ORDINANCE NO. 16-23

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER 493, STORMWATER CONTROL, OF THE TOWNSHIP CODE TO ESTABLISH NJDEP-MANDATED REGULATIONS FOR PRIVATELY OWNED SALT STORAGE

WHEREAS, as part of MS4 Tier A permit stormwater requirements, the New Jersey Department of Environmental Protection (NJDEP) requires municipalities to adopt NJDEP-mandated regulations for privately owned salt storage; and

WHEREAS, the Township Engineer and Township Attorney have reviewed the model ordinance provided by NJDEP and recommend adoption; and

WHEREAS, the Township Council desires to adopt the NJDEP model ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the Township of Denville, County of Morris, State of New Jersey, as follows:

SECTION 1. Chapter 493, Stormwater Control, of the Township Code is hereby amended to establish Article IV Privately Owned Salt Storage, to read as follows:

Article IV **Privately Owned Salt Storage**

§ 493-18 **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 Township of Denville to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 493-19 **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 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.

§ 493-20 **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 such temporary and/or permanent structures must also comply with all other Township of Denville 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.

§ 493-21 **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 § 493-20 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.

§ 493-22 **Enforcement.**

This ordinance shall be enforced by the Township of Denville Engineer or designee during the course of ordinary enforcement duties.

§ 493-23. **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 subject such person(s) to fines and penalties in accordance with N.J.S.A. 40:49-5.

SECTION 2. Ordinances, resolutions, regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

BY ORDER OF THE MUNICIPAL COUNCIL
OF THE TOWNSHIP OF DENVILLE

ATTEST: APPROVED:

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TARA M. PETTONI, RMC
MUNICIPAL CLERK

MAYOR THOMAS W. ANDES
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on July 11, 2023.

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Tara M. Pettoni, RMC
Municipal Clerk