

**LEGAL NOTICE
ORDINANCE NO. 42
2024
TOWNSHIP OF WAYNE
COUNTY OF PASSAIC
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 177
(STORMWATER MANAGEMENT REGULATIONS)**

WHEREAS, New Jersey's Stormwater Management Rules codified at N.J.A.C. 7:8 et seq. ("Rules") are implemented by the New Jersey Department of Environmental Protection ("Department") through the review of permits issued by the Division of Land Use Regulation (DLUR) (Flood Hazard, Freshwater Wetlands, CAFRA, Waterfront Development and Coastal Wetlands) as well as by local authorities through the Municipal Land Use Law (MLUL) and the Residential Site Improvement Standards (RSIS); and

WHEREAS, the Township must comply with the new New Jersey Department of Environmental Protection Regulations, by amending and supplementing Chapter 177 (Stormwater Management Regulations).

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Wayne in the County of Passaic, State of New Jersey as follows:

SECTION 1. Chapter 177 (Stormwater Management Regulations), Article I (Improper Disposal of Waste) of the Code of the Township of Wayne is hereby amended and supplemented to read as follows [additions by **bold**, deletions by ~~striketrough~~]:

§ 177-1. Purpose.

The Governing Body hereby finds and declares that regulations to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the Township of Wayne to protect **the environment** public health, safety and welfare, **and to prescribe penalties for failure to comply.**

§ 177-2. Definitions.

~~As used in this article, the following terms shall have the meanings indicated:~~

As used in this article, 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.

§ 177-3. **Regulated Activities:** ~~Permit not required for certain work.~~

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

~~It shall be a violation of this article to:~~

- ~~A. Spill, dump or dispose of materials other than stormwater to the municipal separate storm sewer system operated by the Township.~~

~~B. Spill, dump or dispose of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system.~~

§ 177-4. Exceptions.

The following shall not be a violation of the provisions of §177-3.

- A. **Potable** water line flushing and discharges from potable water sources, **excluding the discharge of filter backwash and firsts 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 property;**
- B. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters).
- 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, ~~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 **including the washing of the fire fighting vehicles.**
- I. Flows from **clean water** rinsing of **beach maintenance**~~the following equipment with clean water:~~ **equipment immediately following use and only if the equipment is used for its intended purpose.**
 - ~~(1) 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.~~
 - ~~(2) 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.~~
- 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.
- L. Rinsing of deicing equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

§ 177-6. Violations and penalties.

Any person(s) who ~~continues~~ **is found** to be in violation of the provisions of this article, ~~after being duly notified,~~ shall be subject to a fine not ~~no less than to exceed \$100 \$1,000,~~ **and not to exceed \$500 for each incident.** ~~plus the cost of any necessary cleanup.~~

SECTION 2. Chapter 177 (Stormwater Management Regulations), Article IV (Illicit Connections) is hereby established in the Code of the Township of Wayne to read as follows [additions by **bold**, deletions by ~~striketrough~~]:

Article IV. Illicit Connections

§ 177-30. Purpose.

The Governing Body hereby finds and declares that regulations to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the Township of Wayne to protect the environment, public health, safety, and welfare, and to prescribe penalties for failure to comply.

§ 177-31. Definitions.

As used in this article, 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.

DOMESTIC SEWAGE means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

ILLICIT CONNECTION means, any physical or non-physical connection that discharges the following to a municipal separate storm sewer system (unless that discharge is authorized under a NJPDES permit other than the NJPDES permit for discharges from that system):

1. Domestic sewage;
2. Non-contact cooling water, process wastewater, or other industrial waste (other than stormwater); or

3. Any category of non-stormwater discharges that a permittee for the MS4 identifies as a source or significant contributor of pollutants pursuant to 40 C.F.R. 122.26(d) (2) (iv) (B) (1) or 122.34(b) (3) (iii).

4. Non-physical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

INDUSTRIAL WASTE means non-domestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act.

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 the Township of Wayne or other public body, and is designed and used for collecting and conveying stormwater.

NJPDES PERMIT means 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 means 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 algaecides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

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

PROCESS WASTEWATER means 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.

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.

§ 177-32. Regulated Activities:

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the Township of Wayne any domestic sewage, non-contact cooling water, process wastewater, or other industrial waste (other than stormwater).

§ 177-33. Exceptions.

None

§ 177-34. Enforcement.

This article shall be enforced by the Police Department, the Director of Public Works, the Township Engineer, the Superintendent of Roads or their designees.

§ 177-35. Violations and penalties.

Any person(s) who continues to be in violation of the provisions of this article, after being duly notified, shall be subject to a fine not to exceed \$1,000, plus the cost of any necessary cleanup.

