

Administrative Legislation

METUCHEN CODE

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen: Art. I, 9-26-1966 as Ch. 1 of the 1966 Code. Amendments noted where applicable.]

ARTICLE 1

Rules of Construction; General Penalty**§ 1-1. Rules of construction.**

- A. As used in this Code, the following terms shall have the meanings indicated:

CODE or THIS CODE — The Code of the Borough of Metuchen, New Jersey.

COUNCIL or BOROUGH COUNCIL — The Borough Council of the Borough of Metuchen.

GOVERNING BODY — The Borough Council of the Borough of Metuchen.**[Amended 9-15-1997 by Ord. No. 97-20]**

MONTH — A calendar month.

N.J.S.A. — The New Jersey Statutes Annotated, and any supplements and amendments thereto.**[Amended 9-15-1997 by Ord. No. 97-20]**

STATE — The State of New Jersey.

- B. In the construction of this Code and of all other ordinances of the Borough, the following rules shall be observed, unless such construction would be inconsistent with the manifested intent of the Borough Council:

- (1) Use of "and" or "or." "And" may be read "or," and "or" may be read "and" if the sense requires it.
- (2) Borough. The word "Borough" shall be construed as if the words "of Metuchen" followed it.
- (3) Computation of time. Whenever a notice is required to be given or an act to be done or a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted.
- (4) County. The word "county" shall be construed as if the words "of Middlesex" followed it.
- (5) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
- (6) Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
- (7) Owner. The word "owner," applied to a building or land, shall include any part owner, any corporation, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.
- (8) Person. The word "person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.
- (9) Use of "preceding" or "following." The words "preceding" and "following" mean next before and next after, respectively.
- (10) Use of "shall" or "may." The word "shall" is mandatory; the word "may" is permissive.
- (11) Street. Whenever the word "street" is mentioned in this Code, it shall be construed to include a highway, road, avenue, court, public lane or alley; and it shall also be construed to include a

sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Borough Council.

(12) Tense. Words used in the past or present tense include the future.

(13) "Writing" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

§ 1-2. General penalty. [Amended 5-17-1982 by Ord. No. 82-15]

- A. Except as hereinafter provided, whenever in this Code or in any other ordinance of the Borough or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the Borough any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or in such other Borough ordinance, rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the Borough or of any rule, regulation or order promulgated pursuant to such Code or other Borough ordinance shall be punished by one or more of the following: a fine not exceeding \$1,000, imprisonment for a period of not exceeding 90 days or a period of community service not exceeding 90 days. (N.J.S.A. 40:49-5) **[Amended 9-15-1997 by Ord. No. 97-20]**
- B. Whenever any provision of the New Jersey Statutes Annotated limits the authority of the Borough to punish the violation of any particular provision of this Code or other Borough ordinance or rule, regulation or order promulgated pursuant thereto to a fine of less amount than that provided in this section or imprisonment or community service for a shorter term than that provided in this section, then the violation of such particular provision of this Code or other Borough ordinance, rule, regulation or order shall be punished by the imposition of not more than the maximum fine, imprisonment or community service so authorized or by such fine, imprisonment or community service. **[Amended 9-15-1997 by Ord. No. 97-20]**
- C. Each day any violation of this Code or any other Borough ordinance or rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.
- D. Whenever any such fine is imposed upon any corporation, such fine and costs and charges incident thereto may be collected in an action of debt or in such other manner as may be provided by law.

ARTICLE 2

Adoption of Code by Borough Council

[An ordinance adopting Parts I and II of the Code of the Borough of Metuchen and making certain substantive changes to existing ordinances of the Borough was adopted 9-15-1997 by Ord. No. 97-20. The chapters, parts, articles and sections which were added, amended, adopted or repealed by said ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article 2. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, adopted, repealed) 9-15-1997 by Ord. No. 97-20. A complete copy of the ordinance is on file in the Borough offices.]

ARTICLE 3

Ordinances Adopted During Codification

[During the process of codification, certain complete new ordinances were approved by the Borough Council for inclusion in the Code of the Borough of Metuchen. Such new ordinances are noted in the histories of individual chapters as "Adopted...during codification (see Ch. 1, General Provisions, Art. 3)." In accordance with recognized codification procedures, these new ordinances will be adopted separately and are presently proposed before the Borough Council of the Borough of Metuchen for that purpose. Upon final adoption of such ordinances, a complete enumeration of all chapters and articles in the Code included in such ordinances will be printed in this article along with specific dates of adoption.]

Chapter 2**ETHICS CODE OF CONDUCT**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 12-7-2009 by Ord. No. 2009-17; amended in its entirety 2-7-2022 by Ord. No. 2022-01. Subsequent amendments noted where applicable.]

§ 2-1. Restrictions for Local Finance Board officers and employees.

Local government officers or employees under the jurisdiction of the Local Finance Board shall comply with the following provisions:

- A. No local government officer or employee or member of their immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of their duties in the public interest;
- B. Conflict with former employment.
 - (1) No independent local authority shall, for a period of one year next subsequent to the termination of office of a member of that authority:
 - (a) Award any contract which is not publicly bid to a former member of that authority;
 - (b) Allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or
 - (c) Employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.
 - (2) The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.
- C. No local government officer or employee shall use or attempt to use their official position to secure unwarranted privileges or advantages for themselves or others;
- D. No local government officer or employee shall act in their official capacity in any matter where they, a member of their immediate family, or a business organization in which they have an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair their objectivity or independence of judgment;
- E. No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice their independence of judgment in the exercise of their official duties;
- F. No local government officer or employee, member of their immediate family, or business organization in which they have an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing them, directly or indirectly, in the discharge of their official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no

knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of their official duties;

- G. No local government officer or employee shall use, or allow to be used, their public office or employment, or any information, not generally available to the members of the public, which they receive or acquire in the course of and by reason of their office or employment, for the purpose of securing financial gain for themselves, any member of their immediate family, or any business organization with which they are associated;
- H. No local government officer or employee or business organization in which they have an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which they serve. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities;
- I. No local government officer shall be deemed in conflict with these provisions if, by reason of their participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to them as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group;
- J. No elected local government officer shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of their immediate family, whether directly or indirectly, in return therefor; and
- K. Nothing shall prohibit any local government officer or employee, or members of their immediate family from representing themselves, or themselves, in negotiations or proceedings concerning their own interests.

§ 2-2. Enforcement

Enforcement of § 2-1 shall be in accordance with the state statute, and not under the Metuchen Borough Code.

§ 2-3. Restrictions for members of a board, commission, council and/or committee established by the Borough of Metuchen.

Members of boards, commissions, councils and committees established by the Borough of Metuchen, not included in those set forth in § 2-1 above, and which are advisory in nature, shall comply with the following provisions:

- A. No member of a board, commission, council and/or committee established by the Borough of Metuchen, or member of their immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of their duties in the public interest.
- B. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall use or attempt to use their official position to secure unwarranted privileges or

advantages for themselves or others.

- C. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall act in their official capacity in any matter where they, a member of their immediate family, or a business organization in which they have an interest, have a direct or indirect financial or personal involvement that might reasonably be expected to impair their objectivity or independence of judgment.
- D. No member of a board, commission and/or committee established by the Borough of Metuchen shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice their independence of judgment in the exercise of their official duties.
- E. No member of a board, commission, council and/or committee established by the Borough of Metuchen, member of their immediate family, or business organization in which they have an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing them, directly or indirectly, in the discharge of their official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of their official duties.
- F. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall use, or allow to be used, their public office or appointment, or any information, not generally available to the members of the public, which they receive or acquire in the course of and by reason of their office or appointment, for the purpose of securing financial gain for themselves, any member of their immediate family, or any business organization with which they are associated.
- G. No member of a board, commission, council and/or committee established by the Borough of Metuchen or business organization in which they have an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which they serve. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities.
- H. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall be deemed in conflict with these provisions if, by reason of their participation in a matter required to be voted upon, recommended or which is subject to executive or council approval or veto, no material or monetary gain accrues to them as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.
- I. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of their immediate family, whether directly or indirectly, in return therefor.
- J. Nothing shall prohibit any member of a board, commission, council and/or committee established by the Borough of Metuchen, or members of their immediate family, from representing themselves, or themselves, in negotiations or proceedings concerning their own interests.

- K. Whenever the performance of their official duties shall require any member of a board, commission, council and/or committee to take action on any matter involving their financial or personal interest, they shall publicly disclose the nature and extent of such interest and disqualify themselves from participating in the deliberation as well as in the voting, unless otherwise permitted by law so to act.
- L. All boards, commissions, councils and/or committees established by the Borough of Metuchen shall act as a whole by way of a vote of a majority pursuant to their bylaws. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall act in any manner whatsoever on behalf of the boards, commissions, councils and/or committees without the express authorization of the boards, commissions, councils and/or committees to do so.
- M. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall, on behalf of the board, commission, council and/or committee, grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.
- N. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall take any action on behalf of the Borough of Metuchen without the authorization of the Mayor and Council to do so.
- O. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall request or direct a Borough employee, official, agent or consultant to take or refrain from any such action. All board, commission, council and/or committee communications with Borough employees, officials, agents or consultants shall be through the Borough Administrator or their designee.
- P. No member of a board, commission, council and/or committee established by the Borough of Metuchen shall take any action that may bind or be implied to bind the Borough of Metuchen without the express written authorization of the Mayor and Council to do so.
- Q. All members of boards, commissions, councils and/or committees established by the Borough of Metuchen shall be required to review and abide by the Borough of Metuchen Volunteer Handbook adopted by the Mayor and Council of the Borough of Metuchen.
- R. All members of boards, commissions, councils and/or committees established by the Borough of Metuchen shall be required to attend ethics and local government training annually.
- S. All meetings of boards, commissions, councils and/or committees established by the Borough of Metuchen shall be open to the public and conducted in a civil manner.
- T. All members of boards, commissions, councils and/or committees established by the Borough of Metuchen are expected to attend the public meetings of the boards, commissions, councils and/or committees for which they have been appointed. Whenever any member of a board, commission, council and/or committee fails to attend and participate in any meetings of the board, commission, council and/or committee for a period of eight consecutive weeks without being excused from attendance by a majority of the members of the board, commission, council and/or committee, at the conclusion of such period, the membership to the board, commission, council and/or committee shall be deemed vacant; provided, however, that the board, commission, council and/or committee may refuse to excuse only with respect to those failures to attend and participate which are not due to legitimate illness. The presiding member of the board, commission, council and/or committee shall notify the Mayor and Council of any such vacancies.

§ 2-4. Violations and enforcement.

Violations of § 2-3, by members of a board, commission, council and/or committee established by the Borough of Metuchen, which are advisory in nature, may result in up to the removal from the board, commission, council and/or committee by the Mayor and Council after notice and opportunity to be heard.

Chapter 3**ADMINISTRATOR**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 11-2-1970 by Ord. No. 70-35. Amendments noted where applicable.]

§ 3-1. Creation of office.

Pursuant to N.J.S.A. 40A:9-136 et seq., there is hereby created the position of Borough Administrator.

§ 3-2. Appointment; term of office; compensation.

The Borough Administrator shall be appointed by the Mayor with the advice and consent of the Council, for an indefinite term. He shall receive as salary such sums as may be fixed and adopted by the Borough Council in the Annual Salary Ordinance.¹ He shall be reimbursed for all reasonable expenses incurred in the performance of his office.

§ 3-3. Removal.

The Administrator may be removed by a two-thirds vote of the Borough Council. The resolution of removal shall become effective three months after its adoption by the Council. The Council may provide that the resolution shall have immediate effect; provided, however, that the Council shall cause to be paid to the Administrator forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the resolution.

§ 3-4. Political activity.

The Administrator shall not engage in any political activity, nor shall he make any financial contributions to any local political campaign.

§ 3-5. Qualifications and residency.

- A. The Borough Administrator shall be chosen on the basis of his executive and administrative abilities and qualifications with special regard as to education, training and experience in governmental affairs.
- B. The Borough Administrator need not be a resident of the Borough of Metuchen.

§ 3-6. Duties and responsibilities.

The administrator shall, under the supervision and control of the Mayor and Council to the extent not prohibited by law, have the following duties and responsibilities:

- A. Serve as the chief administrative officer of the borough.
- B. Attend all meetings of the Mayor and Council as required with the right to participate in all discussions, but without the right to vote.
- C. Execute all laws and ordinances of the borough, subject to the direction of the Mayor and Council.

1. Editor's Note: The Salary Ordinance is on file in the office of the Borough Clerk.

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- D. Appoint and remove all employees for whose selection no other method is provided by law.
- E. Negotiate contracts subject to the approval of Council.
- F. Make recommendations concerning the nature and location of borough improvements as determined by Council.
- G. Recommend to Council for adoption such measures as he may deem necessary or expedient.
- H. Represent the borough in its relation to the federal government, state, county and other municipalities and assess the borough's interest in contracts, franchises and other business transactions.
- I. Make reports to the Mayor and Council, including a monthly financial report, and at the close of the year make an annual report of borough governmental activities.
- J. Investigate the affairs of any officer or department.
- K. Receive and reply to inquiries and complaints concerning borough business, and provide information and assistance in respect thereto.
- L. Establish and maintain sound personnel practices and maintain appropriate records of all employees.
- M. Carry out all policies established by Council.
- N. Prepare the annual operating and capital budgets and submit them to Council at a date and in accordance with the procedures established by Council.²
- O. Supervise the disbursement of all borough funds and approve all vouchers and bills before submitting same to the Mayor and Council for final approval.
- P. Act as borough purchasing agent.
- Q. Perform such other duties as may be required by ordinance of resolution by the Mayor and Council.

§ 3-7. Full-time nature of position.

The Administrator shall devote full-time to the interests of the borough and shall not hold any other employment, except that nothing herein shall prevent the Administrator from being appointed as Borough Clerk and/or Borough Treasurer.

2. Editor's Note: Original Subsections O and Q which followed this subsection and dealt with the custody of money and the analysis and investment of funds were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 2.

Chapter 6**ASSESSMENT COMMISSIONERS, BOARD OF**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 6-21-1993 by Ord. No. 93-16. Amendments noted where applicable.]

§ 6-1. Creation.

Pursuant to and in accordance with the provisions of N.J.S.A. 40:56-21 et seq., there is hereby created in the Borough of Metuchen a Board of Assessment Commissioners, the members of which shall be appointed by the Mayor with the advice and consent, by resolution, of the Borough Council.

§ 6-2. Membership; terms of office; vacancies; Alternate Commissioners.

- A. Said Board of Assessment Commissioners shall consist of three members, who shall be designated Commissioners.
- B. Of the Commissioners first appointed, one shall be for a term of two years, one for a term of three years and one for a term of four years. Thereafter, all appointments shall be for five-year terms. There shall also be two Alternate Commissioners, one appointed for a term of two years and one appointed for a term of three years; thereafter appointments of Alternate Commissioners shall be for terms of five years. All terms shall be computed from July 1 of the year of appointment. The Commissioners and Alternate Commissioners shall serve until their successors are appointed and shall qualify.
- C. Vacancies shall be filled for the unexpired term only.
- D. Alternate Commissioners shall serve as Commissioners in those cases where a Commissioner is unable to serve in connection with a specific project or projects.

§ 6-3. Powers and duties.

The Board of Assessment Commissioners shall be and hereby is charged with the duty of making all assessments for benefits for local improvements within the Borough of Metuchen in accordance with the duties imposed upon it by virtue of N.J.S.A. 40:56-21 through N.J.S.A. 40:56-64, inclusive, and shall, in addition, have and exercise all of the powers authorized by the aforesaid statutes.

§ 6-4. Conflict of interest.

In the event that any Commissioner shall be in any way interested in any local improvement, he shall be disqualified from exercising the powers hereinabove conferred with respect to that improvement, and the Mayor, with the advice and consent of the Borough Council, shall appoint an Alternate Commissioner or, if said Alternate Commissioner shall not qualify, some other qualified person or persons to act in his place with respect to that improvement only.

§ 6-5. Procedures and guidelines.

- A. The Borough Council shall prepare or cause to have prepared by appropriate borough officials, subject to approval by resolution of the Borough Council, formal procedures and guidelines to be used by the Assessment Commissioners in the performance of their duties; said procedures and guidelines shall include but shall not be limited to the following areas:

- (1) Timing of assessments, reports and hearings.
 - (2) Coordination with Board department heads and other personnel.
- B. Said procedure and guidelines shall be consistent with the provisions of N.J.S.A. 40:56-21 et seq.

COMMISSIONS AND COMMITTEES

Chapter 10

COMMISSIONS AND COMMITTEES

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Shade Tree Commission**[Adopted 9-26-1966 as Art. VI of Ch. 2 of the 1966 Code]****§ 10-1. Jurisdiction.**

The regulation, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways of the Borough, except state highways unless the State Highway Department shall assent thereto, and except county highways, parks and parkways in counties now or hereafter having a County Shade Tree Commission, unless the County Shade Tree Commission shall assent thereto, shall be exercised by and be under the authority of a commission, which shall be known as the Shade Tree Commission of the Borough of Metuchen.

§ 10-2. Membership and appointment.

- A. The Shade Tree Commission shall consist of seven members appointed by the Mayor who shall be residents of the Borough. **[Added 10-18-1976 by Ord. No. 76-28; amended 12-20-2010 by Ord. No. 2010-22]**
- B. The members of the Shade Tree Commission shall be appointed by the Mayor and shall serve without compensation, except as provided by statute.

§ 10-3. Terms of members.

The terms of office of the members of the Shade Tree Commission first appointed shall begin upon the day of their appointment and continue for the respective periods of three, four and five years from the first day of January next succeeding such appointment, which terms of the aforesaid appointees shall be designated in their respective appointment. All other appointments except to fill vacancies shall be made and take effect on the first day of January of each year for a full term of five years.

§ 10-4. Vacancies.

Any vacancy occurring in the membership of the Shade Tree Commission by reason of death, resignation or removal of any Commissioner shall be filled for the unexpired term by the authority making the original appointment.

§ 10-5. Organization; salaries.

The Shade Tree Commission shall organize annually by the election of one of its members as Chairperson and the appointment of a Secretary, who need not be a member. The salary of the Secretary, who may be compensated even if a member of the Commission, shall be as fixed by the governing body of the Borough. The salary of all other employees shall be fixed by the Commission. All salaries shall be fixed as nearly as practicable in accordance with the salary schedule of the Borough for corresponding positions.

§ 10-6. Powers.

The Shade Tree Commission organized under this article shall have power to:

- A. Exercise full and exclusive control over the regulation, planting and care of shade and ornamental trees and shrubbery now located, or which may hereafter be planted in any public highway, park or parkway, except such as are excluded pursuant to N.J.S.A. 40:64-1, in the Borough, including the

planting, trimming, spraying, care and protection thereof.

- B. Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection.
- C. Move or require the removal of any tree, or part thereof, dangerous to public safety.
- D. Care for and control such parks and parkways; encourage arboriculture; make, alter, amend and repeal, in the manner prescribed for the passage, alteration, amendment and repeal of ordinances by the governing body of the Borough, any and all ordinances necessary or proper for carrying out the provisions hereof.
- E. Administer treatment to, or remove, any tree situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the Borough, and enter upon private property for that purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by certificate issued by or on behalf of the State Department of Agriculture.

ARTICLE 2

Metuchen Pool Commission
[Adopted 1-6-1969 by Ord. No. 69-1]**§ 10-7. Established.**

There is hereby established a commission to supervise and control the Borough swimming pool, pursuant to the authority granted by N.J.S.A. 40:61-22.21 and 40:61-22.24.

§ 10-8. Designation. [Amended 9-15-1997 by Ord. No. 97-20]

The name of the board shall be the Metuchen Pool Commission.

§ 10-9. Number of Commissioners.

The Metuchen Pool Commission shall consist of five residents of the Borough.

§ 10-10. Appointment; compensation; term of office; vacancies.

The Commissioners shall be appointed by the Mayor, confirmed by the Council and shall serve without compensation for a term of five years. Each appointment shall terminate at the end of each successive year. For that purpose, the initial appointments shall be made so that each terminates annually beginning one year after date of initial appointment. Vacancies shall be filled only for the unexpired term.

§ 10-11. Duties.

The Metuchen Pool Commission shall supervise and control the maintenance, operation and regulation of the Borough swimming pool and the grounds wherein it is located, the same to include all forms of recreation, playground and public entertainment activities carried on in connection therewith. It shall effect such expenditures and hire such personnel as may be necessary to carry out these duties in accordance with the budgetary appropriations and salary schedules duly adopted by the Mayor and Council and shall recommend, in writing, to the governing body, classes of membership, dates and hours of operation, standards of conduct by pool patrons and such other rules, regulations and standards as it shall prescribe for the maintenance, conduct, management and operation of the pool and its facilities and its use and enjoyment by the residents of the Borough.

§ 10-12. Power to fix rates, charges.

Rates of admission, fees, rents or other charges for admission to, use or enjoyment of the pool and the pool grounds shall be fixed by the governing body. They shall be remitted to the Borough Treasurer, and the accounts relating to the pool shall be kept separate and distinct from any other account of the Borough.

§ 10-13. Authority to make rules; enforcement.

