1, 2023, the New Jersey Department of Environmental Protection re-assigned the Borough of Hopewell from Stormwater Tier B to Tier A for purposes of the Borough’s municipal stormwater permit; and

WHEREAS, in order to help better manage stormwater discharges and resulting pollutant and nutrient impacts to waterways, Tier A municipalities are required to initiate a variety of municipal stormwater compliance activities before January 1, 2024, including but not limited to revising and adopting specific ordinances to help better manage stormwater discharges and resulting pollutant and nutrient impacts to waterways; and

WHEREAS, ordinances are required for various situations in connections with the Borough’s municipal separate storm sewer system; and

WHEREAS, at this time the Mayor and Council seek to amend Chapter III of the “Revised General Ordinances of the Borough of Hopewell, 1975” (“Borough Code”), entitled “General Police Regulations,” to add provisions to regulate activities impacting, and further protect, the Borough’s municipal separate storm sewer system.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hopewell, County of Mercer and State of New Jersey, as follows:

1. **New Section 3-29, Regulations for the Municipal Separate Storm Sewer System.** Chapter III of the Borough Code (“General Police Regulations”), is amended by adding a new section 3-29 thereto as follows:

§3-29. Regulations for the Municipal Separate Storm Sewer System.

§3-29.1 Purpose.

The regulations set forth in this section 3-29 are intended to comply with the requirements of the New Jersey Department of Environmental Protection Stormwater Management Regulations and protect the municipal separate storm sewer system.

§3-29.2 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 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. To the extent applicable, the terms below shall be construed consistently with corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

CONTAINERIZED – Shall mean the placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

DOMESTIC SEWAGE – Shall mean waste and wastewater from humans or household operations.

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.

ILLCIT CONNECTION – Shall mean any physical or non-physical connection that discharges domestic sewage, non-contact cooling water, process wastewater, or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the borough, unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES Permit Number NJ0141852). Non-physical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

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.

INDUSTRIAL WASTE – Shall mean non-domestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act (33 U.S.C. §1317(a), (b), or (c)).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) – Shall mean 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 borough or other public body, and is designed and used for collecting and conveying stormwater.

NJPDES PERMIT – Shall mean a permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NON-CONTACT COOLING WATER – Shall mean water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Non-contact cooling water may however contain algacides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

PERMANENT STRUCTURE – Shall mean 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).

As used herein, a fabric frame structure is a permanent structure if it meets the following specifications:

- a. Concrete wall, 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;
- b. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
- c. The structure shall be erected on an impermeable slab;
- d. The structure cannot be open sided; and
- e. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

PERSON – Shall have the same meaning as “person” is defined in section 1-2 of this Code, and shall also include any political subdivision of this State subject to municipal jurisdiction.

PROCESS WASTEWATER – Shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water.

STORM DRAIN INLET – Shall mean 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.

STORMWATER – Shall mean 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.

STREET – Shall mean any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing State, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

WATERS OF THIS STATE – Shall mean 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.

YARD WASTE – Shall mean leaves and grass clippings.

§3-29.3 Illicit Connections to the Municipal Separate Storm Sewer System

§3-29.3.1 Purpose

The purpose of this subsection 3-29.3 is to prohibit illicit connections to the municipal separate storm sewer system operated by the borough, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§3-29.3.2 Prohibited Conduct.

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the borough

any domestic sewage, non-contact cooling water, process wastewater, or other industrial waste (other than stormwater).

§3-29.4 Improper Disposal of Waste to the Municipal Separate Storm Sewer System.

§3-29.4.1 Purpose.

The purpose of this subsection 3-29.4 is to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the borough, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§3-29.4.2 Prohibited Conduct.

The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system operated by the borough is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

§3-29.4.3 Exceptions.

The following activities shall be excepted from the prohibition in subsection 3-29.4.2 above:

- a. Water line flushing and discharges from potable water sources.
- 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).
- d. Irrigation water (including landscape and lawn watering runoff).
- e. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- f. Residential car washing water, and residential swimming pool discharges.
- g. Sidewalk, driveway and street wash water.
- h. Flows from fire fighting activities.
- i. Flows from rinsing of the following equipment with clean water:

- (a) Beach maintenance equipment immediately following their use for their intended purposes; and
- (b) Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded. Rinsing of equipment, as noted in the above situation is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

§3-29.5 Private Storm Drain Inlet Retrofitting.