§ 177-36 to 177-39 RESERVED

SECTION 3. Chapter 177 (Stormwater Management Regulations), Article V (Privately Owned Salt Storage requirements) is hereby established in the Code of the Township of Wayne to read as follows [additions by **bold**, deletions by ~~striketrough~~]:

Article V - Privately-Owned Salt Storage

177-40 Purpose:

- A. The purpose of this article is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.
- B. 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 Wayne Township to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

177-41 Definitions:

- A. For the purpose 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 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 means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

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

STORM DRAIN INLET means the point of entry into the storm sewer system.

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).

- (1) A fabric frame structure is a permanent structure if it meets the following specifications:

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

RESIDENT means a person who resides on a residential property where de-icing material is stored.

177-42 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.

177-45 Violations and Penalties:

Any person(s) who continues to be in violation of the provisions of this article, after being duly notified, shall be subject to a fine not to exceed \$1,000, plus the cost of any necessary cleanup.

177-46 to 177-49 Reserved

SECTION 4. Chapter 177 (Stormwater Management Regulations), Article VI (Retrofitting of Privately Owned Inlets added) is hereby established in the Code of the Township of Wayne to read as follows [additions by **bold**, deletions by ~~strikethrough~~]:

Article VI Private Storm Drain Inlet Retrofitting

177-50 Purpose:

An article requiring 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 Wayne to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply. Installation of all new storm drain inlets must include a catch basin or other BMP designed for solids collection in areas which drain to surface waters and that do not have any other downstream BMPS prior to the surface water discharge.

177-51 Definitions:

B. For the purpose 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 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.

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.

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

STORM DRAIN INLET means the point of entry into the storm sewer system.

177-52 Regulated Activities:

- A. 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 Section IV below prior to the completion of the project.
- B. The below design standard applies to the following types of storm drain inlet retrofit projects unless a more stringent standard is specified by the municipality's Stormwater Control Ordinance:
1. Privately-owned or operated storm drain inlets (e.g., condominium association) must be retrofitted where the storm drains are:
 - a. In direct contact with any repaving, repairing (excluding individual pothole repair), or resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen); or
 - b. In direct contact with any reconstruction or alteration of facilities. This does not include single family homes.
- C. Grates in pavement or other ground surfaces shall meet either of the following standards:
1. The New Jersey Department of Transportation (NJDOT) bicycle safe grate standards described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (see www.state.nj.us/transportation/about/publicat/pdf/BikeComp/introtofac.pdf); or
 2. A grate where each individual clear space in that grate has an area of no more than seven (7.0) square inches or is not greater than 0.5 inches across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates.
 - a. Examples of grates subject to this standard include grates in grate inlets; the grate portion (noncurb 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 used to collect stormwater from the surface into a storm drain or surface water body.

- b. For curb-openings inlets, including curb-opening inlets in combination inlets, the clear space in the 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.

D. 177-53 Exemptions:

The following exemptions from the design standard apply:

- A. Where each individual clear space in the curb opening in existing curb-opening inlets does not have an area of more than nine (9.0) square inches;

- B. Where the review agency determines that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;

- C. Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., 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:

1. A rectangular space four and five-eighths inches long and one and one-half inches wide; or
2. A bar screen having a bar spacing of 0.5 inches;
 - a. Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

- D. Where flows are conveyed through a trash rack that has parallel bars with one inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in N.J.A.C. 7:8; or

- E. Where the Department 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 the standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

177-54 Enforcement:

This article shall be enforced by the Police Department, the Director of Public Works, the Township Engineer, the Superintendent of Roads or their designees.

177-55 Violations and Penalties:

Any person(s) who continues to be in violation of the provisions of this article, after being duly notified, shall be subject to a fine not to exceed \$1,000, plus the cost of any necessary cleanup.

SECTION 5. All other provisions of Chapter 177 of the Code of the Township of Wayne shall remain unchanged.

SECTION 6. Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause, phrase, or any other part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 7. Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 8. Codification. This Ordinance shall be a part of the Code of the Township of Wayne as though codified and fully set forth therein. The Township Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Township Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Wayne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

SECTION 9. This ordinance shall take effect twenty days after final passage, adoption, and publication in the manner prescribed by law.

ATTEST:

PAUL V. MARGIOTTA
TOWNSHIP CLERK

JASON DESTEFANO
PRESIDENT OF THE COUNCIL

NOTICE

I hereby certify that the aforementioned ordinance was published in the Herald News, a newspaper published in the County of Passaic and circulated in the Township of Wayne, in the issues of July 24, 2024 and August 28, 2024.

PAUL V. MARIOTTA,
Township Clerk

This ordinance is hereby
approved this 22nd day
of August 2024.

ADOPTED ON: August 21, 2024

CHRISTOPHER P. VERGANO,
Mayor