The governing body of the Borough may, by ordinance, make, alter, amend and repeal rules and regulations for the supervision, regulation and control of all activities carried on, conducted, sponsored, arranged or provided for in connection with the Borough swimming pool, and for the protection of property, and may prescribe and enforce fines and penalties for the violation of any such rule or regulation.

ARTICLE 3

Environmental Commission**[Adopted 5-21-1973 by Ord. No. 73-13]****§ 10-14. Establishment.**

The Borough of Metuchen Environmental Commission is hereby established pursuant to N.J.S.A. 40:56A-1 et seq., and amendments thereto.

§ 10-15. Organization; terms of office; removal; vacancies. [Amended 2-5-1990 by Ord. No. 90-1]

- A. The Environmental Commission shall consist of seven members appointed by the Mayor, one of whom shall also be a member of the Planning Board, and all of whom shall be residents of the Borough. The members shall serve without compensation, except as hereinafter provided. The Mayor shall designate one of the members to serve as Chairperson and presiding officer of the Commission.
- B. The terms of office of the first Commissioners shall be for one, two or three years, to be designated by the Mayor in making the appointments, and their successors shall be appointed for terms of three years and until the appointment and qualification of their successors. All terms of office shall run from January 1 in the year of appointment and shall terminate on December 31 at the end of the third year. The appointments shall be made in such a manner so that the terms of approximately 1/3 of the members shall expire each year.
- C. The governing body may remove any member of the commission for cause, on written charges served upon the member, and after a hearing thereon at which the member shall be entitled to be heard in person or by counsel.
- D. A vacancy on the Commission occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

§ 10-16. Powers of Commission.

The Commission shall have the power to conduct research into the use and possible use of the open land areas of the municipality and may coordinate the activities of unofficial bodies organized for similar purposes and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its purposes. It shall keep an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands, in order to obtain information on the proper use of such areas and may from time to time recommend to the Planning Board plans and programs for inclusion in a Municipal Master Plan and the development and use of such areas. In addition, the Commission shall have power to study and make recommendations concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscape protection, environmental appearance, marine resources and protection of flora and fauna.

§ 10-17. Acquisitions by Commission.

The Commission may, subject to the approval of the governing body, acquire property, both real and personal, in the name of the municipality by gift, purchase, grant, bequest, devise or lease for any of its purposes and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement (including conservation easement), covenant or other contractual right (including a conveyance on conditions or with

limitations or reversions), as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas in the municipality.

§ 10-18. Records and annual report.

The Commission shall keep records of its meetings and activities and shall make an annual report to the governing body of the municipality.

§ 10-19. Appropriation.

The governing body may appropriate funds for the expenses incurred by the Commission. The Commission may appoint such clerks and other employees as it may from time to time require and as shall be within the limits of funds appropriated to it.

ARTICLE 4

Senior Citizens Commission**[Adopted 8-20-1979 by Ord. No. 79-20]****§ 10-20. Establishment; composition; terms of office; vacancies. [Amended 2-2-1981 by Ord. No. 81-2; 1-29-2024 by Ord. No. 2024-04]**

- A. There is hereby established a Senior Citizens Commission for the Borough of Metuchen which shall consist of nine members who shall be appointed by the Mayor with the advice and consent of the Borough Council. No person shall be appointed to the Senior Citizens Commission unless he or she is a resident of the Borough of Metuchen.
- B. Each member shall be appointed for a term of three years; however, at the time of the creation of the Commission, three shall be appointed for three years, three shall be appointed for two years and three shall be appointed for one year. Thereafter, each appointment shall be for three years. Members shall serve after the expiration of their terms until the respective successors shall have been appointed and have qualified.
- C. Vacancies occurring other than by the expiration of the term shall be filled in like manner but for the balance of the unexpired term only.
- D. The Commission shall designate one of its members as Chairperson, and he or she shall serve as such until the first day of January next following the appointment and until his or her successor shall be appointed and qualify. All members shall serve without compensation.

§ 10-21. Powers and duties.

The Commission shall have the following powers and duties:

- A. To establish, amend and rescind its own bylaws in accordance with the law and not inconsistent with any municipal ordinance, regulation or state or federal law.
- B. To make recommendations to the Mayor and Council of the Borough of Metuchen, the Recreation Commission, the Metuchen Pool Commission, the Board of Health, the Cultural Arts Commission, Environmental Commission, Library Board and any other board, commission, committee or agency of the Borough of Metuchen in respect to policies and programs to assist the senior citizens of the Borough.
- C. To confer with all the above mentioned agencies and any county, state, federal and private agencies involved in programs for senior citizens for the purpose not only of determining the scope of the programs, but improving the services rendered to the senior citizens, and help any such agency to coordinate activities for the senior citizens.
- D. To aid and direct where necessary, individual senior citizens where help is sought in connection with recreation, housing, health, consumer problems, educational and cultural opportunities.
- E. To make annual reports of its activities and recommendations to the Borough Council and at such other times as the Borough Council shall request or the Commission deems advisable.
- F. To act as liaison between the Borough and its agencies with senior citizens organizations and individuals.

ARTICLE 5

Arts Council

[Adopted 2-22-1994 by Ord. No. 94-3; amended in its entirety 4-26-2011 by Ord. No. 2011-5]

§ 10-22. Establishment; composition.

There is hereby established an Arts Council which shall be composed of 18 citizens of the Borough who shall serve without compensation, plus that member of the Borough Council serving as liaison from year to year. All 18 citizen members shall serve, on a staggered basis, for a term of three years. Each of the 13 citizens currently serving as full members of the Arts Council shall continue, without need for reappointment, until the expiration of their respective current terms. With respect to the five citizen members added by this article, two shall be appointed for one year, two shall be appointed for two years and one shall be appointed for a three-year term, all terms to expire at the organizational meeting of the Mayor and Council in January for each respective term.

§ 10-23. Appointment; selection of Chairperson; vacancies.

All 18 citizen members shall be nominated by the Mayor and confirmed with the advice and consent of the Borough Council. The Borough Council liaison shall be designated every year at the annual reorganization meeting of the Borough by the members of the Borough Council. All members shall serve until their successors are duly appointed and qualified. The members of the Arts Council shall designate one of its citizen members as Chairperson and that individual shall serve until the first day of January next following that election and until his or her successor shall be appointed and qualified. Vacancies occurring other than by the expiration of the term shall be filled in the manner prescribed therein, but only for the balance of the unexpired term.

§ 10-24. Powers and duties.

The Arts Council shall have the following powers and duties:

- A. To establish, amend and supplement its own bylaws to govern its structure, operations and activities to the extent not inconsistent with this article or any other local, state or federal regulation or law.
- B. To make recommendations to the Mayor and Council of the Borough of Metuchen and other Borough agencies with respect to any matters relating to the advancement of the cultural, visual and performing arts in the Borough of Metuchen or the County of Middlesex.
- C. To aid in bringing to the Borough those activities which will enhance the educational and cultural opportunities for the residents of the Borough.
- D. To make an annual report of its activities and recommendations to the Borough Council and at such other time as the Borough Council shall request or the Arts Council deems desirable.
- E. To act as liaison between the Borough Council and other federal, state and county bodies involved in promoting, funding or presenting cultural, visual and performing arts in the community.

ARTICLE 6

(Reserved)

[Adopted 2-22-1994 by Ord. No. 94-3; deleted 3-6-2017 by Ord. No. 2017-03]

§ 10-25. through § 10-27. (Reserved)

ARTICLE 7

Human Relations Commission
[Adopted 2-22-1994 by Ord. No 94-3]**§ 10-28. Establishment; composition. [Amended 10-2-2017 by Ord. No. 2017-14; 2-8-2021 by Ord. No. 2021-02; 3-25-2024 by Ord. No. 2024-08]**

There is hereby established a Human Relations Commission for the Borough of Metuchen that shall be made up of 18 members. The membership of the Commission shall be composed as follows:

- A. Eleven residents of the Borough of Metuchen whose terms shall be for a period of three years on a staggering basis;
- B. One member of the clergy to be annually designated by the Interfaith Council;
- C. Two high school students of the Borough of Metuchen to be selected by the Metuchen High School Principal, one of which shall be a senior and one shall be a junior whose terms shall expire upon their graduation;
- D. One educator from the Edgar Middle School of the Borough of Metuchen to be designated by the Superintendent of Schools;
- E. One member of the Metuchen Board of Education to be annually designated by the President of the Board of Education;
- F. One member representative of the Metuchen Police Department to be designated by the Police Chief; and
- G. One member of the Council of the Borough of Metuchen who shall act as a liaison to be designated by the Mayor;

§ 10-29. Appointment; selection of Chairperson; vacancies. [Amended 10-2-2017 by Ord. No. 2017-14]

The Mayor shall nominate and, with the advice and consent of the Borough Council, appoint all resident members of the Commission. The Council liaison shall be annually selected by the Borough Council at the reorganization meeting of the Borough held in January of each year. The members of the Commission shall annually select one of its members as Chairperson. Vacancies occurring on the Commission otherwise than by expiration of their term of office shall be filled for the unexpired portion of the term in the same manner as an original appointment.

§ 10-30. Powers and duties. [Amended 10-2-2017 by Ord. No. 2017-14]

The Commission shall have the following powers and duties:

- A. To establish, amend, and supplement its own bylaws to the extent not inconsistent with this article nor with any other municipal, state or federal regulation or law. The Commission shall meet at a minimum of bimonthly (every two months).
- B. To foster, through community effort, good will, cooperation and conciliation among the groups and elements of the inhabitants of this Borough, and to make recommendations to the Mayor and Council for the development of policies and procedures in general and for programs of formal and informal education that will aid in eliminating all types of discrimination based upon race, creed, color,

national origin, ancestry, age, gender, sexual preference, marital status, or developmental, mental, or physical disabilities.

- C. To investigate, mediate and attempt to resolve without resort to the judicial system or other form of adjudication any allegations of unlawful discrimination by residents of the Borough.
- D. The local commission shall have further powers and duties as may be provided by the Law Against Discrimination of the State of New Jersey and by amendments thereto.
- E. To make a written annual report in June of each year to the Mayor and Council detailing its activities for the previous year and to make presentations before the Mayor and Council at such time as the Council shall request or the Commission deems desirable.
- F. The Human Relations Commission shall be advisory in nature, it nor its members have the authority to contract, bind or act on behalf of the Borough of Metuchen. Its sole function is to assist the Mayor, Council and Administration of the Borough of Metuchen in matters provided for above in the Borough of Metuchen.

ARTICLE 8

Appointment of Officials and Board Members**[Adopted 2-22-1994 by Ord. No. 94-3]****§ 10-31. Failure to confirm a nomination.**

Except as otherwise expressly required by applicable state statute, all appointments of subordinate officers or officials of the Borough, as well as members of its various boards, commissions and committees, where they are stated to be appointments by the Mayor with confirmation (or advice and consent) by the Council, shall be construed to provide that the Council, whenever it fails to confirm a nomination by the Mayor within 30 days of being presented with a nomination to fill that vacancy, shall have the power to make an appointment to that office, board, commission or committee, provided that at least three affirmative votes shall be required for such purpose, with the Mayor to have no vote thereon except in the case of a tie, in accordance with N.J.S.A. 40A:60-6(d).

ARTICLE 9

Cable Television Advisory Committee
[Adopted 5-6-1996 by Ord. No. 96-4]**§ 10-32. Establishment; composition. [Amended 5-18-2009 by Ord. No. 2009-9]**

There is hereby established and confirmed within the Borough the Television and Technology Advisory Committee which shall be composed of 11 members, no more than four of whom may be nonresidents, plus up to two alternate members all of whom must be residents. No nonresident member shall vote on any matter involving its budget or appropriating its funds. All members, including alternates, shall serve on a staggered basis, for a term of three years. Each of the present members currently serving on the Committee shall continue, without need for reappointment, until the expiration of their respective current term.

§ 10-33. Appointment; vacancies.

All members, including alternates, shall be nominated by the Mayor and confirmed with the advice and consent of the Borough Council. Council liaison shall be annually designated at the reorganization meeting of the Borough by the members of the Borough Council and shall serve ex officio, but without vote. Vacancies other than by the expiration of the term shall be filled in the manner prescribed herein but only for the balance of the unexpired term.

§ 10-34. Powers and duties. [Amended 5-18-2009 by Ord. No. 2009-9]

- A. The Committee shall have the power to establish, amend and supplement its own bylaws to govern its structure, operations and activities to the extent not inconsistent with this article, or any other local, state or federal regulation or law.
- B. The Committee shall make recommendations to the Mayor and Council, Borough Administrator and to other Borough agencies with respect to any matters relating to cable television, telecommunication, video facilities and technology within the Borough of Metuchen or County of Middlesex.
- C. The Committee shall make an annual report of its activities with recommendations to the Borough Council and at such times as the Borough Council shall request or the Committee shall deem desirable.
- D. The Committee shall act as liaison between the Borough Council and other entities involved in cable, telecommunications or internet technology in the community.
- E. The Committee shall be responsible for soliciting resident feedback and recommending improvements of the Borough website to the Mayor and Borough Council.
- F. The recommendations of the Television and Technology Advisory Committee shall be advisory opinions only and shall not be binding upon any elected or appointed official within the Borough of Metuchen; no member of the Committee has the authority to bind, contract for, or in any way encumber any assets of the Borough of Metuchen in furtherance of the procurement of any technology so recommended.

ARTICLE 10

Community Action for Recovery, Education and Support (CARES) Committee
[Adopted 5-20-2013 by Ord. No. 2013-6; amended in its entirety 4-24-2023 by Ord. No. 2023-08³]

§ 10-35. Establishment; composition; purpose.

- A. There is hereby established a Community Action for Recovery, Education and Support ("CARES") Committee which shall be composed of no more than 15 members, not including the Mayor, who may serve as an ex officio nonvoting member of the Committee. To the extent possible, members of the Board shall be representative of the community.
- B. The purpose of the CARES Committee is to prevent and reduce substance use and behavioral addictions and to promote mental wellness in the Borough of Metuchen by raising awareness and providing education through programs focused on prevention and recovery.
- C. The Mayor and Council, in its discretion, may provide an annual budget to the CARES Committee for funding and sponsoring programs and promoting mental wellness consistent with the purpose set forth herein.

§ 10-36. Appointment; selection of Chairperson; vacancies.

- A. All 15 members of the CARES Committee are to be appointed by the Mayor with the advice and consent of the Council. Membership shall include the following:
 - (1) One member of the Borough Council, who shall serve as a voting member.
 - (2) A representative from the Police Department, the Chief or his designee, who shall serve as a voting member.
 - (3) The Board shall include a volunteer psychological counselor, who shall serve as a voting member.
 - (4) A representative of the Board of Education, who shall serve as a voting member.
 - (5) Eleven residents of Metuchen, at least one of whom shall be under the age of 18, all of whom shall be voting members, except for the elected Chairperson, who shall only be eligible to vote in the event of a tie.
- B. To the extent possible, of the 11 members set forth in Subsection A(5) above, the Mayor and Council shall consider the following for appointment to the Committee: a Student Assistance Coordinator or another student support services staff member; a representative of parent-teacher organizations or home school association; parents and/or guardians of Borough students; a representative of local faith-based organizations; individuals who have been affected by substance use disorders and/or behavioral addictions, including those affected by their own or a family member's addiction; private citizens with interest in issues concerning substance use, addiction, and juvenile delinquency; representatives of local civic or volunteer groups; representatives from youth services organizations; representatives of local businesses; a senior citizen representative; health and human services agencies/professionals, including health care professionals, including pharmacists, physicians, or therapists; representatives of public and private organizations involved in the prevention and

3. **Editor's Note:** This ordinance also changed the title of this article from "Municipal Alliance – Youth Service Board" to "Community Action for Recovery, Education and Support (CARES) Committee."

treatment of substance use disorders and behavioral addictions; and/or representatives of the local communications media or public relations to serve on the CARES Committee.

- C. The terms of the members appointed under Subsection A(1) and (4) shall be coextensive with their terms of office. The remaining members shall be appointed for terms of three years. However, at the time of the passage of this article, all present members of the Municipal Alliance — Youth Service Board shall continue to serve in that capacity as members on the CARES Committee until the expiration of their current terms. Any vacancies on the current Municipal Alliance — Youth Service Board, to the extent possible, shall be filled for terms to be determined by the Mayor with the consent of the Borough Council. Thereafter, each appointment to the CARES Committee shall be for three years. Members shall serve after the expiration of their terms until their respective successors shall have been appointed and have qualified. Vacancies occurring other than by the expiration of the term shall be filled in like manner, but for the balance of the unexpired term only. The Board shall advise the Mayor and Council of any vacancies among its membership. The determination of a vacancy on the Board shall be determined by the Council of the Borough based upon the criteria set forth in the Municipal Vacancy Law, N.J.S.A. 40A:16-1 et seq. The Board shall designate one of its members as Chairperson, and they shall serve as such until the first day of January next following the appointment and until their successor shall be appointed and qualify. The Chairperson shall only be eligible to vote on Committee matters in the case of a tie vote. All members shall serve without compensation.

§ 10-37. Powers and duties.

The CARES Committee shall have the following powers and duties:

- A. Determine through an annual assessment of community-based needs the scope and depth of substance use and behavioral addictions in the Borough of Metuchen and provide comprehensive community-based prevention programs and outreach.
- B. Organize and coordinate efforts with the Borough of Metuchen schools, faith-based groups, youth members of the community, law enforcement, business groups and other community organizations for the purpose of reducing substance use disorders and behavioral addictions, as well as promoting mental wellness.
- C. Provide comprehensive substance use and behavioral addiction education, support and outreach efforts for parents and other adults in the community.
- D. Establish, amend and supplement its own bylaws, select other officers, and create any such subcommittees to govern its structure, operations and activities to the extent not inconsistent with this article or any other local, state or federal regulation or law.
- E. Make recommendations to the Mayor and Council of the Borough of Metuchen and other Borough agencies with respect to any matters relating to the existence of any grants or funding available to the Borough to further the purpose and intent of the Committee.
- F. Create and foster a network of community leaders, private citizens, and representatives from public and private human service agencies who are dedicated to supporting and developing educational programs which prevent and/or reduce substance use disorders and behavioral addictions.
- G. Conduct an assessment of the community-wide needs pertaining to mental wellness and addiction.
- H. Identify existing efforts and services that are acting to prevent and reduce substance use disorders and behavioral addictions and coordinate projects within the Borough to avoid fragmentation and

duplication.

- I. Develop programs and/or projects to be implemented at the Borough level or participate in regionally developed programs that accomplish the purpose of the Committee.
- J. Report to the Mayor and Council on, at the very least, a quarterly annual basis or as requested by the Mayor and/or Council.

ARTICLE 11

Accessibility Committee**[Adopted 3-3-2014 by Ord. No. 2014-1]****§ 10-38. Establishment; composition.**

- A. There is hereby established an Accessibility Committee which shall be made up of a total of seven members. It shall be composed of five citizens of the Borough who shall serve without compensation, plus a member of the Borough Council, to be appointed by the Mayor, who shall serve as liaison from year to year, and a member of the Senior Citizen Commission who shall be annually appointed by the Senior Citizen Commission to serve as a member. In addition to the seven aforementioned members, the Borough shall also request that the Metuchen Chamber of Commerce annually appoint a member of the Chamber of Commerce to act as a liaison to the Accessibility Committee.
- B. Members of the Committee shall be representative of the community and shall include, to the extent feasible, individuals having experience in living with a disability or caring for a person who has a disability. All five citizen members shall serve, on a staggered basis, for a term of three years. Initial appointments of the members shall be as follows: one member for three years, two members for two years, and two members for one year; thereafter, each appointed member shall serve a three-year term.

§ 10-39. Appointment; selection of Chairperson; vacancies.

All five citizen members shall be nominated by the Mayor and confirmed with the advice and consent of the Borough Council. The Borough Council liaison shall be designated every year at the annual reorganization meeting of the Borough by the Mayor. All members shall serve until their successors are duly appointed and qualified. The members of the Accessibility Committee shall designate one of its citizen members as Chairperson, and that individual shall serve until the first day of January next following that election and until his or her successor shall be appointed and qualified. Vacancies occurring other than by the expiration of the term shall be filled in the manner prescribed therein, but only for the balance of the unexpired term.

§ 10-40. Powers and duties.

The Accessibility Committee shall have the following powers and duties:

- A. To establish, amend and supplement its own bylaws to govern its structure, operations and activities to the extent not inconsistent with this article or any other local, state or federal regulation or law.
- B. To make recommendations to the Mayor and Council of the Borough of Metuchen in order for the Mayor and Council to address issues with other Borough agencies, including the Metuchen Chamber of Commerce, with respect to any matters relating to the accessibility of public accommodation for the disabled in the Borough of Metuchen.
- C. To make recommendations to the Mayor and Council in order for the Mayor and Council to address such recommendations with all other boards, commissions and agencies with respect to programs to assist individuals with disabilities.
- D. To coordinate through the Administrator cooperation with other commissions and departments of the Borough of Metuchen to promote accessible activities and programs.
- E. To identify needs of individuals with disabilities within the Borough of Metuchen.