§3-29.5.1 Purpose.

The purpose of this subsection 3-29.5 is to require 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, in a manner 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 borough so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§3-29.5.2 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:

- a. Already meets the design standard below to control passage of solid and floatable materials; or
- b. Is retrofitted or replaced to meet the standard in subsection 3-29.5.3 below prior to the completion of the project.

§3-29.5.3 Design Standard.

Storm drain inlets identified in subsection 3-29.5.2 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this section, "solid and floatable materials"

means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see subsection 3-29.5.3c. below.

- a. 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:
 1. 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
 2. 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.

- b. 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.
- c. This standard does not apply:
 1. 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;
 2. 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:
 - (a) 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

- (b) A bar screen having a bar spacing of 0.5 inches;
- 3. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or
- 4. 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.

§3-29.6 Yard Waste.

§3-29.6.1 Purpose.

The purpose of this subsection 3-29.6 is to establish requirements for the proper handling and collection of yard waste in the borough, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§3-29.6.2 Yard Waste – Generally Prohibited Conduct.

Except as permitted in subsection 3-29.6.3 below:

- a. The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste, unless the yard waste is containerized, in the street; and
- b. If yard waste that is not containerized is placed in the street, the party responsible for placement of yard waste must remove the yard waste from the street or said party shall be deemed in violation of this section.

§3-29.6.3 Yard Waste – Municipal Collection.

- a. Yard waste that is not containerized may be left at the curb or along the street only when authorized by the municipality and in advance of scheduled and announced collection. In no event shall yard waste be placed at the curb or along the street any earlier than seven (7) days prior to the borough's scheduled and announced collection.
- b. Sweeping, raking, blowing or otherwise placing yard waste that is not containerized at the curb or along the street is only allowed during the seven (7) days prior to the scheduled and announced collection.
- c. Yard waste that is not containerized shall not be placed closer than ten (10) feet from any storm drain inlet.

- c. Placement of such yard waste at the curb or along the street at any other time or in any other manner is a violation of this section. If such placement of yard waste occurs, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this section.

§3-29.7 Privately-Owned Salt Storage.

§3-29.7.1 Purpose.

The purpose of this subsection 3-29.7 is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

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

§3-29.7.2 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. All temporary and permanent structures shall also comply with all provisions of this Code, including but not limited to all construction, building and land use requirements.
- 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 section 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 stored at their residences are required to perform weekly inspections.

§3-29.7.3 Exemptions; Opportunity to Abate Violations.

Residents may store de-icing materials at their residences 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 two 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 subsection 3-29.7.2 above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

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

If the municipal enforcing officer(s) or personnel identified in subsection 3-29.8 below find any person to be in violation of the provisions governing privately owned salt storage, said official(s) or personnel shall provide written notice of same to the person in violation. The person shall have 72 hours of the issuance of the written notice to complete corrective action necessary to abate the violation. Repeat violations and/or failure to complete corrective action within the time permitted shall result in penalties and fines as set forth in subsection 3-29.9 below.

§3-29.8 Enforcement.

This section 3-29 shall be enforced by the police department, municipal engineer, zoning officer, administrator (or designee) and/or other municipal officials or employees as appropriate and during the course of ordinary enforcement duties.

§3-29.9 Penalties.

Any person in violation of this section 3-29 shall be subject to a minimum fine of \$100.00 and maximum fines and penalties as set forth in section 3-11 *et seq.* of this Code.

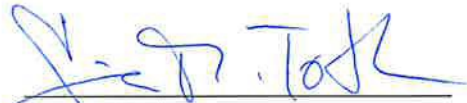
2. **Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

3. **Severability.** If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be valid and enforceable.


4. **Effective Date.** This ordinance shall take effect upon its adoption and publication as provided by law.

INTRODUCED: 10/5/2023
 PASSED: 10/5/2023
 PUBLISHED: 10/13/2023
 ADOPTED: 11/2/2023
 INTRODUCED BY: Mr. Kennedy

ATTEST:



 Regina Toth
 Municipal Clerk



 C. Schuyler Morehouse
 Council President

ROLL CALL VOTE				
P COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
KENNEDY	✓			
MACKIE	✓			
MCAULIFFE	✓			
MOREHOUSE	✓			
STUHLER	✓			
WEAVER	✓			