

Chapter 137. Ice-Retardant Systems

[HISTORY: Adopted by the Mayor and Council of the Borough of Hopatcong 2-2-1989 by Ord. No. 2-89. Amendments noted where applicable.]

§ 137-1. Purpose.

It is the intent of this chapter to regulate the installation and use of ice-retardant systems on all waterfront properties within the Borough of Hopatcong for the protection of persons and property and to provide for the public health, safety and welfare of the Borough of Hopatcong and its inhabitants.

§ 137-2. Definitions.

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

AFFECTED AREA OF ICE

The area of the water body or ice surface disturbed by the operation of an ice-retardant system. Said disturbed or affected area includes open water, weakened ice (excessively cracked), thin ice (less than four inches in depth) and area where adjacent ice is covered by a film of water.

BULKHEAD LINE

The high-water mark of 10.30 feet above the dam as recorded at Lake Hopatcong State Park or the line established by the Bureau of Navigation, State Department of Environmental Protection, defining the lake's permanent shoreline.

ICE-RETARDANT SYSTEM

A mechanical device(s) or a series of mechanical devices designed to retard or prevent the formation of ice in or around lakefront structures. Said devices utilize as their mode of operation one or more of the following mechanisms: pumped air, artificial water turbulence or the addition of heat to the water body.

NORMAL OPERATING CONDITIONS

The average winter conditions to be utilized in the design or operation of an ice-retardant system and to be utilized in gauging compliance with the terms of this chapter. Said "normal operating conditions" is defined as an average of four or more inches of ice on the applicable water body. Such term excludes any time period characterized by unseasonably warm temperature (average daily temperature above 40° F. for three or more consecutive days) or rainfall (greater than 1/2 inch of rainfall per day) and the three dates immediately thereafter. In any enforcement action under the terms of this chapter, the burden is on the operator of the ice-retardant system to establish that normal operating conditions were not existent on the date of the alleged violation.

OWNER or OPERATOR

The owner of record of a tract of land according to the tax rolls of the Borough of Hopatcong or any person occupying said premises or utilizing the property.

PERSON

Any individual, association of individuals, corporation or partnership.

PIERHEAD LINE

A line running parallel to the bulkhead line and extending not more than 50 feet from said bulkhead line, as approved by the Natural Resources Council and Bureau of Navigation, State Department of Environmental Protection, beyond which no dock, pier or marina or other structure, permanent or temporary, floating or affixed to shore or lake bottom, may be located.

PROTECTED STRUCTURE

Any lakefront or within-lake structure which the ice-retardant system is designed to protect. Such protected structures include but are not limited to docks, piers, bulkheads, catwalks, seawalls and bathhouses.

§ 137-3. Authorization for use; compliance required.

- A. Utilization of ice-retardant systems is hereby authorized within the municipal limits of the Borough of Hopatcong from December 1 of each year through April 1 of the following year.
- B. No person shall operate an ice-retardant system within the municipal limits of the Borough of Hopatcong unless said operation is in conformance with this chapter.

§ 137-4. Operation requirements.

- A. All ice-retardant systems shall be marked with an appropriate sign placed along the shore or on the protected structure specifying "Danger, Thin Ice." Such sign shall be a minimum of two feet by three feet in size and shall feature letters of a minimum height of three inches and colors in such a way as to be clearly visible on the ice from a distance of 100 feet. Where the ice-retardant system will disturb a distance measured horizontally along the shoreline of more than 25 feet, an additional sign shall be required for each 25 feet of shoreline or fraction thereof.
- B. Under normal operation conditions, the affected area of ice created by the ice-retardant system shall not extend more than 25 feet beyond the protected structure.
- C. Under normal operation conditions, the affected area of ice created by the ice-retardant system shall not extend more than 25 feet, measured along the shoreline, from the protected structure.
- D. Irrespective of the standard appearing in Subsections **B** and **C** above, the affected area of ice, under normal operating conditions, should not extend to within 10 feet of a side property line. Said requirement may be waived if the owner and/or operator of the ice-retardant system obtains written permission from the adjacent property owner.
- E. Unless the ice-retardant system has been designed and approved in accordance with § 137-6 of this chapter, no system shall be designed or operated in such a way as to prevent ingress or egress to any portion of the water body or to foreclose the formation of ice across a channel.

§ 137-5. Waiver of requirements.

The Mayor and Council may, by resolution, waive the requirements of this chapter in situations of hardship or exceptional public necessity. "Exceptional public necessity" shall include but not limited to a necessity to maintain an open channel of water for ferry service or access to island lakefront homes. In considering such an application, the Mayor and Council may refer the application to the Lake Hopatcong Regional Planning Board for comment. In adopting the resolution, the Mayor and Council shall specify requirements as to markings and lighting. Such requirements can include but are not limited to requiring buoys to be placed in the frozen water body to clearly mark the approach, requiring nighttime illumination or flashing light to indicate that open water is present, limiting the size of the affected ice area to the minimal necessary for the use and/or publishing public notice of the condition to specify minimal levels of insurance requirements.

§ 137-6. Enforcement; violations and penalties.

- A. The Construction Official is hereby designated as the enforcement officer under the terms of this chapter. All complaints received by any municipal agency concerning the operation of ice-retardant systems shall be referred to the Construction Official. Upon receipt of a complaint, the Construction Official shall investigate within five days and, if the complaint is found justified, notify the owner and operator of the terms of this chapter and require compliance within an additional 10 days. The Construction Official may reduce the time period for compliance when the interest of public safety so requires. If the owner or operator of the system fails to undertake the corrections within the specified time frame, the Construction Official may cause a summons to be issued in the Municipal Court of the Borough of Hopatcong to enforce the requirements of this chapter.
- B. A violation of the terms of this chapter, including the operational requirements, shall be punishable by a fine not to exceed \$50 for the first offense, \$100 for the second offense and \$250 for the third and subsequent offenses. Each day that a violation of this chapter continues may be deemed to be a separate offense.

§ 137-7. Liability.

Compliance and/or noncompliance with the requirements of this chapter shall not preclude any civil action for damages arising from injuries incurred through the operation of an ice-retardant system.

§ 137-8. Construal of provisions.

Nothing in this chapter shall be construed as repealing any provision of any other municipal ordinance. In the event that any regulation provided above shall vary from the same or a similar regulation of any other municipal ordinance, the more restrictive provision of such ordinance shall be deemed to control.