- F. To confer, as a body, with any county, state, federal or private agencies involved in programs for individuals with disabilities for the purpose of acquiring information about available services and programs for individuals with disabilities in the Borough of Metuchen.
- G. To aid the Borough of Metuchen, where necessary, in assisting individuals with disabilities in the Borough of Metuchen where help is sought in connection with issues related to disability and the accessibility of places and programs.
- H. To make an annual report of its activities to the Mayor and Borough Council and at such other time as the Mayor or Borough Council shall request.
- I. The Accessibility Committee shall be advisory in nature; neither it nor its members have the authority to contract, bind or act on behalf of the Borough of Metuchen. Its sole function is to assist the Mayor, Council and administration of the Borough of Metuchen in assessing the accessibility of matters in the Borough of Metuchen to the disabled.

ARTICLE 12

Recreation Commission**[Adopted 5-2-2016 by Ord. No. 2016-12]**

Editor's Note: Ordinance No. 2016-12, adopted May 2, 2016, shall not affect the current terms and membership of the Recreation Commission existing at the time of the adoption of this Article.

§ 10-41. Establishment; composition.

The Recreation Commission heretofore created is continued with the functions, powers and duties prescribed by general law and the provisions of N.J.S.A. 40:12-1, et seq. The Commission shall consist of seven members appointed by the Mayor. All members of the Commission, including the alternates set forth below, shall be residents of the Borough of Metuchen. Members of the Commission shall receive no compensation for their services.

§ 10-42. Term and vacancies.

Members of the Recreation Commission shall serve for a term of five years and shall serve until their respective successors are appointed and shall qualify. Vacancies shall be filled for the member's unexpired term only.

§ 10-43. Alternate members.

- A. In addition to the seven members provided above, there shall also be two alternate members to be appointed by the Mayor. At the time of appointment alternate members shall be designated as "Alternate No. 1" and "Alternate No. 2." Alternate members shall serve for a term of five years. However, the initial appointment shall be for a term of four years for "Alternate No. 1" and five years for "Alternate No. 2." A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only.
- B. No alternate member shall be permitted to act on any matter in which the alternate has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the Governing Body for cause.
- C. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of the Board of Recreation Commissioners. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

ARTICLE 13

Metuchen Parade Commission**[Adopted 12-29-2019 by Ord. No. 2019-17]****§ 10-44. Establishment; composition. [Amended 4-24-2023 by Ord. No. 2023-09]**

There is hereby established a Metuchen Parade Commission to organize, oversee and conduct the two parades annually in the Borough: 1) the Memorial Day Parade; and 2) the Winter Festival Parade for the Borough of Metuchen. The Parade Commission shall be made up of seven members. The membership of the Commission shall be composed of residents of, or owners or operators of businesses in, the Borough of Metuchen. At least one member of the Commission shall have served, or is currently a member of one of the branches of the United States Armed Forces. Each member's term of office shall be for a period of three years on a staggering basis. The initial appointment of its initial five members shall be as follows: two members for a term of three years; two members for a term of two years and one member for a term of one year. The initial appointment of the two additional members shall be as follows: one member for a term of three years; and one member for a term of two years. Thereafter, the term of its members shall be for a period of three years.

§ 10-45. Appointment; selection of Chairperson; vacancies.

The Mayor shall nominate and, with the advice and consent of the Borough Council, appoint all members of the Commission. The Council liaison shall be annually selected by the Borough Council at the reorganization meeting of the Borough held in January of each year. The members of the Commission shall annually select one of its members as Chairperson. Vacancies occurring on the Commission otherwise than by expiration of their term of office shall be filled for the unexpired portion of the term in the same manner as an original appointment. A vacancy shall exist in the event that a member fails to attend and participate in or at Commission meetings for a period of eight consecutive weeks without being excused by a majority of the Commission members at the conclusion of such period, provided, however, that the Commission may refuse to excuse only with respect to those failures to attend and participate which are not due to legitimate illness. The Commission shall promptly advise the Mayor and Council upon a vacancy in its membership.

§ 10-46. Powers and duties.

The Commission shall have the following powers and duties:

- A. To establish, amend, and supplement its own bylaws to the extent not inconsistent with this article nor with any other municipal, state or federal regulation or law. The Commission shall meet at a minimum on a monthly basis.
- B. To exercise full and exclusive control over the planning, organization, promotion and implementation of the two annual parades conducted in the Borough: 1) the Memorial Day Parade; and 2) the Winter Festival Parade.
- C. To supervise and control the organization, promotion, maintenance, operation and regulation of the Borough of Metuchen parades, the same to include all forms of public entertainment activities carried on in connection therewith. The Commission shall effect such expenditures and hire such personnel as may be necessary to carry out these duties in accordance with the budgetary appropriations duly adopted by the Mayor and Council.
- D. To recommend, in writing, to the governing body rules, regulations and standards as it shall prescribe

for the organization, promotion, maintenance, conduct, management and supervision of the parades conducted within the Borough.

- E. To coordinate with all state and local agencies, departments, committees, commissions and any county, state, federal and private agencies for the purpose of the organization, promotion, maintenance, operation and regulation of the Borough of Metuchen parades set forth herein.
- F. To foster, through community effort, good will, cooperation and coordination among the residents, businesses, groups, associations of the Borough in order to effectively organize, promote, maintain, operate, conduct and regulate the Metuchen parades set forth herein.
- G. To make a written semiannual report in January and June of each year to the Mayor and Council detailing its activities for each parade, and, if requested, to make presentations before the Mayor and Council at such time as the Council shall request or the Commission deems desirable.

COURT, MUNICIPAL

Chapter 13

COURT, MUNICIPAL

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Court, Judge and Court Administrator**[Adopted 9-26-1966 as Sections 15-1 through 15-7 of the 1966 Code]****§ 13-1. Establishment.**

A Municipal Court for the borough is established, as of January 1, 1949, pursuant to the provisions of N.J.S.A. 2B:12-1 et seq., as amended and supplemented.

§ 13-2. Name.

The name of the Municipal Court shall be the "Municipal Court of the Borough of Metuchen."

§ 13-3. Seal.

The Municipal Court shall have a seal which shall bear the impression of the name of the Court.

§ 13-4. Appointment of Municipal Judge; term of office. [Amended 9-15-1997 by Ord. No. 97-20]

There shall be a Municipal Judge of the Municipal Court, who shall be appointed by the Mayor with the advice and consent of the Borough Council and who shall serve for a term of three years from the date of his or her appointment and until his or her successor is appointed and qualified.

§ 13-5. Compensation.

The Municipal Judge shall receive such annual salary as may be prescribed by the Council of the borough, to be paid in the same manner as the salaries of other municipal officers are paid, and which shall be in lieu of all fees, costs and any other allowances whatsoever.

§ 13-6. Powers, duties and jurisdiction.

The Municipal Court and the Municipal Judge thereof shall have, possess and exercise all the functions, powers, duties and jurisdiction conferred by the provisions of N.J.S.A. 2B:12-1 et seq., as amended and supplemented, or by any other law.

§ 13-7. Location; when Court held.

The Municipal Court shall be held in the Borough Hall or such other public place as may be designated by the Judge. The Municipal Judge shall sit at such times as the business of the Court may require, subject to the rules applicable to municipal courts.

§ 13-8. Municipal Court Administrator. [Added 9-15-1997 by Ord. No. 97-20]

- A. There shall be a Municipal Court Administrator, who shall be appointed by the Mayor with the advice and consent of the Borough Council who shall serve for a term of one year from the date of appointment until a successor is appointed and qualified.
- B. The Municipal Court Administrator shall receive such annual salary as provided for in the Salary Ordinance of the borough, which salary shall be in lieu of all fees, costs and any other allowances whatsoever.⁴
- C. The Municipal Court Administrator shall perform such functions and duties as shall be prescribed for

such position by law, the rules applicable to municipal courts and by the Municipal Judge.

4. Editor's Note: The Salary Ordinance is on file in the office of the Borough Clerk.

ARTICLE 2
Municipal Court Prosecutor
[Adopted 10-21-1968 by Ord. No. 68-24]

§ 13-9. Creation.

There is hereby created in the borough the position of Municipal Court Prosecutor.

§ 13-10. Qualifications. [Amended 9-15-1997 by Ord. No. 97-20]

The Municipal Court Prosecutor shall be a duly licensed attorney-at-law of the state.

§ 13-11. Term.

The Municipal Court Prosecutor shall be appointed by the Mayor and confirmed by the Council for the term of one year, effective January 1 of each year and until December 31 of the same year, and until the appointment and qualification of his or her successor.

§ 13-12. Compensation.

The Municipal Court Prosecutor shall be paid such annual salary as provided for in the current Salary Ordinance of the borough and such other reasonable compensation for additional services performed only upon authorization of the Council first secured.⁵

§ 13-13. Powers and duties.

The Municipal Court Prosecutor shall appear in the Municipal Court of the borough on behalf of the state or the borough in any case therein pending upon the request of the Judge of the Municipal Court, the Councilperson in charge of the Police Department or upon directive of the Mayor and Council. He or she shall exercise such powers and duties as are assigned to such office by the statutes of the state, the rules governing the courts of the state and such other authority as may be assigned by the Mayor and Council.

5. Editor's Note: The Salary Ordinance is on file in the office of the Borough Clerk.

ARTICLE 3
Municipal Public Defender
[Adopted 10-20-1997 by Ord. No. 97-24]

§ 13-14. Creation.

There is hereby created in the Borough a position of Municipal Public Defender.

§ 13-15. Qualifications.

The Municipal Public Defender shall be a duly licensed attorney-at-law of the state.

§ 13-16. Term.

The Municipal Public Defender shall be appointed by the Mayor and confirmed by the Council for the term of one year, effective January 1 of each year and until December 31 of the same year, and until the appointment and qualification of his or her successor.

§ 13-17. Compensation.

The Municipal Public Defender shall be paid such annual salary as provided for in the current Salary Ordinance of the borough and such other reasonable compensation for the additional services performed only upon authorization of the Council first secured.⁶

§ 13-18. Powers and duties.

The Municipal Public Defender shall appear in the Municipal Court of the Borough on behalf of indigent defendants as required by state laws and upon the request of the Judge of the Municipal Court.

§ 13-19. Application fees.

Applicants for representation by the Municipal Public Defender or pro bono counsel pending appointment of the Municipal Public Defender or in the event of a conflict of interest, or other substitute counsel, shall submit a fee of \$200, or as otherwise provided by state law, to be refunded in the event the application is denied.

6. Editor's Note: The Salary Ordinance is on file in the office of the Borough Clerk.

Chapter 17**FINANCE DEPARTMENT**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 10-2-1989 by Ord. No. 89-14. Amendments noted where applicable.]

§ 17-1. Title.

This chapter shall be known and may be cited as the "Department of Finance" of the Borough of Metuchen.

§ 17-2. Purpose.

This chapter is enacted for the purpose of complying with the requirement of N.J.S.A. 40A:9-140.10 that each municipality create, by ordinance, the position of Chief Financial Officer and, as well, to define and prescribe the responsibilities of those borough officers serving within the Department of Finance of the borough herein created.

§ 17-3. Establishment.

There is hereby created within the Borough Administration the Department of Finance, the head of which shall be the person designated as the Chief Financial Officer pursuant to N.J.S.A. 40A:9-140.1d. If otherwise qualified pursuant to law, the position of Chief Financial Officer shall be held by the same person holding the position of Municipal Treasurer and Municipal Tax Collector for such additional compensation, if any, as provided by the Annual Salary Ordinance adopted by the Borough Council.⁷ The position of Chief Financial Officer shall be exempt from any residency requirement.

§ 17-4. Duties.⁸

The Chief Financial Officer shall have such duties and responsibilities and possess such qualifications as are required by N.J.S.A. 40A:9-140.1 et seq., as amended and supplemented, and shall be generally responsible for the fiscal administration of the borough, subject to the rules and regulations of the New Jersey Division of Local Government Services. The Chief Financial Officer shall be in charge of and shall supervise the Division of Treasury and the Division of Tax Collection.

§ 17-5. Division of Treasury.

- A. Establishment. There is hereby established within the Department of Finance the Division of Treasury, the head of which shall be the Borough Treasurer who shall be appointed, subject to the advice and consent of the Borough Council, by the Mayor for such term of office as prescribed by law.
- B. Functions. The Borough Treasurer and those individuals acting under his or her supervision shall:
 - (1) Keep and maintain books and records of all financial transactions of the borough in accordance with the standards and requirements of the Division of Local Government Services of the New Jersey Department of Community Affairs.
 - (2) Keep and maintain bank records of all financial transactions of the borough.

7. Editor's Note: The Salary Ordinance is on file in the office of the Borough Clerk.

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

- (3) Have custody over all public moneys of the borough.
- (4) Deposit to the credit of the borough in its designated financial institutions, within 48 hours after receipt thereof, all moneys received from any source for the benefit of or on behalf of the borough from any department, board, office or agency thereof, except as otherwise explicitly provided by statute.
- (5) Disburse funds of the borough for the payment of bills, invoices and demands pursuant to a properly executed voucher, subject to the approval of the Borough Council.

§ 17-6. Division of Tax Collection.

- A. Establishment. There is hereby established within the Department of Finance the Division of Tax Collection, the head of which shall be the Tax Collector, who shall be appointed, subject to the advice and consent of the Borough Council, by the Mayor for a term in accordance with law and who shall possess the requisite qualifications provided for by N.J.S.A. 40A:9-145.2.
- B. Functions. The Tax Collector shall be the borough official charged with the duty of collecting taxes upon real and personal property in the borough and, subject to his or her supervision, individuals within the Division of Tax Collection shall, without limitation thereof:
 - (1) Render all bills for property taxes pursuant to law, collect payments thereof and maintain tax accounting records of the borough in such manner as is prescribed pursuant to law.
 - (2) Make and certify searches for taxes and other liens on real property as may be authorized by law, and charge and collect for use of the borough the fee(s) required pursuant to law for each such search.
 - (3) Enforce all municipal tax liens and charges, including but not limited to the undertaking of any in rem foreclosure and tax sale proceedings, in conjunction with the Borough Attorney.
 - (4) Receive, record and transfer to the Division of Treasury any funds, fees or payments collected or received by any employee for the benefit of the borough.

Chapter 20**FIRE DEPARTMENT**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-8-2009 by Ord. No. 2009-12.⁹ Amendments noted where applicable.]

§ 20-1. Establishment.

In order to provide more effective and efficient protection against fire, there is hereby authorized, created and established the Metuchen Volunteer Fire Department. This Department shall consist of two fire companies known as the Eagle Hook & Ladder Company and the Washington Hose Company. The said fire companies may merge or consolidate, at which time the Department shall consist of a single fire company known as the Metuchen Volunteer Fire Company.

§ 20-2. Membership qualifications.

- A. The Department shall consist of a Fire Chief (Chief) and a Deputy Chief and as many firefighters of the age of 18 years and not more than 45 years old at the time of their appointment to membership as provided by this chapter, and who are citizens and residents of the Borough, or who reside within a three-mile radius of the fire station, as are or may be and appointed by the Borough Council. Former members in good standing of the Department may rejoin the Department even if they are greater than 45 years old at the time of their reappointment.
- B. In addition, an applicant may qualify for membership regardless of residence if he or she works or is employed in the Borough of Metuchen at least four days per week during the hours of 6:00 a.m. to 6:00 p.m. and his or her employer agrees to release the applicant for fire-fighting duties.
- C. As a qualification of office, the Chief and Deputy Chief must reside within the three-mile radius of the fire station.

§ 20-3. Approval and confirmation; resignations; muster roll.

- A. The names of all persons who meet the qualifications for membership in the Volunteer Fire Department, and who are approved by the membership committee of the company involved, shall be presented through the Chief of the Department, in writing, to the Borough Council for confirmation. This procedure shall comply with N.J.A.C. 13:12-1.1.¹⁰
- B. All resignations from the Volunteer Fire Department shall take the same course as election to membership as above provided for.
- C. The Borough Clerk shall keep an accurate muster roll of the members of the Volunteer Fire Department and shall issue upon confirmation a certificate of membership in the Volunteer Fire Department to each member appointed and confirmed.

§ 20-4. Organization.

- A. The unit of organization of the Department shall be the Fire Company, to consist of not more than 26 active members. In the event the fire companies merge or consolidate, the Metuchen Volunteer Fire

9. Editor's Note: This ordinance also repealed former Ch. 20, Fire Department, adopted 7-1-2002 by Ord. No. 2002-6, as amended.

10. Editor's Note: N.J.A.C. 13:12, Volunteer Fire Companies and First Aid Squads, expired on 7-1-2006.

Company shall consist of not more than 52 active members. The company shall be duly incorporated as a nonprofit corporation to transact the charitable social and fraternal business related to the Department. There shall be an attempt to have at least 10 members employed within the geographical limits of the Borough of Metuchen.

- B. The Department shall choose from its own number two Captains and four Lieutenants in such manner and at such times as such Department shall provide. Captains and Lieutenants shall be designated as the Department's line officers. The line officers shall be elected for two-year terms.
- C. All Department officers must meet the qualifications of the Metuchen Fire Department and the State of New Jersey, Department of Community Affairs, Division of Fire Safety.

§ 20-5. Chief and Deputy Chief.

- A. The Chief and Deputy Chief of the Department shall be elected for two-year terms from the membership of the Department. The Chief and the Deputy Chief shall be designated as the Department's Chief Officers. Although members of their respective company or companies, the Chief and Deputy Chief shall not be eligible to make motions or vote concerning matters of company business.
- B. No member of the Department shall be eligible for the appointment of Chief or Deputy Chief who has not been an active member of the Department for at least five years and who does not meet the qualifications set forth in the Standard Operating Procedures (SOPs) of the Metuchen Fire Department and the State of New Jersey, Department of Community Affairs, Division of Fire Safety.

§ 20-6. Control and command at fires.

- A. In all cases of fire, the Chief or, in his or her absence, the Deputy Chief, or ranking line officer in the Department's chain of command shall have full power, absolute control and command and shall cause the pieces of apparatus to be worked in the most advantageous manner.
- B. In the absence of both the Chief and the Deputy Chief, or ranking company officer, the person having charge of the apparatus first arriving at the fire shall assume the duties and responsibilities of the Chief until the arrival of a superior officer or a qualified senior member.

§ 20-7. Police authority at fire scenes.

The Chief, the Deputy or line officers in command at any fire are hereby clothed with full and complete police authority and are authorized to call upon the head of any municipal departments for such aid or assistance as the circumstances may require and warrant.

§ 20-8. Right of entry.

The Fire Chief or Fire Inspector is hereby empowered to enter any buildings and premises at any reasonable time for purposes of inspection where accumulations of combustible materials or other hazardous conditions are liable to exist. He or she is further empowered to order such changes or removals as in his or her opinion and judgment are necessary to ensure safety from fire.

§ 20-9. Administrative functions of Fire Chief.

The administrative functions of the Fire Chief shall include the following:

- A. He or she shall hold meetings with the Deputy Chief and line officers to keep them aware of Department policies and proceedings.
- B. He or she shall adopt, and amend from time to time, the code of rules for the control, management and government of the Volunteer Fire Department and for the regulations of the proceedings and business, which code of rules and all amendments thereto shall not become permanent until presented to and approved by the Borough Council. He or she shall by general order make changes which are necessary for the immediate operation of the Department and that shall remain in effect until expired, rescinded or made permanent during a code update and approval by the Borough Council.
- C. He or she shall devise forms or methods of keeping records and shall see that records are kept of all alarms of fires, fire losses, methods of extinguishment, drills, hoses, apparatus, minor equipment, condition of hydrants and starting motors.
- D. He or she shall prescribe uniform and designating devices as required for various occasions.
- E. He or she shall make rules concerning the resignation, transfer, retirement, expulsion or suspension of any members of the Volunteer Fire Department, provided that the expulsion of any member is subject to the approval of the Borough Council.
- F. He or she shall establish and appoint a chain of command among the line officers.
- G. He or she shall appoint a Safety Officer and Chief Engineer, provided there are qualified members in the ranks to assume those positions.

§ 20-10. Reports.

The following reports are required from the Fire Chief and from the company officers:

- A. The Fire Chief shall report monthly to the Borough Council the condition of the various pieces of apparatus and equipment; the condition of hydrants; the number, date, cause, loss and location of all fires; the number in each company; the number of active members in the Volunteer Fire Department; the resignations and expulsions and the new members elected.
- B. The Fire Chief shall include in his or her monthly report, as the occasion requires, recommendations for the improvement of the Department.
- C. It shall be the duty of the Captain of each company to keep a permanent record of the fire and drill service of each member of his or her company, a copy of which shall be submitted annually to the Board of Fire Officers at the close of each year.

§ 20-11. Condition of apparatus and equipment.

- A. It shall be the duty of the Fire Chief to keep the Council informed of the condition of all apparatus and equipment of the Volunteer Fire Department, to recommend the necessary replacement or purchase of additional apparatus and equipment and to requisition the necessary supplies and repairs prior to the time actually needed.
- B. It shall be the duty of the line officers to insure the proper operation and maintenance of all Department apparatus and equipment. In addition, the line officers shall insure that drivers and firefighters, assigned to this duty, thoroughly check the apparatus and equipment, maintain apparatus and equipment in good condition, ready for immediate service, and complete the appropriate checker's list. Further, it is the responsibility of the line officers to report any problems or deficiencies

concerning apparatus or equipment which may require higher-level maintenance or repair to the Chief or his or her designee.

