

ORDINANCE 2024-20

ORDINANCE AMENDING CHAPTER 94, “FIRE PREVENTION,” OF THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH TO ADOPT RULES AND REGULATIONS FOR RECREATIONAL FIRES IN THE BOROUGH

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Governing Body finds that recreational fires and burning of combustible materials in a residential setting may pose a serious hazard to the public health, safety, general welfare, and the quality of lives of the residents of the Borough and that the residents have a right to and should be ensured of an environment free from noxious fumes and the threat of fire, but that residents of the Borough also have the right to enjoy and use their private property, which may include the setting of recreational fires in accordance with the adopted rules and regulations, and it is the intention of the Governing Body to strike the appropriate balance between these rights in adopting rules and regulations governing the same; and

WHEREAS, the Governing Body finds that it is in the public interest that the provisions, prohibitions and controls concerning recreational fires be enacted as a matter of legislative determination and public policy and be adopted for the purpose of securing and promoting the public health, comfort, safety, and general welfare and quality of life of the residents of the Borough.

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 clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 94 “Fire Prevention,” of the Borough Code shall be amended as follows:

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

Chapter 94. **Fires and Fire Prevention**

Article I. Fire Prevention

§ 94-1. Local enforcement.

...

§ 94-14. Emergency services cost recovery.

Article II. Recreational Fires

§ 94-15. Legislative findings; policy; purpose.

- A. The Governing Body of the Borough of Kenilworth finds that recreational fires and burning of combustible materials in a residential setting may pose a serious hazard to the public health, safety, general welfare and the quality of life of the residents of Borough of Kenilworth. The public has a right to and should be ensured of an environment free from noxious fumes and the threat of fire. The public also has the right to enjoy their property, which may include the setting of recreational fires in accordance with the provisions of this Article. It is the intention of the Governing Body to strike the appropriate balance between these rights and, in doing so it shall be the policy of the Borough to prevent the danger of fire from open burning which is a detriment to the public health, comfort, safety, welfare and quality of life.
- B. It is in the public interest that the provisions, prohibitions and controls

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hereinafter contained be enacted as a matter of legislative determination and public policy and be adopted for the purpose of securing and promoting the public health, comfort, safety, and general welfare and quality of life of the residents of the Borough.

§ 94-16. Definitions.

For the purpose of this article, the following definitions shall apply:

CHIMINEA; OUTDOOR FIREPLACE; OUTDOOR FIRE PIT; OUTDOOR FIRE RING

As defined by the manufacturers, approved containers for open burning.

FIREWOOD

Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than two inches in diameter.

NUISANCE

Any odor, emission, or event that prevents the reasonable use and enjoyment of one's property.

RECREATIONAL FIRE

An outdoor fire where seasoned wood of approved dimensions is burned for entertainment.

TREATED LUMBER

Dry wood which has milled and dried and has been treated or combined with any petroleum product, glue, chemical, preservative, adhesive, stain, paint or other substance.

UNTREATED LUMBER

Dry wood which has milled and dried but which has not been treated or combined with any petroleum product, glue, chemical, preservative, adhesive, stain, paint or other substance.

§ 94-17. Regulation of recreational fires.

- A. Recreational fires shall be allowed without a permit at one- and two-family owner-occupied homes, duplexes, and town homes, subject to the regulations contained herein.
- B. Fires shall be limited to a maximum three-foot diameter and two-foot height and must be contained in a noncombustible chiminea, outdoor fireplace, fire pit or brick (or stone) fire ring.
- C. Fires must be kept in the rear yard at least 15 feet from any structure or combustible exterior wall, except that if 15 feet cannot be maintained, the fire shall be located as far away from any structure or combustible exterior wall as possible, so long as the fire can be safely located in a location so as not to create a risk of the fire spreading to any structure or combustible exterior wall.
- D. No outdoor fire shall be unattended for more than ten (10) minutes. Any outdoor fire left unattended for ten (10) minutes or more shall be immediately extinguished.
- E. No fire or container used for open burning may be used on any porch, deck, balcony or any other portion of a building; within any room or space; or under any building overhang.
- F. The burning of yard waste, leaves, brush, vines, evergreen needles, treated or untreated lumber, garbage, paper products or anything other than firewood as set forth herein causing dense smoke (pursuant to § 134-11), dangerous fumes (pursuant to § 134-12), noxious odors or creates a Nuisance as set forth in this ordinance is prohibited, except that kindling may be used to start a fire.
- G. No person enforcing the provisions of this Article may enter upon private property unless he/she complies with the provisions of the Uniform Fire Code, regarding the following:

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1. necessary inspections to enforce provisions of the Uniform Fire Code including, but not limited to, the provisions set forth at N.J.A.C. 5:70-2.1 (Enforcement authority); or
2. when there is reasonable cause to believe that there exists in any or upon any premises any condition which makes such building or premises unsafe, which case the fire official or his or her authorized representative may enter such premises, at all reasonable times to inspect the same or to perform any duty imposed upon the fire official by the Uniform Fire Code, provided that if such premises be occupied, he or she shall first present proper credentials and demand entry; and if such premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry.

H. The Fire Chief or his/her designee, a police officer, or health officer may order any open fire or container used for open burning, or use of a chiminea, outdoor fireplace, fire pit, or fire ring which either:

1. creates a risk of the fire spreading to any structure or combustible exterior wall; or
 2. emits Dense Smoke (pursuant to § 134-11); or
 3. emits Dangerous Fumes (pursuant to § 134-12)
- and is therefore a Nuisance, to be extinguished.

§ 94-18. Enforcement; violations and penalties.

A. This article shall be administered by the Fire Department, the Police Department, and the Health Department.

B. Any person, firm or corporation who or which violates any provision of this article shall, upon conviction, be subject to the general penalty set forth in Chapter 1, Article I, General Penalty, of the Borough of Kenilworth Code.

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 according to law.


Linda Karlovitch, Mayor

INTRODUCTION					COUNCILPERSON	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.		NP	Moved	Sec.	Aye	Nay	Abs.
		X				PATRICK BOYLE		X	X		
		X				JOSEPH FINISTRELLA	X		X		
		X				TONI GIORDANO PICERNO			X		
	X	X				WILLIAM MAURO			X		
X		X				SAVINO SCORESE			X		
					X	JOHN ZIMMERMAN					X

Introduced:

October 2, 2024

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.

Final Adoption:

November 6, 2024



Angela Lazzari, Borough/Clerk