

ORDINANCE 2023-26

ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 120, “LAND USE,” PART 3, “ZONING,” ARTICLE TWENTY-FOUR, “ACCESSORY USES, BUILDINGS AND STRUCTURES,” SECTION 1 “REQUIREMENTS FOR RESIDENTIAL ACCESSORY USES AND STRUCTURES,” OF THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH

WHEREAS, the Borough of Kenilworth (the “Borough”) seeks to amend the Borough’s existing zoning ordinance to allow for direct, same size replacements of heating, ventilation, and air conditioning units without Planning Board approval as well as requiring all new units to be placed in the rear of the property; and

WHEREAS, the Mayor and Council of the Borough recognizes that when there is a new ground-based platform of a heating, ventilation and/or air conditioning to be installed or replaced, or a new unit is larger in size than the current ground-based unit, or if anything that is a capital improvement to a residential home, Planning Board approval is required; and

WHEREAS, the Mayor and Council find that there is a substantial interest in furthering the public health, safety and welfare by protecting the residential character of areas designated for residential use by establishing and enforcing minimum standards; and

WHEREAS, pursuant to N.J.S.A. 40:55D-62, the governing body of a municipality may amend a zoning ordinance relating to the nature and extent of the uses of land provided the Planning Board has adopted the land use plan element and housing element plan; and

WHEREAS, such amendments to the zoning ordinance must be substantively consistent with the land use plan element and housing plan element of the Master Plan before it can be considered for final passage; and

WHEREAS, prior to adoption of an amendment to a zoning ordinance, the Governing Body must refer the ordinance to the Planning Board, pursuant to N.J.S.A. 40:55D-62, to determine consistency with the Land Use Plan Element and Housing Plan Element of the Master Plan; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey as follows:

SECTION 1. The foregoing whereas clause is incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 120 “Land Use,” Part 3, “Zoning,” Article 24 “Accessory Uses, Buildings and Structures,” Section 1, “Requirements for residential accessory uses and structures,” subsection I (4) shall be amended as follows.

Note: Additions are shown in bold and underlined and deletions are shown as strikethrough.

§ 120-24.1 Requirements for residential accessory uses and structures.

Except as may be specifically provided otherwise in this chapter, the following provisions shall apply to the specific accessory buildings, uses and/or structures for all residences in all residential and nonresidential zones; provided, however, that except for improvement coverage requirements herein, this article shall not apply to parking, signs and other accessory structures regulated elsewhere in this chapter when such regulations expressly or by clear implication supersede those in this article:

I. Other miscellaneous residential accessory uses and structures. The following regulations shall apply as specified:

- (1) Wading pools, sandboxes, trellises, seasonal temporary tents, dog houses, kennel enclosures, patios, grape arbors, permanent barbecue facilities, and other structures or uses customarily associated with residential uses shall all be set back from any property line at least five feet and shall not be located in the front or side yards; provided, however, that patios may be located in any side yard. Notwithstanding anything to the contrary set forth herein, temporary structures for religious services may be located in the front, side and/or rear yards.

ORDINANCE 2023-26

- (2) Bocci courts shall not be located in the front or side yards and shall be at least five feet from any property line.
- (3) Playground equipment shall not be located in the front or side yard, shall be no higher than 15 feet above the ground, and shall be at least five feet from any property line.
- (4) Air conditioners and heat pumps, or portions thereof, which are not mounted in the window or walls of a building or structure but are placed upon the ground or on a ground-based platform outside of a structure or building may not be located in the front yard. A direct, same size replacement to an existing ground-based platform of a heating, ventilation and/or air conditioning unit does not require approval from the Planning Board so long as no additional work is to be completed at the time of the direct replacement. Such structures shall be at least five feet from any property line. Any ground level air conditioner, compressor, and/or heat pump shall be screened.
- (5) Generators shall be set back from the side lot lines a distance equal to or greater than the distance required for principal buildings. Any ground level generator shall be screened by an attractive and appropriate wall, fence or planting of appropriate height and density to obscure the generator from view of adjacent properties, which screening shall be subject to the approval of the Zoning Officer. Generators shall not be located in the front or front side yard on corner properties.
- (6) Basketball backboards may be fastened to the house. Movable backboards shall not be positioned in such a manner to interfere with either pedestrian or vehicular traffic. No basketball backboards shall be located anywhere but on the individual owner's property and not in the public right-of-way.
- (7) Mailboxes, artwork, gate posts, portable barbecues and planters shall be exempt from the provisions of this article and any other provision of this chapter.
- (8) Skateboard ramps. Any structure or ramp designed for use with skateboards, whether on a temporary or permanent foundation, is prohibited in all residential zone districts.
- (9) Other uses and structures. The Zoning Officer shall determine the applicability of this chapter to accessory uses and structures for residential use which are not specifically regulated herein.

SECTION 3. If any section, paragraph, subdivision, sentence, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, sentence, clause, or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

SECTION 4. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

SECTION 5. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey, following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).



Linda Karlovitch, Mayor

INTRODUCTION					COUNCILPERSON	FINAL ADOPTION						
Moved	Sec.	Aye	Nay	Abs.		NP	Moved	Sec.	Aye	Nay	Abs.	NP
		X							X			
X		X					X		X			
		X										X
		X							X			
	X	X						X	X			
		X							X			
Introduced:					I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.	 Angela Latzari, Borough Clerk						
November 1, 2023												
Final Adoption:												
December 6, 2023												