§ 20-12. Ownership of apparatus and equipment.

The ownership of all apparatus and equipment of the Department shall be vested in the Borough.

§ 20-13. Purchase of apparatus and equipment.

The Mayor and Council of the Borough are hereby empowered to purchase, if and when it shall be deemed necessary and possible to do so, whatever fire apparatus and equipment that may be needed to provide adequate protection for the Borough against fire.

§ 20-14. Procurement of material.

The procurement of all material for the Department shall be vested in the Mayor and Council of the Borough.

§ 20-15. Emergency repairs.

In an emergency when immediate repairs to the Department's apparatus and equipment are necessary, the Chief is empowered to authorize such repairs and report his or her action immediately to the Mayor and Council or their properly constituted authority.

§ 20-16. Vehicles and drivers.

It shall be the duty of the Company Captain to appoint, by and with the consent and approval of the Chief, qualified drivers for each automobile or other vehicular apparatus of the Department. It shall be the duty and responsibility of the authorized drivers to maintain all such apparatus in good condition and ready for immediate service. No one shall be permitted, except the authorized drivers, to tamper with, fix or repair any such apparatus unless directed to do so by the Chief. No one shall drive the automobiles or other vehicular apparatus of the Department except the regularly appointed drivers, unless directed to do so by the Chiefs or line officers.

§ 20-17. Use, maintenance and testing of hose.

- A. It shall be the duty of the Chief to see that the line officers have all hose thoroughly washed and dried after use at fires and drills and that no wet or dirty hose is placed on apparatus.
- B. The line officers shall have all hose on apparatus changed and have water run through it when needed.
- C. The Chief shall have all hose tested annually in accordance with the manufacturer's recommendations and in compliance with applicable NFPA standards.

§ 20-18. Operation of motors.

It shall be the duty of the Chief to see that the line officers have the motors of apparatus turned over and operated routinely in accordance with the manufacturer's recommendations and that a record be kept of such operations at the company quarters.

§ 20-19. Renting or lending apparatus.

No Department apparatus shall be let out for hire or let in any case, except upon consent of the Mayor or other constituted authority and of the Chief, and then only in case of a fire in a neighboring municipality.

§ 20-20. Housing facilities; maintenance workers.

- A. The procurement by lease, purchase or by construction of adequate housing facilities for Borough-owned fire apparatus, fire equipment and fire supplies is hereby vested in the Mayor and Council of the Borough.
- B. The arrangements for the lighting for firehouses is vested with the Mayor and Council.
- C. The Mayor and Council shall have full jurisdiction and control of all firehouses or parts of leased firehouses or other buildings wherein Borough-owned fire apparatus is stored.
- D. If and when it may be deemed necessary, the Mayor and Council of the Borough are hereby empowered to hire full-time or part-time maintenance workers, the number and compensation to be determined as the situation warrants, to care for and maintain the Borough fire apparatus, equipment and place of storage.

§ 20-21. Drills and instructions.

- A. It shall be the duty of the Chief to call out for practice drills for the Department whenever he or she deems it necessary.
- B. It shall be the duty of the line officers to drill and instruct the Department at least once a month.
- C. Drills and instructions shall be so arranged by the Chief and line officers that they will include the proper and efficient use of all apparatus and appliances, the quick handling of hose, the efficient handling of streams, ladder work, salvaging, first aid and lifesaving and all modern methods of firefighting.

§ 20-22. Compensation insurance.

Compensation insurance shall be provided by the governing body of the Borough for volunteer firemen as required by and in accordance with the provisions of N.J.S.A. 34:15-74.

§ 20-23. Disciplinary actions and procedures.

- A. The Deputy Chief, any line officers or member of the Department, while on fire duty, who shall refuse or voluntarily neglect to obey or execute any orders from the officers in charge of any fire, shall, for such offense, be subject to suspension or expulsion from the Department by the Fire Chief in such manner and upon such hearing or trial as may be prescribed or provided for by the company bylaws and rules of the Department.
- B. All charges for offenses or neglect of duty or insubordination while on duty or for infractions of this chapter shall be tried and determined by the Fire Chief after conferring with other Department and company line officers; subject, however, to an appeal from such decision to the Borough Council which shall either affirm, reverse or modify the action.
- C. In the event there are charges for offenses or neglect of duty brought against the Fire Chief, all such charges shall be tried and determined by the Borough Council.

- D. Members of the Fire Department shall not conduct themselves in a manner unbecoming of a member of the Department, nor in a manner prejudicial to the good reputation, order or discipline of the Department.
- E. Members of the Fire Department shall not violate any criminal law or engage in immoral or illegal conduct.

HEALTH, BOARD OF

Chapter 23

HEALTH, BOARD OF

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Art. VIII of Ch. 2 of the 1966 Code. Amendments noted where applicable.]

§ 23-1. Establishment.

Pursuant to the provisions of N.J.S.A. 26:3-1 et seq., there is hereby created and established in and for this borough a Board of Health.

§ 23-2. Composition; appointment and terms of office; vacancies.¹¹

The Board of Health shall consist of seven members who shall be appointed by the Mayor with the advice and consent of the Council for overlapping terms of four years each. If a vacancy occurs in the Board of Health by the death, resignation or inability of any member to serve or from any other cause, the appointment to fill such vacancy shall be made in the same manner in which the original appointments are to be made, but for the unexpired term only.

§ 23-3. Rules and regulations; President.

The Board of Health shall adopt rules and regulations for its own government and shall elect a President from among its members.

§ 23-4. Appointment of officers; borough police officers to be Special Sanitary Inspectors.¹²

The Board of Health shall appoint a Registrar of Vital Statistics and it may appoint such other officers or assistants as it may deem necessary. All appointees of the Board of Health shall be governed by the rules of such Board, and they may be removed for cause by such Board. The police officers of this borough shall be Special Sanitary Inspectors, and they shall promptly report to the Board of Health every violation of the health ordinances of this borough which may come within their observation or knowledge.¹³

§ 23-5. Contracting debts.

The Board of Health shall not contract any debts of any kind beyond the amount of the appropriations first made for its use by the Mayor and Council.

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

13. Editor's Note: Board of Health ordinances are located in Part III of Code.

METUCHEN CODE

Chapter 29

OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Director of Public Works

[Adopted 6-3-1996 by Ord. No. 96-8]

§ 29-1. Creation.

The office of Director of Public Works is hereby created.

§ 29-2. Appointment and term.

The officer appointed to fill the office of Director of Public Works shall be appointed by the Mayor upon the advice and consent of the Council and shall serve at the pleasure of the Mayor and Council or until his or her successor be duly appointed and shall qualify.

§ 29-3. Powers and duties.

It shall be the duty of the officer appointed to fill the office of Director of Public Works to see that all of the property belonging to this borough is properly cared for, preserved and protected and shall be his or her further duty to perform such work in connection with the numerous committees as shall be determined by the Council by resolution from time to time.

§ 29-4. Responsibility for sewerage system and sewage disposal works.

In addition to the duties otherwise prescribed and performed by the Director of Public Works, he or she shall maintain, operate and care for the sewage system and sewage disposal works of the borough. He or she shall further have general control and superintendency of such system and works.

ARTICLE 2
Public Safety Chaplain
[Adopted 10-7-1996 by Ord. No. 96-14]

§ 29-5. Creation.

The position of Public Safety Chaplain is hereby created.

§ 29-6. Term.

The Public Safety Chaplain shall be appointed for two years, to serve at the pleasure of the Borough Council, and may be removed at any time with or without cause. The Borough Council shall make this position available to different moral and spiritual perspectives from time to time.

§ 29-7. Qualifications.

The Public Safety Chaplain shall be licensed as a clinical psychologist or a member of the clergy having experience in individual and family counseling and moral guidance.

§ 29-8. Duties and responsibilities.

The Public Safety Chaplain shall serve as a resource to the Police Department, the Volunteer Fire Companies and the Rescue Squad to provide counseling, guidance and support as needed.

§ 29-9. Compensation.

The Public Safety Chaplain shall serve without compensation.

ARTICLE 3

Recreation Director**[Adopted 5-2-2016 by Ord. No. 2016-12]****§ 29-10. Recreation Director.**

The position of Recreation Director heretofore created is continued. The Recreation Director shall be the administrative head of the Recreation Department and shall report to the Borough Administrator. The Recreation Director shall be appointed by the Mayor upon the advice and consent of the Council in consultation with the Recreation Commission.

§ 29-11. Duties and responsibilities.

The Recreation Director shall, under the supervision and control of the Borough Administrator, to the extent not prohibited by law, have the following duties and responsibilities:

- A. Prepare and submit annual Department budget, subject to the approval of the Mayor and Council;
- B. Plan, organize, manage and administer all recreation and cultural arts programs and supervise their implementation, in coordination with the Borough Administrator, the Recreation Commission and Arts Council.
- C. Assess and plan for future needs, maintaining records, preparing reports.
- D. Plan and organize special events throughout the year and coordinate special events with other departments to secure necessary assistance.
- E. Supervise and direct the activities and use of public recreational facilities.
- F. Plan and develop recreational programs, approve activities, plans and procedures prepared by staff members, evaluate the adequacy of existing facilities for recreation and recommend methods to secure needed replacements, alterations and additions.
- G. Administer and operate municipal playgrounds, playfields and facilities for indoor and outdoor sports, athletics and recreational programs and activities for children and adults.
- H. Supervise, select, assign, and train part-time recreational personnel.
- I. Monitor the Department's expenditures to ensure compliance with budgetary constraints.
- J. Perform all other related recreation related tasks, set forth in the Borough's job description, and as may be requested, delegated or required by the Borough Administrator, Recreation Commission and/or Arts Council.
- K. Attend monthly meetings of the Recreation Commission and Arts Council.
- L. At each regular meeting of the Recreation Commission and Arts Council, report to the Commission/Council the status of recreation and cultural arts programming and park facilities and such other matters as the Commission/Council may request;

ARTICLE 4

Director of Special Projects
[Adopted 1-13-2020 by Ord. No. 2020-01]**§ 29-12. Purpose and authority.**

Pursuant to N.J.S.A. 40A:60-6(3), there is hereby created in the Borough of Metuchen the office and position of Director of Special Projects.

§ 29-13. Appointment; removal; term of office; compensation.

- A. The Director of Special Projects shall be appointed by the Mayor upon the consent of the Council of the Borough of Metuchen. The Director of Special Projects may be removed at will by the Mayor or by vote of the majority of the entire membership of the Council.
- B. The Mayor shall designate in writing to the Director a list of special projects which the Director shall oversee and manage pursuant to the terms of this article. The Mayor, from time to time, may amend such list of special projects, adding or deleting projects, as the Mayor may deem fit.
- C. The Director of Special Projects shall serve continuously for the duration of the special projects as identified by the Mayor. He or she shall serve at the pleasure of the Mayor and/or Borough Council, and payment for such compensation shall be set forth in the Salary Ordinance of the Borough.

§ 29-14. Powers and duties.

The Director of Special Projects shall have the following power, duties and responsibilities:

- A. Responsible for directing and managing large-scale, infrastructure and redevelopment projects identified by the Mayor.
- B. Organize and lead the specific project teams consisting of Borough employees, professionals, contractors and partner organizations.
- C. Establish project-specific timelines, budgets, and resources and critical dependencies for each project.
- D. Coordinate with the Chief Financial Officer regarding budget funding and capital requirements.
- E. Shall engage and coordinate with the Borough grant writer to identify funding sources for projects.
- F. Coordinate with zoning, construction, planning, engineering officials and legal counsel to ensure the success of the identified special projects.
- G. Organize, schedule and attend meetings with project team members, provide for meeting minutes, and identify critical next steps and assignments for each project.
- H. Provide regular project status reports to the Mayor and Borough Administrator; and
- I. Take all other action, as the Mayor deems fit, to maximize the Borough's resources and efficiency thereof to promote the timeliness and success of the special projects designated by the Mayor.

§ 29-15. Files and reports.

The Director of Special Projects shall maintain an accurate and complete file with respect to the special

projects within the Borough. The Director shall file a monthly report of his or her activities and the status of each special project, with the Mayor and Borough Administrator.

PARKING AUTHORITY

Chapter 32

PARKING AUTHORITY

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Art. V of Ch. 2 of the 1966 Code. Amendments noted where applicable.]

§ 32-1. Creation.

Pursuant to the provisions of N.J.S.A. 40:11A-1 et seq., known as the "Parking Authority Law" of the state, a body corporate and politic to be known as the "Parking Authority of the Borough of Metuchen, New Jersey" is hereby created and established and vested with all of the powers and duties prescribed by such law.

§ 32-2. Composition; appointment; terms of office; vacancies.

The Parking Authority created and established by § 32-1 shall consist of five persons as Commissioners of the Parking Authority, appointed by the governing body of the borough. The Commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of the appointment, but thereafter Commissioners shall be appointed as aforesaid for a term of five years, except that all vacancies shall be filled for the unexpired term.

Chapter 34**PARKING ENFORCEMENT**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 5-1-2017 by Ordinance No. 2017-07. Amendments noted where applicable.]

§ 34-1. Purpose.

The purpose of this chapter is to create the position of Parking Enforcement Officer to enforce state, county, and municipal statutes, resolutions, ordinances or regulations relating to the parking of vehicles with the Borough of Metuchen pursuant to N.J.S.A. 40A:9-154.7 et seq. and on Parking Authority property pursuant to N.J.S.A. 40:11A-22.1.

§ 34-2. Authority.

There is hereby created in the Borough of Metuchen the position of Parking Enforcement Officer. The position of Parking Enforcement Officer shall be part-time and shall be limited to 29 hours per week per Parking Enforcement Officer. There is hereby created up to two positions of Parking Law Enforcement Officers.

§ 34-3. Definitions.

For purposes of this chapter, a "Parking Enforcement Officer" is not a special law enforcement officer within the meaning of the "Special Law Enforcement Officers Act" N.J.S.A. 40A:14-146.8 et seq. and is not a member of the Borough of Metuchen Police Department. No parking enforcement officer may carry or use a firearm while on duty.

A "Parking Enforcement Officer" is deemed to be "on duty" while the officer is performing the public safety functions enumerated in this chapter and for which the officer is receiving compensation from the Borough.

A "Parking Enforcement Officer" is not eligible for membership in the Police and Firemen's Retirement System established pursuant to N.J.S.A. 43:16A-1 et seq.

§ 34-4. Qualifications.

A. The Parking Enforcement Officer shall:

- (1) Be a resident of New Jersey during the term of his or her appointment.
- (2) Be able to read, write and speak the English language well and intelligently.
- (3) Be of sound mind and in good health.
- (4) Be of good moral character.
- (5) Not have been convicted of any offense involving dishonesty or which would make the person unfit to perform the duties of his or her office.
- (6) Possess a good familiarity with the parking of vehicles ordinances and codes of the Borough of Metuchen.

B. An applicant for the position of Parking Enforcement Officer appointed pursuant to this chapter shall

have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.

- C. The Chief of Police and a representative of the Parking Authority shall interview candidates for the position of Parking Enforcement Officer and make recommendations to the Mayor regarding the appointment of Parking Enforcement Officer. Before any Parking Enforcement Officer is appointed pursuant to this chapter, the Chief of Police shall ascertain the eligibility and qualifications of the applicant and report these determinations in writing to the Mayor and Council.
- D. No person appointed as Parking Enforcement Officer may commence duties as a Parking Enforcement Officer unless that person has successfully completed a training course conducted or approved by the Chief of Police. The Mayor and Council may waive this training requirement for any person otherwise eligible to be appointed as a Parking Enforcement Officer under this chapter if the person possesses substantially equivalent training and background, as determined by the Chief of Police or other chief law enforcement officer.

§ 34-5. Appointment; removal; term of office; compensation.

- A. Parking Enforcement Officers shall be appointed by the Mayor upon the consent of the Council of the Borough of Metuchen. A Parking Enforcement Officer may be removed at will by the Mayor or by vote of the majority of Council, so voting.
- B. Parking Enforcement Officers shall be appointed for a term of one year, such term expiring on December 31 of the year of his or her appointment. If he or she shall be appointed after January 1 of any year, the appointment shall be deemed, for the purpose of calculating the term, to have commenced the January 1 immediately prior to his or her appointment. He or she shall serve at the pleasure of the Mayor and/or Borough Council and payment for such compensation shall set forth in the Salary Ordinance of the Borough.

§ 34-6. Powers and duties.

- A. The Parking Enforcement Officer shall enforce State, County, Borough and Parking Authority, statutes, ordinances and/or regulations related to the parking of vehicles within the Borough of Metuchen. He or she shall possess the power and authority to:
 - (1) Issue a parking ticket for a parking offense, as those two terms are defined in the "Parking Offenses Adjudication Act," P.L. 1985, c. 14 (N.J.S.A. 39:4-139.2 et seq.).
 - (2) Serve and execute all process for any parking offenses issuing out of the court having jurisdiction over the complaint.
 - (3) Issue warnings for violations of any State, County, Borough of Parking Authority statutes, ordinances, resolutions and/or regulations related to the parking of vehicles within the Borough of Metuchen.
 - (4) Cause any vehicle parked, stored, or abandoned in the Borough in violation of a statute, resolution, ordinance or regulation to be towed away from the scene of the violation and to collect from the vehicle's owner or the owner's agent, on behalf of the Borough, the costs of the towing and subsequent storage of the vehicle before surrendering the vehicle to the owner or agent.
 - (5) Issue a complaint, summons, or parking ticket for the failure to abide by any parking regulation

or parking restriction promulgated by the Parking Authority of the Borough of Metuchen.

- (6) Attend, participate, testify and assist in the prosecution, if necessary, in any court proceedings relating to any actions taken by him or her.
- (7) Inspect the conditions of parking meters or other parking regulating devices, and if necessary, report to the appropriate individual responsible for the necessary repairs or replacement.

B. The Parking Enforcement Officers shall be under the supervision and direction of the Chief of Police.

§ 34-7. Training.

The Parking Enforcement Officer shall receive such training in the performance of his or her duties as may, from time to time, be required by law or recommended and authorized by the Chief of Police.

§ 34-8. Uniform and insignia.

Prior to the commencement of duties, every Parking Enforcement Officer shall be furnished with a uniform which shall clearly identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the Borough of Metuchen in which the officer is employed. The uniform shall also include an insignia issued by the Borough which clearly indicates the officer's status as a Parking Enforcement Officer. The uniform shall be distinct in color from the uniform of a regular police officer or special law enforcement officer.

The Borough shall issue a permanent insignia not later than 90 days following its first appointment of a Parking Enforcement Officer for persons designated as Parking Enforcement Officers under this chapter. The Borough may issue a temporary insignia for use prior to the issuance of permanent insignia.

§ 34-9. Files and reports.

The Parking Enforcement Officer shall maintain an accurate and complete file with respect to every alleged violation or other matter investigated by him or her. The Parking Enforcement Officer shall file a monthly report of his or her activities, including any warning, complaints or cases processed by him or her and the disposition thereof, with the Chief of Police.

§ 34-10. Official documents.

All files, books and records maintained by, and property provided to the Parking Enforcement Officers are the property of the Borough of Metuchen. Every Parking Enforcement Officer, on the expiration of his or her term, shall forthwith deliver to his or her successor all files, books, records and property provided, which are in his or her possession or under his or her control or maintained by him or her to the Chief of Police.

§ 34-11. Existing ordinances.

The creation of the position of Parking Enforcement Officer, and the within chapter, shall not be interpreted or inferred to alter, change, effect, limit, restrict, or relieve any the authority and/or duties of a police officer of the Borough of Metuchen.

POLICE DEPARTMENT

Chapter 37

POLICE DEPARTMENT

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual part histories. Amendments noted where applicable.]

Part I
Administration
[Adopted 9-26-1966 As Ch. 19 Of The 1966 Code]

ARTICLE 1
General Provisions

§ 37-1. Composition; appointment. [Amended 5-16-1969 by Ord. No. 69-12; 11-17-1969 by Ord. No. 69-30; 6-7-1971 by Ord. No. 71-9; 2-3-1986 by Ord. No. 86-2; 9-15-1997 by Ord. No. 97-20; 2-4-2002 by Ord. No. 2002-4; 4-21-2008 by Ord. No. 2008-9; 6-18-2012 by Ord. No. 2012-5; 4-26-2021 by Ord. No. 2021-08; 9-13-2021 by Ord. No. 2021-14; 1-30-2023 by Ord. No. 2023-01; 11-13-2023 by Ord. No. 2023-29; 7-22-2024 by Ord. No. 2024-17]

The Police Department of the Borough of Metuchen shall consist of no more than one Chief of Police, one Captain of Operations/Deputy Chief, two Lieutenants, six Sergeants, and 23 patrol officers, and such other employees as the Mayor and Borough Council may from time to time appoint. Patrol officers shall be appointed by the Mayor in consultation with the appropriate authority/Borough Administrator and the Police Chief upon confirmation by the Borough Council. The Police Chief shall be appointed by the Mayor in consultation with the appropriate authority/Borough Administrator upon confirmation by the Borough Council. The Captain of Operations/Deputy Chief, Lieutenants, and Sergeants shall be appointed by the Mayor in consultation with the appropriate authority/Borough Administrator and the Police Chief.¹⁴

§ 37-2. Definitions.

For the purposes of this Part I, the following words and phrases shall have the meanings respectively inscribed to them by this section:

OFFICER — Any member of the Police Department of the Borough, from the rank of Sergeant to the rank of Chief, inclusive.

POLICE COMMISSIONER — That member of the Borough Council, acting as Council liaison to the Police Department, as annually appointed by the Borough Council.[Amended 9-15-1997 by Ord. No. 97-20]

POLICE OFFICER — Any member of the Police Department of the Borough.

SUPERIOR OFFICER — A member of the Police Department holding the rank of Lieutenant or any rank above.

§ 37-3. Qualifications.

No person shall be appointed to membership in the Police Department unless he or she shall comply with the requirements of the statutes in such cases made and provided and with such other requirements as the Borough Council shall from time to time determine.

§ 37-4. Oath of members.

Every member of the Police Department, before serving as such and also upon promotion to any of the advanced ranks within the Department, shall swear to the following oath of office before the Clerk of the

14. Editor's Note: Previous §§ 19-2, Hours of employment, and 19-3, Vacations, as amended, which immediately followed this section, were deleted 9-15-1997 by Ord. No. 97-20.

Borough, and the oath shall be transcribed in the police blotter under the date taken and signed by the member:

"I do solemnly swear that I will support the Constitution and laws of the United States and the State of New Jersey and the ordinances of the Borough of Metuchen and obey all the rules and regulations and lawful orders of the Metuchen Police Department and faithfully discharge the duties of, and faithfully serve the Borough of Metuchen according to the best of my knowledge and ability, so help me God."¹⁵

15. Editor's Note: Former § 19-7, Police headquarters, which immediately followed this section, was deleted 9-15-1997 by Ord. No. 97-20.

ARTICLE 2
Chief of Police

§ 37-5. Responsibilities. [Amended 2-3-1986 by Ord. No. 86-2; 2-1-16 by Ord. No. 2016-04; 12-18-2017 by Ord. No. 2017-20]

- A. The Chief of the Police Department shall be the executive head of the police force, and he or she shall be directly responsible to the Appropriate Authority for the efficiency and routine day-to-day operations thereof, and he or she shall, pursuant to policies established by the Appropriate Authority, and in accordance with the statutory mandate of N.J.S.A. 40A:14-118:
- (1) Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel.
 - (2) Have, exercise and discharge the functions, powers and duties of the force.
 - (3) Prescribe the duties and assignments of all subordinates and other personnel.
 - (4) Delegate such of his or her authority as he or she may deem necessary for the efficient operation of the force to be exercised under his or her direction and supervision.
- B. Report at least monthly to the Appropriate Authority in such form as shall be prescribed by such Authority on the operation of the force during the preceding month and make such other reports as may be requested by such authority. The Administrator of the Borough of Metuchen is designated as the Appropriate Authority for all matters relating to the police function. The Administrator of the Borough of Metuchen shall, from time to time, adopt, revise and amend the rules and regulations for the government of the Police Department and for the discipline of its members. **[Amended 8-16-2010 by Ord. No. 2010-15]**
- C. Nothing herein contained shall prevent the appointment by the Governing Body of such committees or commissions as shall be necessary to conduct investigations of the operation of the police force, which committees or commissions shall have such powers of inquiry as the Governing Body deems necessary to conduct any such hearing or investigation as authorized by law. **[Added 8-16-2010 by Ord. No. 2010-15]**

§ 37-6. Payroll.

It shall be the duty of the Chief of Police to prepare a payroll semimonthly showing the number of employees of the Police Department and the amount due to each, which payroll shall be submitted to the Borough Council for certification as to its correctness. Each payroll shall show and contain the rank of each person, the time for which each person is entitled to payment, the amount of the payroll and shall be certified by the Chief of Police.

§ 37-7. Control and discipline. [Amended 8-16-2010 by Ord. No. 2010-15]

The control and discipline of the Police Department of the Borough and of all its members shall be vested in the Chief of Police. He or she shall have the power to enforce all the rules and regulations provided by this chapter and any general and special orders which he or she may promulgate from time to time. He or she shall enforce these rules and punish their violation by reprimand or suspension from duty without pay not to exceed five days. Should the Chief of Police deem a violation to be of a sufficiently flagrant nature, he or she shall confer with the appropriate authority with reference to the filing of charges.

§ 37-8. Duties.

The Chief of Police shall have charge of the personnel of the Police Department, the preservation of the public peace in the Borough, the necessary protection of life and property in connection therewith, the keeping of accurate records of all business transacted by the department and of all reported disorder and crime occurring in the Borough, together with all pertinent data in connection therewith.

§ 37-9. Duty to enforce.

The Chief of Police shall see that the laws of the state, the provisions of this Code and the other ordinances of the Borough are strictly and impartially enforced.

§ 37-10. Departmental apparatus and equipment.

The Chief of Police shall have full charge and control of all the apparatus and equipment of the Police Department, and its assignment and use, and shall be held responsible for its care, cleanliness and safekeeping.

§ 37-11. Purchase and repair of equipment. [Amended 8-16-2010 by Ord. No. 2010-15]

The Chief of Police shall recommend to the Borough Council and the appropriate authority from time to time the purchase of such new equipment or the repair or rearrangement of such old equipment as will increase the efficiency of the Police Department.

§ 37-12. Inspection and testing of new equipment.

The Chief of Police shall by investigation and tests assist in the selection of equipment to be purchased for the Police Department, and he or she shall thoroughly inspect and test all equipment purchased before accepting it for the Department.

§ 37-13. Invoices and materials and supplies purchased.

The Chief of Police shall check all materials and supplies purchased for the Police Department to see that they are of the quality and quantity desired and shall check all invoices to be paid out of the Department funds to be sure that the service or goods to be paid for were duly received as set forth.

§ 37-14. Inspection of firearms and equipment of Department members.

The Chief of Police or his duly appointed agent shall inspect the firearms and equipment of all members of the Police Department at least twice a year and shall see that they are kept clean and in good condition.

§ 37-15. Duty to oversee all divisions.

The Chief of Police shall by personal inspection, made as often as practicable, see that the different divisions of the Police Department are kept at the highest point of morale and efficiency, that all duties are regularly and properly performed, that all records and reports are duly kept up to date, that all Department property is properly cared for and kept clean and in good repair and order and that all apparatus, equipment and supplies are properly cared for and maintained in proper working condition.

§ 37-16. Report of incompetent members. [Amended 8-16-2010 by Ord. No. 2010-15]

The Chief of Police shall promptly report to the appropriate authority the name of any member of the Police

Department who, by reason of age, disease, accident or other disability, does not or cannot fully, promptly and properly perform full duty in the Department, together with a detailed statement setting forth the facts of the case.

§ 37-17. Enforcement of departmental regulations.

The Chief of Police shall see that all laws, ordinances, rules, regulations, orders and directions for the government of the Police Department are promptly, cheerfully and implicitly enforced and obeyed by all members of the Department.

§ 37-18. Investigation and report of misconduct. [Amended 8-16-2010 by Ord. No. 2010-15]

The Chief of Police shall promptly investigate dereliction of duty or improper conduct or violation of any of the rules and regulations of the Police Department by any member immediately on becoming acquainted therewith and shall file a report of such investigation with the appropriate authority, together with a recommendation as to the disciplinary action to be taken.

§ 37-19. Report of meritorious act or service. [Amended 8-16-2010 by Ord. No. 2010-15]

The Chief of Police shall report in writing to the appropriate authority any special service or act on the part of any member of the Police Department that may be deemed meritorious or worthy of special notice.

§ 37-20. Keeping of records for each member of Department.

The Chief of Police shall keep in the record of each member of the Police Department the reports and disposition of alleged or actual cases of misconduct, complaints, violations of law, ordinance, rule or regulation and reports of meritorious service.

§ 37-21. Summary suspension. [Amended 8-16-2010 by Ord. No. 2010-15]

The Chief of Police shall summarily suspend from duty, with or without pay, any member of the Police Department for a flagrant violation of law, ordinance, rule, regulation, order or direction in all cases where discipline or reputation of the Department would suffer if such prompt action were not taken and shall promptly report such action to the appropriate authority.

§ 37-22. Establishment of general regulatory orders. [Amended 8-16-2010 by Ord. No. 2010-15]

The Chief of Police shall establish such general orders for the regulation of the Police Department not inconsistent with the rules and regulations adopted by the appropriate authority.

§ 37-23. Orders to Chief. [Amended 8-16-2010 by Ord. No. 2010-15]

All orders to the Chief of the Police Department shall emanate from and be issued to him or her only by the appropriate authority.

§ 37-24. Assignment of officers to fires, riots, etc.

The Chief of Police shall assign a member of the Police Department to immediately proceed to serious or extensive fires and to all riotous or tumultuous assemblages occurring within the Borough and shall take charge of all members of the Police Department present, save and protect life and property and arrest such persons as he or she may find disturbing the peace or inciting others to do so.

§ 37-25. Tours of inspection.

The Chief of Police shall make personally such tours of inspection as he or she shall deem necessary to ensure his or her entire familiarity with the conditions that obtain in all sections of the Borough.

§ 37-26. (Reserved)¹⁶**§ 37-27. Monthly reports to appropriate authority. [Amended 8-16-2010 by Ord. No. 2010-15]**

The Chief of Police shall make monthly reports to the appropriate authority of all transactions of the Police Department.

§ 37-28. Annual report and recommendations to appropriate authority. [Amended 8-16-2010 by Ord. No. 2010-15]

The Chief of the appropriate authority shall prepare and submit to the appropriate authority during January of each year a report setting forth in detail all the police business transacted by the Department during the preceding calendar year, all changes in the status of the personnel during such period and any outstanding work of the Department or events affecting the Department on which he or she may wish to comment, together with any recommendations he or she may wish to make for the improvement of the Police Department or of its equipment.

§ 37-29. Record of licenses. [Amended 9-15-1997 by Ord. No. 97-20]

The Chief of Police, or his or her designee, shall keep a record of all licenses issued by the Police Department and all licenses for which the Police Department is responsible for supervision.

§ 37-30. (Reserved)¹⁷

16. Editor's Note: Former § 37-26, Duty to read certain materials to members of Department, was repealed 8-16-2010 by Ord. No. 2010-15

17. Editor's Note: Former § 37-30, Notification of Borough Clerk of changes in pay, was repealed 8-16-2010 by Ord. No. 2010-15.

ARTICLE 3

Superior Officers of the Police Department

[Amended 4-21-1980 by Ord. No. 80-12; 12-17-1984 by Ord. No. 84-36; 2-3-1986 by Ord. No. 86-2; 4-20-1992 by Ord. No. 92-12; 8-16-2010 by Ord. No. 2010-15; 9-13-2021 by Ord. No. 2021-14]

§ 37-31. Duties of Captain of Operations/Deputy Chief.

- A. There is hereby created the rank of Captain of Operations/Deputy Chief who shall be appointed by the Mayor in consultation with the Appropriate Authority/Borough Administrator and the Police Chief.
- B. Under the direction of the Chief of Police, the Captain of Operations/Deputy Chief shall have day-to-day operational command of the activities of the Uniform and Investigative Divisions of the Police Department. The Captain of Operations/Deputy Chief shall provide direction and supervision to subordinate officers and personnel, assign their duties, evaluate their performance and recommend appropriate action within the guidelines of established Departmental policies and procedures. He or she shall develop and implement programs and activities of the Police Department under guidelines set by the Chief of Police. He or she shall operate under the supervision and direction of the Chief of Police, whom he or she shall serve as Deputy. In the absence of the Chief of Police, he or she shall assume command of the Police Department. His or her recommendation respecting the hiring, discharge and discipline of police personnel shall be given substantial weight by the Chief of Police and by the Appropriate Authority of the Borough. The Captain of Operations/Deputy Chief, within the procedures prescribed by law, shall have the authority to give oral and written reprimands to its officers and personnel. He or she shall provide assistance to the Chief of Police and the Mayor and Council in the formulation of policies and goals for the Police Department.
- C. The Captain of Operations/Deputy Chief shall serve in this rank as both a managerial and supervisory member of the Police Department. His or her duties shall include, but not be limited to, the following:
 - (1) Supervising and coordinating the work of the two major divisions or units of the Police Department.
 - (2) Within the framework of established policies, identifying service needs and resources available, determining optimum human resource utilization and scheduling and duty assignments.
 - (3) Supervising preparation of division budgets and assisting the Chief in preparation of the Department budget by recommendations for service levels, programming and staffing.
 - (4) Identifying service needs, developing strategies and programs designed to meet them.
 - (5) Based on program review and Departmental effectiveness, recommending changes in the organizational structure, procedures and activities.
 - (6) Evaluating the performance of subordinate personnel and recommending appropriate personnel action to the Chief.
 - (7) Supervising maintenance of sick and vacation leaves, training, daily attendance and payroll records.
 - (8) Reviewing reports of shift activities and preparing periodic summary reports for the Chief. Together with the Chief, reviewing the effectiveness of current operations, staffing and assignments to identify areas for improvement or additional service needs.

- (9) Attending and/or conducting staff meetings, squad meetings and in-house training sessions.
- (10) Supervising the development of the Departmental training program.
- (11) Interviewing applicants for employment.

§ 37-32. Lieutenant.

- A. There is hereby created the rank of Lieutenant who shall be appointed by the Mayor in consultation with the Appropriate Authority/Borough Administrator and the Police Chief.
- B. Duties.
 - (1) Under the direction of the Captain of Operations and the Chief of Police, the Lieutenant shall serve as the immediate subordinate of the Captain of Operations to provide direction and supervision to Sergeants and other subordinate officers as directed by the Chief and Captain of Operations.
 - (2) The Lieutenant shall, at the direction of the Chief of Police or the Captain of Operations, as his or her primary duties, be in charge of all records, act as Press Officer, act as Internal Affairs Officer, be in charge of the training of all police officers and all training programs where required or appropriate.
 - (3) The Lieutenant, at the direction of the Chief of Police or the Captain of Operations, shall also disseminate any information received regarding procedural changes from federal, state, county or municipal laws.
 - (4) In addition, the Lieutenant, at the direction of the Chief of Police or the Captain of Operations, shall research, test and compile data on all types of equipment and materials used by the Police Department.
 - (5) Notwithstanding any of the above, the Lieutenant shall have his or her duties expanded or contracted as the Chief of Police believes wise in the efficient operation of the Department.
- C. In the absence of the Captain of Operations and the Chief of Police, the Lieutenant, designated by the Chief of Police, shall assume command of the Police Department and, while in command of the Police Department, exercise those duties and responsibilities as described by law.
- D. The Lieutenant shall serve in this rank as both a managerial and supervisory member of the Police Department.

§ 37-33. Authority in absence of Chief, Captain of Operations and Lieutenant(s).

In the absence of the Chief of Police, temporarily or otherwise, and in the absence of the Captain of Operations, as the case may be, and in the absence of the Lieutenant(s), as the case may be, the Chief, at his sole discretion, shall designate a Sergeant to temporarily assume the duties of the Lieutenant(s) and to assume some or all of the duties of the Chief of Police.

ARTICLE 4

Sergeants

§ 37-34. Sergeant; rank; responsibilities. [Amended 4-21-1980 by Ord. No. 80-12; 11-4-1991 by Ord. No. 91-22; 9-15-1997 by Ord. No. 97-20; 9-13-2021 by Ord. No. 2021-14]

- A. There is hereby created the rank of Sergeant who shall perform supervisory police work in the field and in police headquarters. Sergeants shall be appointed by the Mayor in consultation with the Appropriate Authority/Borough Administrator and the Police Chief as set forth herein.
- B. The Sergeant is designated shift commander and is responsible for providing police patrol services during the duty tour and until properly relieved. He or she has direct control and supervisory authority over patrol division personnel operating on a squad basis on his or her shift. This includes both sworn police officers and civilian personnel. Under the general direction of the Lieutenant, the Sergeant is responsible for the effective implementation of programs and activities to meet departmental goals. Through human resource scheduling and assignment task prioritization and the direction and supervision of activities, the Sergeant is responsible for the most effective use of police human resources.
- C. The following consists of examples of work performed by Sergeants:
 - (1) Supervises and directs the work of patrol squad assigned to him or her.
 - (2) Inspects officers prior to start of tour of duty, assigns duties and provides oral review of status of police operations within the Borough.
 - (3) Within the guidelines of standing orders and priorities, determines appropriate police activities for shift period and assigns personnel accordingly.
 - (4) Provides physical backup and takes operational control of field situations when necessary.
 - (5) Reviews all reports, actions and decisions of squad personnel.
 - (6) Evaluates work of subordinates, provides or arranges for necessary guidance or training and makes recommendations to the Captain of Operations.
 - (7) Prepares end-of-shift report to inform succeeding shift of events within the Borough and the status of police operations.
 - (8) Assists the division commander in reviewing program effectiveness and formulation of divisional budget request.

§ 37-35. Procedure for promotion from patrol officer to Sergeant. [Amended 7-7-1986 by Ord. No. 86-16; 11-17-1986 by Ord. No. 86-26; 11-4-1991 by Ord. No. 91-22¹⁸; 11-7-2000 by Ord. No. 2000-14; 6-18-2012 by Ord. No. 2012-5; 9-13-2021 by Ord. No. 2021-14]

- A. Procedure.
 - (1) The promotional procedure to the position of Sergeant from that of patrol officer within the

18. Editor's Note: Original Subsection a of this ordinance provided as follows: "As of the date of this ordinance, the title of staff sergeant will be phased out through attrition. However, those individuals currently serving as staff sergeant shall continue to perform the duties and responsibilities of staff sergeant as stipulated in the ordinance. All individuals promoted pursuant to this ordinance shall perform all duties as stipulated under Sec. 19-41."

Department shall be comprised of the following criteria:

- (a) Seniority and service.
 - (b) Evaluation of the Chief of Police.
 - (c) Evaluation of the Captain of Operations.
 - (d) Evaluation of the Lieutenant(s).
 - (e) Evaluation of the Borough Administrator.
 - (f) A score of at least 65 must be obtained on a written examination approved by the Chief of Police. Any candidates scoring less than a 65 will be eliminated from the remainder of the process. **[Amended 1-30-2023 by Ord. No. 2023-01]**
- (2) The weight assigned to each of the aforestated criteria for the purposes of ranking the candidate shall be as follows:

Promotional Criteria	Maximum Points Per Category
Seniority and service	20
Chief of Police evaluation	65
Captain of Operations evaluation	30
Lieutenants' evaluation	20 each evaluation
Appropriate authority/Borough Administrator evaluation	65

- (3) Seniority. In accordance with the chart set forth above, the maximum 20 points for seniority and service shall be determined for each candidate by allotting one point per year for each of the first 15 years in service and 1/2 point for each year of service between a candidate's 16th through 25th year of service. Additionally, no patrol officer shall be eligible for a promotion to the position of Sergeant until he/she has served with the Borough of Metuchen Police Department as a sworn law enforcement officer for at least five complete years. Fractional years of service shall not be calculated in the numbers of whole years for purposes of the calculation of points and shall be determined as of the date when the position is to be made available.
- B. Police Chief evaluation. The Chief of Police shall allot to each individual candidate a mathematical score, up to a maximum of 65 points, based upon an evaluation which shall consider past performance, leadership skills, management skills, personal strengths and weaknesses and other factors reasonably considered by the Chief to be related to the responsibilities of the position of Sergeant.
- C. Captain of operations evaluation. The Captain of Operations shall make a similar, but independent, appraisal of the individual candidates based upon the same factors as the Chief of Police, with a maximum point total of 30 points.
- D. Lieutenants' evaluation. The Lieutenant(s) shall make a similar, but independent, appraisal of the individual candidates based upon the same factors as the Chief of Police and Captain of Operations, with a maximum point total of 20 points for each Lieutenant's evaluation.

- E. Appropriate authority/Borough Administrator evaluation. The Borough Administrator shall assign a point total, up to 65 points, based upon the Administrator's estimate of the personality strengths and weaknesses, leadership and supervisory qualities, ease and skill in interacting with the public, management skills and other qualities reasonably considered as relevant to the responsibilities of the position of Sergeant.
- F. Selection process. The individuals' names with the top three scores will be submitted to the Mayor for his/her consideration. If a promotion is made, the Mayor shall promote any one of the top three candidates, regardless of ranking. If there are two Sergeant positions available, the top four candidates' names will be submitted to the Mayor. For each additional position available, one candidate's name will be added to the list submitted to the Mayor for consideration.
- G. Maintenance of ranking list. Once posted, the ranking list shall remain in effect for up to two years, unless the Mayor exercises its discretion to call for a new test because additional candidates would be eligible for consideration to the position of Sergeant or the Mayor exercises its discretion to extend the list beyond two years for a period of time determined by the Mayor.
- H. Removal from list. The name of any candidate may be removed from the list based on disciplinary action taken by the Department against the candidate after the list has been established.

§ 37-36. Detective duties. [Amended 11-4-1991 by Ord. No. 91-22]

The Sergeants assigned to detective duties shall perform under the supervision of the Captain of Operations and Chief of Police in accordance with all special and general orders, rules and regulations of the Department. All Sergeants shall conform to all the rules and regulations of the Police Department insofar as they do not conflict with other instructions of superior officers.

§ 37-37. Report of violations.

Sergeants of police shall carefully note every case of neglect, misconduct or other violation of the rules and regulations of the Police Department on the part of any member and shall promptly report the same to the Chief of Police.

ARTICLE 5

Rules and Regulations

[Amended 3-2-1970 by Ord. No. 70-3; 6-1-1992 by Ord. No. 92-16; 9-15-1997 by Ord. No. 97-20; 2-7-2001 by Ord. No. 2001-1; 2-3-2003 by Ord. No. 2003-1; 8-16-2010 by Ord. No. 2010-15]

§ 37-38. through § 37-87. (Reserved)**§ 37-88. Disciplinary actions. [Amended 2-1-2016 by Ord. No. 2016-04; 12-18-2017 by Ord. No. 2017-20]**

Any member of the Police Department may be suspended, removed, fined or reduced from his or her office or employment therein for just cause only after written charges of the cause of complaint shall have been preferred against such employee of the Police Department, signed by the person making such charges, filed in the office of the Chief of Police, and served upon the member charged. The member charged may request a hearing on the charges and will receive an opportunity to make his or her defense, if any he or she has, or chooses to make, as provided by law; provided, however, that for any dereliction of duty by a member of the Police Department for which a penalty less than suspension, removal, fine, or reduction from office or employment, as may be appropriate, the Chief of Police may impose such appropriate penalty. The Administrator of the Borough of Metuchen, or his or her designee, shall sit as Hearing Officer for the Borough on any complaint against a permanent member of the Police Department charging a violation of N.J.S.A. 40A:14-147 or violation of the internal rules and regulations of the Police Department and on which is sought a suspension, removal, fine or demotion. In the event the Administrator does not act as Hearing Officer, the individual so designated to hear the disciplinary matter shall, at the conclusion of the hearing, forward his/her findings and recommendations to the Administrator who shall make the final determination. The Administrator's decision shall be reviewable only as provided by N.J.S.A. 40A:14-150, as amended from time to time. In the event an individual not employed by the Borough is considered by the Administrator to act as the Hearing Officer, the alternate Hearing Officer shall be appointed by the Borough Council.

§ 37-89. Compensation during suspension.

When any member of the Police Department is suspended from office and afterwards reinstated, he or she shall not receive any pay for the period of such suspension if convicted.

§ 37-90. Written copy of regulations.

Each member and employee of the Police Department shall be presented with a printed or typewritten copy of the rules and regulations adopted by the appropriate authority. Any neglect or failure by any member or employee of the Police Department to carry out each and every rule and regulation shall be held to be sufficient cause for discipline, and ignorance of the rule is no defense.

§ 37-91. Elective retirement.

Once a police officer of any rank has elected to take his or her retirement and to accept any of the benefits, including but not limited to terminal leave, accumulated sick time, vacation time or personal days, then and in that event, he or she cannot change his or her mind and seek to return to active duty, nor can such officer withdraw his or her application for retirement.

Part II
Intermunicipal Police Assistance
[Adopted 5-17-1993 By Ord. No. 93-12]

ARTICLE 6
Cooperation with Other Municipalities

§ 37-92. Adoption.

The Borough of Metuchen hereby cooperates with all other municipalities which adopt a similar reciprocal ordinance providing for intermunicipal police assistance in times of emergency.

§ 37-93. Applicability.

This intermunicipal assistance will be provided if and when the Borough of Metuchen has an emergency within its boundaries requiring additional police assistance to protect life and property or to assist in suppressing a riot or disorder and whenever another municipality, which has enacted a similar reciprocal ordinance, may experience a similar emergency requiring additional police assistance.

§ 37-94. Request for assistance.

The Chief of Police of the Borough of Metuchen, or the highest-ranking officer on duty at the time, is hereby authorized to request assistance from the Chief or the highest-ranking officer on duty of the police departments of other municipalities for intermunicipal police assistance during and/or after an emergency situation.

§ 37-95. Provision of assistance.

The Chief of Police of the Borough of Metuchen, or the highest ranking officer on duty at the time, shall provide assistance to another municipality or municipalities making a valid request to supply such personnel and equipment to the extent possible without endangering person or property within the Borough of Metuchen.

§ 37-96. Powers and authority; immunity.

Members of the Metuchen Police Department supplying emergency assistance to another municipality shall have the same powers and authority as have the members of the police department of the municipality in which said assistance is being rendered. Additionally, said members shall also have, while so acting, said rights and immunities as they may otherwise enjoy in the performance of their normal duties within the Borough of Metuchen.

§ 37-97. Costs and expenses.

The Borough of Metuchen shall, upon providing assistance to another municipality which has enacted a similar intermunicipal assistance ordinance, assume the cost and expense of providing said personnel and equipment to the requesting municipality, excepting such instances when the requesting municipality receives state or federal aid as reimbursement therefore. In this event, the costs incurred by the Borough shall be submitted to the municipality which requested assistance for reimbursement.

§ 37-98. Designation of ranking officer.

At such times that an emergency may occur and intermunicipal police aid is requested, the Chief of Police of the municipality wherein said emergency situation exists shall be the senior ranking officer of all members of any police department rendering assistance within the boundaries of said municipality.

§ 37-99. Injury or death.

In the event any member of a police force summoned pursuant to an agreement to render assistance, suffers injury or death in the performance of his or her duties, his or her designee or legal representative shall be entitled to such salary, pension rights, worker's compensation or other benefits as would have accrued if such injury or death had occurred in the performance of his or her normal duties.

§ 37-100. Transmission of ordinance; records.

A copy of this Part II shall be transmitted to the Municipal Clerk of each municipality within Middlesex County, no later than five business days following its adoption. The Clerk of the Borough of Metuchen shall maintain a record of all such similar ordinances adopted by other municipalities.

Part III
Off-Duty Police Work

[Adopted 5-7-2001 By Ord. No. 2001-6; Amended In Its Entirety 5-7-2018 By Ord. No. 2018-07]

ARTICLE 7
Regulations

§ 37-101. Requirements.

Prior to any Borough police officer being employed by another governmental unit, commercial enterprise or other third party for traffic control, security or other police-related functions, the following procedures apply:

- A. All requests for such employment of off-duty police officers shall be directed to and handled by the Chief of Police, his designated officer or through a third party designated by the Chief of Police.
- B. The Chief of Police or his designated officer shall satisfy himself that the request is appropriate and reasonable.
- C. The Chief of Police or his designated officer must approve all requests for employment of off-duty municipal police officers covered under this policy.
- D. The Chief of Police or his designated officer shall approve each individual officer's request to be assigned for off-duty employment and satisfy himself that the assignment would not jeopardize the proper and efficient operations of the department.
- E. The Borough of Metuchen may enter into a contract with a third-party consultant to assist in the administrative functions for the provision of off-duty police work within the Borough of Metuchen. Said contract shall be approved by the Mayor and Council of the Borough of Metuchen in coordination with the Chief of Police.

§ 37-102. Rate of compensation for officers assigned.

Any officer assigned to outside employment will be compensated at the following rate schedule:

- A. Traffic duty or outdoor work:
 - (1) Between the hours of 6:00 a.m. and 6:00 p.m. (weekdays): \$75 per hour (four-hour minimum).
 - (2) Between the hours of 6:00 p.m. and 6:00 a.m. or Saturday and Sunday (all day): \$85 per hour (four-hour minimum).
 - (3) Security or indoor work: \$55 per hour (three-hour minimum).
- B. Minimum hours of compensation:
 - (1) The minimum compensation will be for four hours at the applicable hourly rate.
 - (2) If the assignment is more than four hours but less than eight hours, the officer will be compensated for eight hours.
 - (3) If the Borough or the designated third-party consultant is notified less than 16 hours before the contract is to begin, an emergency rate of \$10 per hour will be added to the normal rate.

- (4) Prior notice of cancellation of assignment within 1 1/2 hours prior to the scheduled start of the assignment requires compensation of four hours.
 - (5) The Borough, or the third-party consultant, if applicable, shall be paid directly from the individual, corporation or entity requesting the services, and from such funds will compensate the officers for the time expended.
- C. In addition to the compensation of the officers provided above, persons or entities seeking off-duty police services shall pay the Borough of Metuchen or the third-party consultant the sum of \$12 per hour for each vehicle required for off-duty use.
- D. In addition to the aforementioned fees to be collected by the Borough of Metuchen or third-party consultant for the payment of said off-duty police officers, there shall be an administrative fee of 18% of the invoiced amounts. Said fees shall be used to offset all of the administrative costs associated with the assignment of Borough police officers by the Borough of Metuchen and third-party consultant, if applicable.

§ 37-103. Billing.

- A. The officer employed off duty shall record such employment time on a designated form established by the Chief of Police or his designated officer to verify his/her attendance.
- B. The party seeking off-duty police services shall forward a deposit to the Borough of Metuchen or designated third party consultant if applicable, by check or money order payable in the amount equal to the costs expressed in the police services agreement as required below, payable to the Borough of Metuchen or designated third-party consultant, prior to any officer being scheduled.

§ 37-104. Agreement.

The requesting agency or entity shall receive a copy of this Part III and shall execute an agreement with the Borough of Metuchen, or third-party consultant if applicable, prior to the assignment of any off-duty officer to the agency or entity.

§ 37-105. General policy.

- A. Any police officer employed off duty shall be bound to follow all rules, regulations, procedures, orders, directives or their equivalent of the Police Department. This includes, but is not limited to, the use of deadly force, pursuits, reporting of injuries, reporting of property damages, proper conduct, etc.
- B. It is the intention of this Part III to set forth the requirements for all parties involved in the hiring of off-duty municipal police officers. The Borough of Metuchen views such work as a necessary and logical extension of the law enforcement officer's job and is, therefore, deemed in the public's best interest. At all times the officer shall be subject to the same rules of conduct and performance as if performing his regular duty assignment.
- C. This Part III is not applicable to outside employment in fields unrelated to police work, such as landscaping, electrical, radio repair, umpiring, consulting, etc., where the employee's law enforcement skills will not be required. However, police officers remain held to the high standard of good conduct and duty bound to the rules and regulations, where appropriate, while off duty.
- D. It is the intention of the Borough to provide, or arrange for the provision of, insurance coverage,

including workers' compensation coverage, to officers accepting off-duty employment under this policy to the full extent permissible under the relevant statutes and ordinances consistent with the applicable policies of insurance which are in force. The Borough reserves the right to seek indemnification from any third party tortfeasor or reimbursement from the officer for the sums he or she receives from a third party tortfeasor in accordance with applicable law.

- E. The Chief of Police or his designee shall have the authority to order any member of the Police Department engaged in employment authorized by this Part III to respond to emergency situations requiring a response by the Metuchen Police Department. The Chief or his designee shall be authorized to terminate any employment authorized by this Part III whenever such employment creates an unacceptable risk to the health, safety and welfare of the officer or the citizenry. In the event that the employment authorized by this Part III is interrupted by emergency or terminated because it has created an unacceptable risk, then the private person or entity shall not be required to pay during the period of interruption or termination.
- F. Nothing contained herein shall be construed as affecting or changing the provision of any mutual aid agreements between the Borough and any other municipality.

Borough of Metuchen, NJ

§ 37-105

POLICE DEPARTMENT

METUCHEN CODE

Chapter 38

POLITICAL CAMPAIGNS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in article histories. Amendments noted where applicable.]

ARTICLE 1

Reports of Contributions and Expenditures**[Adopted 6-1-2009 by Ord. No. 2009-10]****§ 38-1. Filing of reports.¹⁹**

- A. All reports of political party committees and local political campaigns required to be filed with the Election Law Enforcement Commission, shall be filed with the Clerk of the Borough of Metuchen within 72 hours of their respective due dates at Election Law Enforcement Commission; except that, should such due date be a weekend or holiday, same shall be filed on the first business day after such weekend or holiday.
- B. Nothing in this section shall be read or construed to impose a requirement on a candidate for the Board of Education Election.
- C. Section 1-2 of the Code of the Borough of Metuchen shall not apply to violations of this article. **[Added 10-19-2009 by Ord. No. 2009-15²⁰]**

19. Editor's Note: The preamble of Ord. No. 2009-10 referenced N.J.S.A. 19:44A-16, regarding reports of contributions and expenditures, as statutory authority, in adopting this article.

20. Editor's Note: This ordinance also included a statement of purpose as follows: "The amendment to this ordinance is intended to clarify that the catch-all penalty provided for in the Borough Code for violation of an ordinance shall not apply to violations of this ordinance. The reason for removing the penalty provision is to prevent undue administrative costs and conflicts in prosecuting a violation."

PURCHASING

Chapter 40

PURCHASING

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Purchasing Officer**[Adopted 4-19-1971 by Ord. No. 71-8]****§ 40-1. Purpose and scope.**

The purposes of this article are to prescribe the manner in which the Borough Administrator, serving as the Purchasing Officer of the borough, shall control the purchasing of materials, supplies, equipment and certain contractual services for the Borough of Metuchen and to maintain a high ethical standard for all officers and employees of the said borough in connection therewith.

§ 40-2. Powers and duties.

The Purchasing Officer shall have the power and it shall be his or her duty to:

- A. Purchase or contract for all materials, supplies, equipment and contractual services needed by any using agency which derives its financial support in whole or in part from the borough within the limitations of the law and in accordance with purchasing procedures prescribed by this article and such rules and regulations as the Purchasing Officer shall adopt for the management and operation of the purchasing function.
- B. Purchase or procure for the borough the highest quality in materials, supplies, equipment and contractual services from the lowest responsible bidder meeting specifications.
- C. Discourage uniform bidding and endeavor to obtain full and open competition insofar as possible on all purchases and sales.
- D. Sell or dispose of all obsolete or unusable personal property in accordance with the laws of the State of New Jersey or the rules, regulations or resolutions which may be adopted by the Council.

§ 40-3. Competitive bidding.²¹

The provisions of this article shall not apply to the furnishing of materials, supplies or labor estimated to cost in excess of the New Jersey statutory threshold established by N.J.S.A. 40A:11-3. These require formal competitive bidding under the auspices or direction of the Mayor and Council pursuant to N.J.S.A. 40A:11-1 et seq. All purchases of materials, supplies, labor and equipment whose estimated value is less than the New Jersey statutory threshold established by N.J.S.A. 40A:11-3 shall be made, wherever possible, on competitive quotations, either by telephone or written inquiry. Where, by law, formal competitive bidding for special equipment and services is not required even though the estimated value of such are in excess of the New Jersey statutory threshold established by N.J.S.A. 40A:11-3, informal bidding shall be conducted by the Purchasing Officer, unless otherwise directed by the Mayor and Council, to achieve the purposes of this article.

§ 40-4. Regulations and procedures.

The Purchasing Officer is hereby authorized and directed to adopt such written regulations as may be necessary for the implementation of this article. Any regulations promulgated by the Purchasing Officer shall become effective within 30 days after submission to the Mayor and Council unless the regulations are disapproved by the Mayor and Council within the thirty-day period. Copies of the regulations shall be

21. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

on file in the office of the Purchasing Officer and be made available for public inspection during business hours.

§ 40-5. Unauthorized purchases.

Except as provided in the regulations promulgated by the Purchasing Officer, no officer or employee of the borough shall purchase materials, supplies, equipment or make contracts within the purview of this article other than through the Purchasing Officer. Any purchase ordered or contract made contrary to the provisions hereof shall not be approved by borough officials, and the borough shall not be bound thereby.

§ 40-6. Financial interest.

- A. No purchase order or contract shall be made within the purview of this article in which the Purchasing Officer or any official or employee of the borough is financially interested, directly or indirectly, except under such safeguards and conditions as are allowed by law.
- B. The Purchasing Officer and every official and employee of the borough are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the borough.

§ 40-7. Cooperative purchasing.

The Purchasing Officer shall have the authority to join with other units of government, including the state, county, Board of Education and other municipalities, in cooperative purchasing plans as stated in the New Jersey Statutes Annotated when the best interests of the Borough could be served thereby.

ARTICLE 2

Claims Approval**[Adopted 8-3-1992 by Ord. No. 92-22]****§ 40-8. Bill of items; certification; audit.**

- A. Any person claiming payment from the Borough of Metuchen shall first present a detailed bill of items or demand to the responsible executive agency, specifying particularly how the bill or demand is made up, with a certification of the party claiming payment that it is correct, pursuant to N.J.S.A. 40A:5-16.
- B. No bill of items or demand shall be considered for payment unless it carries a certification from a borough officer or duly designated borough employee having knowledge of the facts that the goods have been received by, or the services rendered to, the Borough of Metuchen.
- C. The Treasurer shall audit, warrant and make recommendations on all bills of items and demands.

§ 40-9. Systematic listing of bills of demand.

The bill of item or demand, duly certified by a borough officer or employee, shall be presented to the Borough Clerk for inclusion in the proceedings of the next regular meeting of the Council. All bills of item or demand to be considered by the Council shall be listed systematically and without preference. Said list shall be made available to every member of the Council prior to formal action by the Council.

§ 40-10. Consideration by Council.

- A. Each such list of bills of items and demands shall be considered by the Council. The Council may approve or reject the list of bills of items and demands in whole or in part. Any tie vote may be broken by the vote of the Mayor.
- B. If the Council rejects any bill of items or demand, or list thereof, the reason for such rejection must be stated. Any rejected bill of items or demand shall be referred to the Borough Clerk with such instructions as the Council may give at the time of rejection.

§ 40-11. Records.

The Borough Clerk shall record all bills of items or demands, either in the official minutes of the borough or in a separate file entitled "Bills Register," with an indication that the Council has by formal action approved or rejected the bill of items or demand. All records pertaining to approved or rejected bills of items or demands shall be available for public inspection during regular business hours.

§ 40-12. Payment.

After the Borough Clerk has certified that the list of bills of items or demands has been approved, the Borough Clerk shall turn said list over to the Treasurer. The Treasurer shall then prepare the checks necessary for the payment of each bill of item or demand contained in the approved list. Said checks shall be signed by any three of the borough officials authorized to do so by resolution. The Treasurer shall then record each check in proper books of account and shall cause the checks to be mailed to the party claiming payment.

METUCHEN CODE

Chapter 43

RETIREMENT

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in article histories. Amendments noted where applicable.]

ARTICLE 1

**Defined Contribution Retirement Program
[Adopted 8-4-2008 by Ord. No. 2008-11]****§ 43-1. Eligible positions.**

Pursuant to N.J.S.A. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- A. Borough Administrator;
- B. Department heads;
- C. Municipal Attorney;
- D. Municipal Prosecutor, having been hired on March 19, 2008;
- E. Municipal Court Judge.

§ 43-2. Exempt positions.

Individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S.A. 43:15C-2:

- A. Tax Collector/Chief Financial Officer;
- B. Construction Code Official;
- C. Tax Assessor;
- D. Registered Municipal Clerk;
- E. Licensed Uniform Subcode Inspector;
- F. Principal Public Works Manager.

§ 43-3. Exceptions.

If an individual is appointed to one of the positions listed in § 43-1 and the individual is not serving in a position as described in § 43-2 above, the Pension Certifying Officer of the municipality may determine that the individual is not required to join the Defined Contribution Program if that individual:

- A. Was an active participant in the Public Employees Retirement System on July 1, 2007, and continuously since that time; or
- B. Has been appointed pursuant to a valid promotional process; or
- C. Is appointed on a temporary, interim or acting basis to a position requiring state certification as set forth in § 43-2 herein, and is in pursuit of the required certification; or
- D. Meets such other exceptions that may be approved by the Local Finance Board or the Division of Pensions and Benefits.

§ 43-4. Statutory authority.

This article shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.), as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.

§ 43-5. Filing of provisions.

A copy of this article shall be filed with the Director of the Division of Pensions and Benefits of the New Jersey Department of the Treasury.

General Legislation

Chapter 48

ADVERTISING MATERIAL

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen during codification (see Ch. 1, General Provisions, Art. 3). Amendments noted where applicable.]

§ 48-1. Unsolicited commercial advertising on residential property.

It shall be unlawful for any person, firm, partnership, association, corporation, company or organization of any kind to deliver, place or deposit, or cause to be delivered, placed or deposited, any unsolicited commercial advertising material in or upon any residential property in the borough, except in accordance with the following provisions:

- A. Any unsolicited commercial advertising material must be delivered, placed or deposited within five feet of a door to the residential premises.
- B. Prior to commencing delivery of any unsolicited advertising material, there shall be provided to the borough, through the Municipal Clerk or the Clerk's designee, information sufficient to identify the source of the unsolicited advertising material, which information shall include an address and telephone number and a designation of an individual, by name, title or job description, with authority to halt the delivery of any unsolicited advertising material in or upon any residential property in the borough.

§ 48-2. Discontinuance upon request.

Delivery of unsolicited advertising material shall be halted to any residential property in the borough when so requested of the designee identified in § 48-1 by any person to whom the unsolicited commercial advertising material is directed.

§ 48-3. Discontinuance by posted notice.

Delivery of unsolicited commercial advertising material shall be halted to any residential property in the borough where there has been posted notice to the contrary on the front door of said premises or such other prominent location.

§ 48-4. Violations and penalties.

Any person violating any provision of this chapter, upon conviction, shall be subject to the penalty provided in Chapter 1, General Provisions, Article 1.

Chapter 49**AFFIRMATIVE MARKETING**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 7-18-2000 by Ord. No. 2000-9. Amendments noted where applicable.]

§ 49-1. Application; purpose.

- A. Metuchen Borough in Middlesex County has a fair share obligation of (21 units) to provide new affordable housing opportunities. This chapter will apply to all new developments that contain proposed low- and moderate-income units that are listed below and any future developments that may occur:
- (1) Homestead at Metuchen.
 - (2) Central Square.
 - (3) Franklin Square.
 - (4) 10 Mulberry Lane (DePasquale).
 - (5) 756 Middlesex Avenue (Clemente).
- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of sex, age or number of children, to housing units which are being marketed by a developer/sponsor, municipality and/or designated administrative agency of affordable housing. The plan will address the requirements of N.J.A.C. 5:93-11. In addition, the plan prohibits discrimination in the sale, rental, financing or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. Metuchen Borough is in the housing region consisting of Middlesex County, Somerset County and Hunterdon County.

§ 49-2. Requirements; location of advertisements; applications.

The affirmative marketing program is a continuing program and will meet the following requirements:

- A. All newspaper articles, announcements and requests for applications for low- and moderate-income units will appear in the following daily regional newspapers:
- (1) The Home News Tribune.
 - (2) The Courier News.
- B. The primary marketing will take the form of at least one press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an "as needed" basis.
- C. The advertisement will include the:
- (1) Street address;
 - (2) Direction to housing units;
 - (3) Number of bedrooms per unit;

- (4) Range of selling prices/rents;
 - (5) Size of units;
 - (6) Household income limits; and
 - (7) Location of applications, including business hours and where/how applications may be obtained.
- D. All newspaper articles, announcements and requests for applications for low- and moderate-income housing will appear in the following neighborhood-oriented weekly newspapers within the region:
 - (1) Perth Amboy.
 - (2) New Brunswick Home News Tribune.
 - (3) Somerville.
 - (4) Flemington.
 - (5) Amboy Beacon.
 - (6) Somerset Messenger Gazette.
 - (7) Hunterdon County Democrat.
- E. The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program, including specific employment centers within the region:
 - (1) Municipal Building.
 - (2) Municipal Library.
 - (3) Developer's Sales/Rental Office On Site.
 - (4) Senior Center.
- F. The following is a listing of community contact person(s) and/or organizations(s) in Middlesex, Somerset and Hunterdon Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region:
 - (1) Urban League of Greater New Brunswick.
 - (2) Catholic Charities - Diocese of Metuchen.
 - (3) Middlesex County Housing Coalition.
- G. Mailing of applications.
 - (1) Applications will be mailed to prospective applicants upon request.
 - (2) Additionally, applications will be sent to the chief administrative employees of each of the following agencies in the counties of Middlesex, Somerset and Hunterdon:
 - (a) Office on Aging.

§ 49-2

AFFIRMATIVE MARKETING

- (b) Housing Agency or Authority.
- (c) Library.
- (d) Area community action agencies.

§ 49-3. Selection method.

The following is a description of the random selection method that will be used to select occupants of low- and moderate-income housing: random "lottery" drawing.

§ 49-4. Administration.

Metuchen Borough is ultimately responsible for administering the affirmative marketing program. Metuchen Borough has delegated this responsibility to Piazza & Associates. Piazza & Associates will income qualify low- and moderate-income households; place income eligible households in low- and moderate-income units upon initial occupancy; provide for the initial occupancy of low- and moderate-income units with income-qualified households; continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls; assist with advertising and outreach to low- and moderate-income households if in contract; and enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:93. The Borough Administrator within Metuchen Borough is the designated housing officer to act as liaison to Piazza & Associates. Piazza & Associates will provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, responsibilities of homeownership, rental lease requirements and landlord/tenant law. The following service providers have agreed to perform the above services: Piazza & Associates.

§ 49-5. Preference.

Households who live or work in the COAH-established housing region may be given preference for sales and rental units constructed within that housing region. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced. Metuchen Borough intends to comply with N.J.A.C. 5:93-11.7.

§ 49-6. Marketing by developers.

Developers of low- and moderate-income housing units may assist in the marketing of the affordable units in their respective developments if so designated by Metuchen Borough.

§ 49-7. Commencement and term of program; monitoring and reporting.

The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all low- and moderate-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary. Piazza & Associates will comply with monitoring and reporting requirements as per N.J.A.C. 5:93-11.6 and 12.1.

Chapter 50**ALARM DEVICES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 4-18-1983 by Ord. No. 83-8. Amendments noted where applicable.]

§ 50-1. Purpose.

The purpose of this chapter is to provide standards and regulations for various types of intrusion, burglar, fire and other emergency alarm devices whether by direct line, radio, telephone or other means actuating a device at the police headquarters of the Borough of Metuchen and requiring response thereto by the Police Department, Fire Department or other municipal agency.

§ 50-2. Scope.

The provisions of this chapter shall apply to any person, firm or corporation who operates, maintains, installs, repairs or owns any alarm device or local alarm designed to summon the Police or Fire Department or other municipal agencies to any location in response to any type of alarm signal. The terms of this chapter shall in no way prohibit alarm companies, persons, firms and/or corporations from providing service by private source to other dwellings or buildings within the Borough of Metuchen, so long as such activity is not connected to the alarm console at the borough police headquarters; except, however, that any person, firm or corporation having a premises protected by an alarm device shall still be responsible for the registration thereof in accordance with § 50-6A, without fee.

§ 50-3. Definitions.

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

ALARM CONSOLE — The console or control panel of devices giving a visual or audio response or both located within the confines of the Police Department of the Borough of Metuchen.

ALARM DEVICE — Any type of alarm system actuating equipment in the alarm console providing warning of intrusion, fire, smoke, flood or other peril.

ALARM INSTALLATION — Any alarm device or combination of devices installed for one or more buildings at a location other than the alarm console.

DESIGNATED REPRESENTATIVE — A member of the Police Department of the Borough of Metuchen, except designated representative shall also mean a member of the Fire Department where appropriate in the context of this chapter.

DIAL ALARM — Type of device using telephone lines which transmits an alarm directly through the police switchboard.

FALSE ALARM — Any alarm actuated by inadvertence, negligence or unintentional act of someone other than an intruder, and shall include as well, alarms caused by malfunctioning of the alarm device or other relevant equipment, but shall not include alarms created by malfunction of the alarm console.

LICENSEE — The person obtaining the license to maintain the alarm console as hereinafter set forth.

LOCAL ALARM — Any alarm or device which when actuated produces a signal not connected to the alarm console, such as store burglar alarms actuating bell devices or any other type of audio noise or those alarms which can be heard beyond the owner's property line.

PERMITTEE — Any person owning, operating and/or maintaining an alarm device or a local alarm within

the scope of this chapter.

PERSON — Includes any natural person, partnership, corporation or association.

§ 50-4. Alarm console license.

- A. There is hereby established a police alarm console license which shall be granted as set forth in § 50-5. Any such licensee shall have exclusive use and control of the alarm console, except for use by the Police Department of the Borough of Metuchen, and such licensee will be responsible at no cost to the Borough of Metuchen for the establishment, construction, installation and maintenance and management thereof of said console containing equipment and being of a design recommended or approved by the Police Chief and for the care, maintenance and management thereafter of said console; said licensee shall locate said console and relocate said console if necessary under the supervision of the Chief of Police at no cost to the Borough of Metuchen. For any such license granted hereunder, the licensee will assume all liability and agree to indemnify and save harmless the Borough of Metuchen, its agents, public officials and the Metuchen Police Department for any acts in conjunction with the operation of said police alarm console. The licensee shall furnish annually to the Borough Clerk, a noncancelable insurance certificate indicating complete liability coverage in an amount no less than \$300,000 for each person, \$500,000 for each accident, and \$1,000,000 property damage for each accident.
- B. Any connection to the police alarm console shall be of a type inspected and approved by the Chief of Police of the borough or his or her designated representative, and any person aggrieved by said decision may appeal said decision in writing within 10 days to the governing body of the Borough of Metuchen, who shall resolve the appeal within a reasonable time, after hearing, with finality as to the right of further appeal.
- C. All console alarms existing as to the date of the adoption of this chapter, except dial alarms, shall be connected hereunder to the alarm console by the licensee, and no connection cost for such transfer shall be permitted to be charged to the user or to the borough.
- D. The licensee for the police alarm console shall be permitted to charge subscribers a maximum installation fee of \$75 and a maximum monthly retainer or maintenance fee of \$15. Any increase in this fee must be approved by the governing body of the borough by resolution, after being requested by the Chief of Police. No fee shall be charged to the Borough of Metuchen for monthly charges or console connection charges for any existing or future systems in public buildings, and any equipment or alarm devices installed by the alarm console licensee in such public buildings shall be at wholesale cost with no maintenance charge for alarms connected from municipal offices.
- E. The licensee shall install initially an annunciator or display console, having no less than 250 zones available for present systems and future connections, which console shall be approved by the Underwriters' Laboratories (UL). The licensee should be UL listed.
- F. Excepted as provided in § 50-7 of this chapter, any license issued hereunder shall be for a term of five years from date of approval by the governing body of the borough. Such licensee shall post with the Borough Clerk a performance bond in the amount of \$10,000, noncancelable without notification to the governing body of the Borough of Metuchen, guaranteeing performance for five years of the obligation of the licensee and insuring maintenance of said console and alarm system during said period when such license is in force.
- G. The licensee shall pay to the Borough of Metuchen in consideration for the exclusive franchise given, a franchise fee equaling 15% of the gross revenues the licensee derives from the charges paid by

subscribers for the monthly retainer and maintenance fee set forth in Subsection D of this section. Said franchise fee shall be paid to the Borough of Metuchen within 30 days after October 1 of every year based on the revenues collected in the prior 12 months.

§ 50-5. Determination of licensee.

- A. Prequalification. Persons desiring to bid for said license shall make application to the Chief of Police and Borough Administrator, which application shall disclose whatever information may be required by the Borough of Metuchen concerning the ability of the proposed applicant to comply with the requirements of this chapter and shall indicate, in any event, that:
 - (1) Said licensee has satisfactory financial and personal references indicating licensee's ability to comply with the terms of this chapter.
 - (2) Said licensee has an office with adequate personnel available on a twenty-four hour basis to service such equipment.
- B. Upon receipt by the Chief of Police or Borough Administrator of a list of those persons or corporations who prequalified, the governing body shall then designate the time and place for receiving sealed bids by those eligible to submit bids, as set forth in Subsection A above, which bid shall indicate the bond and other requirements of this chapter and the maximum installation and monthly charges prescribed by this chapter or a lesser amount. Upon the return of the sealed bids, the governing body may award said license to the person whose bid taken as a whole is the most advantageous to the subscribers to the system from a cost standpoint, and in conjunction therewith the governing body reserves the right to reject any and all bids.
- C. Renewals of said license or award of new licenses, should any license be terminated in accordance with § 50-7 of this chapter, shall be accomplished by following the procedures of § 50-5A and B aforesaid.

§ 50-6. Registration and issuance of permits; fees.

- A. Any person who desires to install an alarm device or local alarm within the borough or who currently owns, operates or maintains an alarm device or a local alarm shall make application for a permit to install or continue said alarm in writing to the Chief of Police. The application shall be in such form as the Chief of Police shall prescribe and shall set forth all information required by the Chief of Police to enable him or her to carry out effectively his or her public safety responsibilities, but shall contain at least the location of the device, the name of the installer of said device, the type of device, provisions relating to false alarm and testing procedures, a list of persons to be contacted in the event of an alarm and other information as may be required by the Police Chief of the borough.
- B. The permittee shall pay to the borough a processing fee of \$20 with each alarm application submitted, except for owners of local alarm devices who shall register same without payment of fee. In addition, owners of dial alarm devices shall pay to the borough an annual fee of \$20 to cover the cost of registration, testing and to amortize the cost of the special device, line or lines required in police headquarters necessitated by these systems. This extra dial alarm fee shall be paid upon submission of application and then paid annually within 30 days after October 1 of each succeeding year. A late fee of \$10 will be assessed after December 31.²²
- C. Any permit granted hereunder shall be granted upon the express condition that the permittee shall

22. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

indemnify and hold the Borough of Metuchen harmless from and on account of any and all damages arising out of the activities of the permittee, its alarm contractor or the alarm console licensee of the Borough of Metuchen.

- D. Every permittee shall, by acceptance of the permit, be deemed as having consented to the inspection of the alarm system, by appointment at reasonable hours, by the Chief of Police or his or her designated representative and shall accept the responsibility for the proper operation of the alarm system up to and including the line connection, if any, to the police headquarters.
- E. Any persons installing or maintaining unauthorized equipment shall be prosecuted for violation of this chapter and each and every day the equipment is in operation shall be considered a separate violation.
- F. Any licensee and/or permittee for an alarm shall provide for a representative to be on call for emergency repair service. In each case wherein the alarm is connected directly to police headquarters the service shall be provided within eight hours of notification by the Police Department of any malfunction of any equipment.
- G. Any alarm system or alarm device when equipped with a local bell shall have a time relay or other device which will limit the operation of said bell to 15 minutes or less.
- H. Any person who currently has an alarm device or local alarm in existence at the time of the passage of this chapter shall have 60 days from the effective date of this chapter to register said alarm and, where applicable, pay the appropriate fee.

§ 50-7. Limitation of obligations.

The Borough of Metuchen shall be under no duty or obligation to any permittee hereunder or to any alarm console licensee hereunder, the alarm console and allied equipment being maintained at will and subject to termination at any time by cancellation of the system by resolution duly adopted by the governing body of the borough. Any individual permit issued hereunder may be revoked at any time by the governing body upon recommendation of the Chief of Police, provided that 30 days notice is given in writing to said permittee by certified mail.

§ 50-8. Other alarm companies.

Any licensee for the alarm console and any permittee utilizing the services of any other alarm company connected to said console shall provide for a representative to be on call at all times, and such service shall be provided immediately when necessary after notification by the Police Department of any malfunctions of any equipment. No permittee utilizing the services of any other alarm company shall be denied access to the alarm console because of the use of another alarm company and shall not be discriminated against respecting any fees charged by the licensee under § 50-4D.

§ 50-9. False alarms.

- A. In the case of a false alarm, any person having knowledge thereof shall immediately notify the Police Department in a manner to be prescribed by rules and regulations in accordance with § 50-13 of this chapter. In addition, in the case of false alarms, the Chief of Police shall cause an investigation to be made and keep a record of said alarms on file.
- B. For such false alarms, the governing body prescribes the following penalties:

- (1) For the first, second and third false alarm in any calendar year, a warning shall be issued.
 - (2) For the fourth, fifth and sixth in the same calendar year, an administrative charge of \$25 shall be assessed against permittee.
 - (3) On all subsequent false alarms, an administrative charge of \$50 shall be imposed against permittee.
- C. Where the investigation of the Police Department discloses continued abuse of the privilege of connection to the alarm console and/or a disregard of the permittee for taking remedial steps to avoid false alarms and/or the failure of the permittee to pay any administrative charge, the governing body reserves the right to require disconnection from the alarm console for a limited or permanent time or require the disconnection of any dial alarm device, provided that no such permit shall be revoked or suspended without giving permittee the opportunity to show cause before the governing body why such action should not be taken.
- D. An alarm owner shall not be charged with a false alarm, provided that such owner makes immediate proper notification in accordance with rules and regulations promulgated by the Chief of Police.

§ 50-10. Unauthorized equipment.

Any unauthorized equipment may be disconnected by the Chief of Police or his or her designated representative for noncompliance with this chapter. Any person installing or maintaining unauthorized equipment shall be prosecuted for violation of this chapter, and each and every day said equipment is in operation shall be considered a separate violation. Any permittee shall by acceptance of the permit be deemed as having consented to inspection of the premises on which said alarm devices are installed at reasonable hours by the Chief of Police and/or Fire Chief or their designated representative.

§ 50-11. Testing.

Any person testing an alarm system covered by the provisions of this chapter shall notify police headquarters immediately prior to and after the testing is completed. Failure to do so shall constitute a violation herein, and subject an alarm owner or maintainer to such penalties as set forth in this Code.

§ 50-12. Dial alarms.

No dial alarm shall be permitted unless it shall have first been registered with the Chief of Police, as hereinafter required, and approved by the Chief of Police after approval thereof by the telephone company. All dial alarms shall be coded to dial a separate special number to be provided by the Chief of Police. No dial alarm shall be coded to dial the general police number. All such alarms shall be capable of being disconnected to allow a call to police headquarters in the event of a false alarm. If any person has any dial alarm in existence at the time of the effective date of this chapter, it shall be reprogrammed within 60 days of said effective date to comply with this chapter. If any dial alarm hereafter shall be found to be dialing the general police number rather than the special number, the Chief of Police shall send the person in whose name the telephone is listed a written notice requiring compliance with this chapter. If the occupant or telephone subscriber fails to comply within 60 days after service of such notice, said failure shall constitute a violation of this chapter and the person shall be liable to the penalties set forth under § 50-15 of this chapter. Each and every day that this chapter is not complied with shall constitute a separate offense. The contents of a dial alarm message shall be clear and intelligible and in the format approved by the Chief of Police. No such message shall be transmitted more than three times as a result of a single stimulus of the mechanism. Messages shall not exceed fifteen seconds and the time gap between each shall not exceed 10

seconds.

§ 50-13. Rule-making authority.

The Mayor and Council may from time to time promulgate rules and regulations supplementing this chapter in order to provide for recordkeeping and efficient management of said system; provided, however, that the governing body must first approve said rules or any changes thereto.

§ 50-14. Appeals.

Whenever, under the provisions of this chapter, the Chief of Police or any authorized representative he or she may have designated is empowered to make a decision with respect to the installation, operation and maintenance of any alarm equipment or with respect to the issuance or denial of any application relating thereto or in the imposition of any administrative charge, any person aggrieved by said decision may, within 10 days following the decision, file a written appeal therefrom with the Borough Administrator who shall conduct a hearing and affirm, modify or reverse the decision appealed from.

§ 50-15. Violations and penalties.²³

Any person, firm or corporation found guilty in the Municipal Court of the borough for violation of the terms of this chapter shall be subject to the penalties provided in Chapter 1, General Provisions, Article 1.

§ 50-16. Enforcement.

This chapter shall be enforced by the Metuchen Police Department.

23. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

Chapter 53**ALCOHOLIC BEVERAGES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Ch. 3 of the 1966 Code. Amendments noted where applicable.]

§ 53-1. License fees. [Amended 12-15-1969 by Ord. No. 69-35; 7-6-1970 by Ord. No. 70-21; 5-18-1981 by Ord. No. 81-12; 1-25-1982 by Ord. No. 82-2; 9-15-1997 by Ord. No. 97-20; 6-7-2004 by Ord. No. 2004-7; 5-15-2017 by Ord. No. 2017-09]

Annual license fees for the sale of alcoholic beverages in the Borough shall be as follows:

- A. Plenary retail consumption: \$2,200. **[Amended 12-21-2009 by Ord. No. 2009-18; 2-22-2011 by Ord. No. 2011-1]**
- B. Plenary retail distribution: \$1,550. **[Amended 12-21-2009 by Ord. No. 2009-18; 2-22-2011 by Ord. No. 2011-1; 5-15-2017 by Ord. No. 2017-09]**
- C. Club license: \$150.

§ 53-2. Number of plenary retail licenses. [Amended 12-1-1969 by Ord. No. 69-33]

Not more than seven plenary retail consumption licenses and not more than five plenary retail distribution licenses shall be issued and outstanding at the same time in the Borough.

§ 53-3. Location of premises. [Amended 10-17-2016 by Ord. No. 2016-24]

- A. No new plenary retail distribution license shall hereafter be issued for, nor shall a plenary retail distribution license be transferred to, a premises within 300 feet of any such existing plenary retail distribution licensed premises in the Borough.
- B. The aforesaid distance shall be measured in the normal way that a pedestrian would properly walk from the plenary retail distribution licensed premises to the nearest entrance of the plenary retail distribution premises sought to be licensed.

§ 53-4. Hours of sale. [Amended 2-22-1977 by Ord. No. 77-4; 8-1-1977 by Ord. No. 77-16; 4-6-1992 by Ord. No. 92-11; 10-16-2017 by Ord. No. 2017-15]

- A. Licensees under this chapter shall not sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverages, or suffer consumption of any alcoholic beverages upon the licensed premises, on New Year's Day when it is a weekday or a Saturday, between the hours of 3:00 a.m. and 7:00 a.m.; on New Year's Day when it is a Sunday, between the hours of 3:00 a.m. and 12:00 noon; on the following Monday when St. Patrick's Day falls on a Sunday, between the hours of 2:00 a.m. and 12:00 p.m.; on other weekdays, Monday through Friday, between the hours of 1:00 a.m. and 7:00 a.m.; on other Saturdays between the hours of 2:00 a.m. and 7:00 a.m.; and on other Sundays between the hours of 2:00 a.m. and 10:00 a.m. **[Amended 2-5-1996 by Ord. No. 96-2; 9-15-1997 by Ord. No. 97-20; 10-16-2017 by Ord. No. 2017-15]**
- B. During the hours that sales are hereinabove prohibited the entire licensed premises shall also be closed, but this closing of premises requirement shall not apply to restaurants as defined in the N.J.S.A. 33:1-1t; to clubs licensed under the N.J.S.A. 33:1-12, Subsection 5, to hotels or to other

establishments where the principal business is other than the sale of alcoholic beverages.

§ 53-5. Unchilled, brewed, malt alcoholic beverages.

- A. No new limited retail distribution license, as defined by N.J.S.A. 33:1-12, Subsection 3b, shall be issued in the Borough for the sale of any unchilled, brewed, malt alcoholic beverages in the Borough.
- B. This section shall not apply to any licenses heretofore issued for the sale of unchilled, brewed, malt alcoholic beverages, nor to the renewal of any such licenses.

§ 53-6. Violations and penalties. [Amended 10-16-1978 by Ord. No. 78-26; 5-1-2006 by Ord. No. 2006-10]

Any person violating any provision of this chapter shall be punished in accordance with the provisions of the New Jersey Alcoholic Beverage Law, N.J.S.A. 33:1-1 et seq. Any person violating any provision of this chapter, in addition to proceedings under the New Jersey Alcoholic Beverage Law, may be prosecuted in the Municipal Court and punished pursuant to Chapter 1, General Provisions, Article 1.

§ 53-7. Public consumption; violations and penalties. [Added 3-3-1980 by Ord. No. 80-7; amended 9-15-1997 by Ord. No. 97-20]

- A. No person shall drink any alcoholic beverage in a public place. For the purposes of this section, the term drinking shall mean consuming, holding or having in one's possession or control an open or partially consumed container of an alcoholic beverage of any nature. The term "public place" shall mean any place to which the public has access and shall include any street, highway, road, alley or sidewalk and the outdoor areas and parking lots surrounding or serving any store, shop, restaurant, tavern or other place of business, as well as public grounds, parks, parking lots or other vacant property not owned by or under the control of the person charged with violating this section. The term "public place" shall not include, for the purposes of this chapter, any premises covered by a license or permit for on-premises consumption of alcoholic beverages. The prohibition of this section shall not apply to persons who have received a permit from the Mayor and Council of the Borough validly issued under any ordinance or regulation of the Borough of Metuchen.
- B. Any person violating any of the provisions of § 53-7 shall upon conviction thereof be subject to the penalty provided in Chapter 1, General Provisions, Article 1.

§ 53-8. Conditions for license approval. [Amended 6-6-1983 by Ord. No. 83-13]

No license other than a club license shall be issued by the governing body until it has received a report and recommendation from the Chief of Police, nor shall any license be issued to any person who refuses to submit himself or herself for fingerprinting in order that the Chief of Police can report on any criminally disqualified person under the rules and regulations of the Division of Alcoholic Beverage Control.

§ 53-9. Prohibition of underage drinking on private property. [Added 11-7-2000 by Ord. No. 2000-13]

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:
 - GUARDIAN — A person who has qualified as a guardian of the underage person pursuant to testamentary or court appointment.
 - RELATIVE — The underaged person's grandparent, aunt/uncle, sibling or any other person related

by blood or affinity.

UNDERAGE — Under the legal age for the possession and consumption of alcoholic beverages as provided by law.

B. Underage drinking on private property prohibited; exceptions.

- (1) It shall be unlawful for any person under the legal age to, without authority, knowingly possess or knowingly consume an alcoholic beverage on private property.
- (2) An underage person is not prohibited from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.
- (3) An underage person is not prohibited from the possession of alcoholic beverages by any such person while actually engaged in the performance of employment by person who is properly licensed and permitted to engage in such activity under Title 33 of the Revised Statutes of the State of New Jersey, the Code of the Borough of Metuchen or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; however, this section shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33:1-81, the Code of the Borough of Metuchen or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

C. Violations and penalties.

- (1) **Fines.** Upon conviction for a first offense, a violator shall be punished by a fine of \$250, and \$350 for any subsequent offense.
- (2) **Suspension or postponement of driver's license.**
 - (a) In addition to the fine authorized for this offense, the court may suspend or postpone for six months the driving privilege of the defendant. Upon the conviction of any person and the suspension or postponement of the person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section.
 - (b) If a person at the time of imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.
 - (c) If a person at the time of the imposition of a sentence has a valid driver's license issued by this state, the court shall immediately collect the license and forward it to the Division along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color and the sex of the person, as well as the first and last date of the license suspension period imposed by the court.
 - (d) The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the

person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. A person shall be required to acknowledge receipt of a written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.

- (e) If the person convicted under such an ordinance is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privilege of the person, based on the age of that person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this section. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

Chapter 56**AMUSEMENT DEVICES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-4-1984 by Ord. No. 84-23; amended in its entirety 9-11-2023 by Ord. No. 2023-27. Subsequent amendments noted where applicable.]

§ 56-1. Purpose.

This chapter is enacted for the purpose of licensing and regulating the location, placement, operation, maintenance, storage or use of automatic amusement games, devices or machines and the proprietors who desire to own, operate, possess, maintain or invite for public use those games, devices or machines.

§ 56-2. License.

No person shall operate, maintain, possess or install in any store, building, public or quasi-public place where the public is invited, or wherein the public may enter, any automatic amusement game, device or machine unless such person or entity shall have first obtained a license for that purpose from the Mayor and Council of the Borough.

§ 56-3. Definitions.

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

AUTOMATIC AMUSEMENT, GAME, DEVICE OR MACHINE — Any game, device or machine, whether mechanical, electrical, electronic or digital, designed for operation by the public by the insertion of a coin, cash, debit card, credit card, or purchased token, player card, or mobile application for use as a game, entertainment or amusement, whether or not registering a score. The term shall include, but not be limited to, games, devices or machines such as pinball machines, skeeball machines, cranes/claw machines, basketball arcade, boxing arcade, air-hockey, rod-hockey, foosball, table tennis, billiard tables, pool tables, dartboards, mini bowling, dance arcade, laser maze, racing/gaming stations, motion simulators and other similar games, devices or machines designed to be representative of real games or activities. The term shall not include vending machines designed for the sale of a product which do not incorporate gaming or amusement features, any music vending device or machine, as separately defined herein, individual businesses or enclosed rooms for billiard tables, pool tables or bowling alleys, as separately regulated by Chapter 134, Poolrooms and Bowling Alleys, of the Borough Code, or individual businesses for virtual reality, escape rooms and other similar uses.

JUKEBOX — Any music vending device or machine which, upon the insertion of a coin, cash, debit card, credit card or purchased token, player card, or mobile application, may be operated for the playing of music, songs or other melodies or similar sounds.

§ 56-4. License issuance; term; fee; transfer.

- A. All licenses for the location, placement, operation, maintenance, storage or use of automatic amusement games, devices or machines as defined herein shall be issued to and in the name of the proprietor of the premises where the game, device or machine is to be installed, for one-year periods commencing January 1 and expiring December 31 at 12:00 midnight.
- B. To offset anticipated administrative and inspection expenses and other expected costs, a licensing fee shall be imposed upon each proprietor and for each automatic amusement game, device or machine

licensed in the following amounts:

- (1) Jukeboxes: \$50 per year for each machine.
- (2) Proprietor's license:
 - (a) Fees for the first two automatic amusement games, devices or machines: \$250 per year.
 - (b) Fees for each automatic amusement game, device or machine thereafter: \$75 per year.
- C. Any and all civic, fraternal, religious or other nonprofit organizations which are, or are entitled to be, exempt from taxation under federal or state law shall be required to apply for and obtain the necessary and appropriate licenses and shall comply with all other provisions of this chapter; provided, however, that the fee for these organizations for jukeboxes and other automatic amusement games, devices or machines shall be \$25 per year for each game, device or machine.
- D. No license shall be transferable or assigned to any other person, firm, partnership, corporation or association.
- E. Said license shall state the number of automatic amusement games, devices or machines, and the type of device, common title and identifying serial number of each individual game, device or machine which such proprietor shall be allowed to install, possess and/or operate on such premises, and which number shall not be exceeded at any time by the proprietor. Individual games, devices or machines shall be permitted to be transferred to a similar game, device or machine, provided that the proprietor shall advise the Municipal Clerk within 10 business days of its occurrence, with the type, common title and identifying serial number of the game, device or machine which is now installed, possessed or operated.
- F. In the case where the proprietor seeks to increase the number of automatic amusement games, devices or machines to be installed, possessed or operated, the proprietor shall file an amendment to the original application for a proprietor's license filed and surrender the original proprietor's license to the Municipal Clerk. The proprietor shall pay any additional fees in accordance with the fee schedule referred to herein.

§ 56-5. License application; investigation; appeal.

- A. All applications for a proprietor's license shall be accompanied by the required license fee and shall be made to the Municipal Clerk on forms provided by the Clerk, which shall require the completion of the following information:
 - (1) Name and address of the applicant; if the applicant is a corporation, the name and address of its principal officer, all persons or entities holding 10% or more of its shares and its registered agent.
 - (2) A certified statement as to whether the applicant or any individual possessing a legal or beneficial equity interest of 10% or more in the applicant has ever been convicted of any crime, criminal offense or disorderly persons act (other than motor vehicle offenses), as well as the violation of any local ordinance pertaining to gambling or lotteries and, if so, the date and place of the conviction or plea, the nature of the offense and the punishment or penalty imposed.
 - (3) The address and description of the premises for which the issuance of a proprietor's license is desired and the location where the licensed automatic amusement games, devices or machines will be used, operated or stored.

- (4) A description of the nature of the principal business or occupation, if any, in which the proprietor is engaged at the premises, including a calculation of the gross floor area of the premises and the gross floor area occupied by the principal business or occupation of the proprietor.
 - (5) An inventory containing the common title and identifying serial number of each individual game, device or machine which such proprietor shall be allowed to install, possess and/or operate on such premises, and which shall be specified on the license.
 - (6) A scaled drawing of the interior of the premises of the proprietor showing the number and layout of the proposed automatic amusement games, devices or machines sought to be licensed, as well as fire egress routing, plumbing fixture count, and calculated occupant load.
- B. Upon receipt of an application completed in accordance with Subsection A, the Municipal Clerk shall refer the application to both the Chief of Police and the Zoning Official, who may defer to the Construction Code Official, who shall promptly commence whatever investigation of the applicant's business responsibility, moral character and ability to lawfully conduct the license activity they consider necessary for the protection of the public, and review the scaled drawing to determine the occupant load, if construction permits and/or if a certificate of continued occupancy (CCO) is required. Both the Chief of Police and the Zoning Official shall communicate their findings in writing to the Municipal Clerk within 14 business days after a completed application has been filed. If both the Zoning Official and the Chief of Police decide that the applicant's character, prior conduct, business responsibility, compliance with this chapter and interior layout are satisfactory, the Municipal Clerk shall recommend the issuance of the license to the Mayor and Council. If either the Zoning Official or the Chief of Police finds that the application is unsatisfactory in accordance with the aforesaid criteria, the Municipal Clerk shall refuse to issue the license.
- C. In the event of a refusal to issue a license, the applicant may appeal to the Mayor and Council for a hearing by filing a notice in writing with the Municipal Clerk within 14 days after receiving notice of the refusal or denial. The Mayor and Council shall hold a hearing to review the determination on the grounds stated in the notice of appeal within 15 days after the filing of the appeal. Following the hearing, the Mayor and Council shall announce its decision no later than its next regular meeting and, if it denies the application, its decision shall include findings of fact and conclusions based thereon which state the grounds for its decision.

§ 56-6. Location.

- A. No license shall be issued for any premises containing one or more automatic amusement games, devices or machines kept, placed or exhibited for use or operation by the public and located within 500 feet of any other premises licensed pursuant to this chapter containing one or more automatic amusement games, devices or machines.
- B. Adequate space shall be provided for each automatic amusement game, device or machine to allow its use without overcrowding, as follows:
- (1) A minimum space of three feet in front of the game, device or machine, in addition to a minimum unobstructed aisle width of four feet.
 - (2) No game, device or machine shall be located within eight feet of any doorway, hallway, passageway or other means of egress, including designated fire exits.
 - (3) Games, devices or machines shall be located in the same room as the primary use of the

premises.

§ 56-7. Contents of automatic amusement game, device or machine; display.

Any automatic amusement game, device or machine licensed pursuant to this chapter shall contain its serial number and type of device, which shall be firmly attached at a conspicuous place on the device.

§ 56-8. Storage of unlicensed automatic amusement game, device or machine.

Any automatic amusement game, device or machine not licensed pursuant to this chapter shall not be kept on the premises in any areas to which the public is invited and has access.

§ 56-9. Revocation.

Any license heretofore granted pursuant to this chapter may be revoked by the Municipal Clerk or by the Mayor and Council for any of the following reasons:

- A. The violation of any of the provisions of this chapter.
- B. The proprietor has made a materially false statement on the application for license.
- C. Upon a determination by the Chief of Police that the proprietor has used or permitted to be used any automatic amusement game, device or machine licensed under this chapter for the purpose of gambling or individual wagering.
- D. Upon the conviction of the proprietor or any person owning 10% or more of the proprietor of a crime, criminal offense or disorderly persons offense, other than a motor vehicle violation.
- E. For good cause resulting from the operation, placement or location of the licensed automatic amusement games, devices or machines.

§ 56-10. Violations and penalties.

Any willful violation of the provisions of this chapter shall be subject to the penalties provided in Chapter 1, General Provisions, Article 1.

METUCHEN CODE

Chapter 59

ANIMALS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Dogs and Cats**[Adopted 9-26-1966 as Ch. 7 of the 1966 Code]****§ 59-1. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ANIMAL — Dog or cat.[**Added 8-5-1991 by Ord. No. 91-13**]

ANIMAL CARE FACILITY — An animal control center or animal shelter, maintained by or under contract with any state, county or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes.[**Added 12-9-2019 by Ord. No. 2019-19**]

ANIMAL CONTROL AUTHORITY — Any person or agency designated or certified by the State of New Jersey to enforce the provisions of this article.[**Added 8-5-1991 by Ord. No. 91-13**]

ANIMAL RESCUE ORGANIZATION — Any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes.[**Added 12-9-2019 by Ord. No. 2019-19**]

CAT — Any member of the domestic feline species; male, female, neutered, spayed, or altered, *Felis catus*. [**Added 8-5-1991 by Ord. No. 91-13; amended 12-9-2019 by Ord. No. 2019-19**]

CAT OF LICENSING AGE — Any cat which has attained the age of seven months or which possesses a set of permanent teeth.²⁴[**Added 8-5-1991 by Ord. No. 91-13**]

COMMITTING NUISANCE — The depositing of fecal matter.[**Added 7-17-1978 by Ord. No. 78-17**]

DOG — A member of a species of domestic dog, male, female, neutered, spayed or altered, *Canis familiaris*. [**Amended 12-9-2019 by Ord. No. 2019-19**]

DOG OF LICENSING AGE — Any dog which has attained the age of seven months or which possesses a set of permanent teeth.

GUIDE DOG — Any dog used to assist persons who are deaf, or which is fitted with a special harness so as to be suitable as an aid to the mobility of a person who is blind, and is used by a person who is blind and has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities, including, but not limited to, those persons who are blind or deaf, as reputable and competent to provide dogs with training of this type.[**Added 12-9-2019 by Ord. No. 2019-19**]

KENNEL — Any establishment wherein or whereon the business of boarding dogs is carried on.[**Amended 12-9-2019 by Ord. No. 2019-19**]

LICENSING AUTHORITY — The agency or department of the Borough or any designated representative thereof charged with administration, issuance and/or revocation of permits and licenses under the provisions of this article.[**Added 8-5-1991 by Ord. No. 91-13**]

NEUTERED — Rendered permanently incapable of reproduction as certified by a licensed veterinarian.[**Added 8-5-1991 by Ord. No. 91-13**]

24. Editor's Note: The former definition of "cattery," added 8-5-1991 by Ord. No. 91-13, which immediately followed this definition, was repealed 12-9-2019 by Ord. No. 2019-19.

OFFER FOR SALE — To sell, offer for sale or adoption, advertise for the sale of, barter, auction, give away or otherwise dispose of a dog or cat. **[Added 12-9-2019 by Ord. No. 2019-19]**

OWNER — Includes every person having a right of property, or custody, in such cat or dog and every person who has such cat or dog in his or her keeping or who harbors or maintains a cat or dog or knowingly permits a cat or dog to remain on or about any premises occupied by that person. **[Added 8-5-1991 by Ord. No. 91-13]**

PERSON — Any individual, corporation, partnership, organization or institution commonly recognized by law as a unit. **[Added 8-5-1991 by Ord. No. 91-13]**

PET SHOP or PET STORE — A retail establishment where dogs and cats are sold, exchanged, bartered or offered for sale as pet animals to the general public at retail. Such definition shall not include an animal care facility or animal rescue organization, as defined. **[Amended 12-9-2019 by Ord. No. 2019-19]**

POUND — An establishment for the confinement of dogs seized either under the provisions of this article or otherwise.

SERVICE DOG — Any dog individually trained to the requirements of a person with a disability including, but not limited to, minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items. This term shall include a "seizure dog" trained to alert or otherwise assist persons with epilepsy or other seizure disorders. **[Added 12-9-2019 by Ord. No. 2019-19]**

SHELTER — Any establishment where dogs are received, housed and distributed without charge.

§ 59-2. Animal Control Officer; assistants. [Amended 5-7-1973 by Ord. No. 73-10]

- A. The Board of Health of the Borough is hereby authorized to employ a suitable person as Animal Control Officer and to employ such assistants to the Animal Control Officer as the Board of Health may from time to time deem necessary. Such employee shall assist in enforcing the provisions of this article.
- B. The Animal Control Officer and such assistants as may be appointed shall be subject to the supervision and direction of the Board of Health, and the Board of Health may adopt rules and regulations prescribing further duties of the Animal Control Officer and his or her assistants and for the keeping and maintaining of the Borough dog pound not inconsistent with the laws of the state and of this article.

§ 59-3. License and registration of dogs. [Amended 5-7-1973 by Ord. No. 73-10]

No person shall keep or harbor any dog within the Borough without registering and obtaining a license therefor to be issued by the Secretary of the Board of Health upon application by the owner and payment of the prescribed fee, and no person shall keep or harbor any dog in the Borough except in compliance with the provisions of this article.

§ 59-4. License and registration application; issuance.

The application for a dog license and registration shall state the breed, sex, age, color and markings of the dog for which the license and registration are sought, whether it is of a long- or short-haired variety and the name, street and post office address of the owner and the person who shall keep or harbor such dog. The information on the application and the registration number issued for the dog shall be preserved for a period of three years. In addition, the Secretary of the Board of Health shall forward to the State Department of Health each month, on forms furnished by the Department, an accurate account of registration numbers issued or otherwise disposed of. Registration numbers shall be issued in the order of the application.

§ 59-5. Annual renewal; fastening to dog. [Amended 5-7-1973 by Ord. No. 73-10]

Any person who shall own, keep or harbor a dog of licensing age shall annually, in the month of January, apply for and procure from the Secretary of the Board of Health, a license and official metal registration tag for each such dog so owned, kept or harbored and shall place upon each such dog a collar or harness with the registration tag securely fastened thereto.

§ 59-6. Fees; expiration dates. [Amended 11-17-1975 by Ord. No. 75-22; 6-18-1979 by Ord. No. 79-16; 12-29-1980 by Ord. No. 80-32; 9-15-1997 by Ord. No. 97-20; 12-5-2016 by Ord. No. 2016-29; 12-9-2019 by Ord. No. 2019-19]

- A. The person applying for the license and registration tag of a dog shall pay an annual fee of \$13.80 plus such additional fees as established by the state and forwarded to the Department of Health. A fee of \$3 shall be added for unneutered dogs. For each annual renewal the fee for the license for the registration tag shall be the same as for the original license tag. The licenses, registration tags and renewals thereof shall expire on the last day of January of the following year.
- B. Commencing March 1 of each year a late fee of \$5 will be added to the regular dog license fee.

§ 59-7. Lost registration tag; fee. [Amended 9-15-1997 by Ord. No. 97-20]

Whenever the metallic tag of registration provided for by this article has been lost, such tag may be replaced by the Borough Clerk with a new number tag, together with a new certificate of registration, upon payment of a fee of \$1, provided that the old certificate of registration is presented at the same time.

§ 59-8. Guide dogs and service dogs. [Amended 9-15-1997 by Ord. No. 97-20; 12-9-2019 by Ord. No. 2019-19]

Dogs used as guide dogs or service dogs, as defined above and/or in N.J.S.A. 10:5-5, shall be licensed and registered as other dogs hereinabove provided for, except that the owner or keeper of a guide dog or service dog shall not be required to pay any fee therefor. A dog temporarily placed in a foster home as part of a formalized training to be a guide dog or service dog shall not be required to be licensed and registered while the dog remains in the foster home for such training.

§ 59-9. Newly acquired dogs and dogs attaining licensing age.

The owner of any newly acquired dog of licensing age or of any dog which attains licensing age shall make application for license and registration tag for each dog within 10 days after such acquisition or age attainment.

§ 59-10. Dogs licensed in other states.

- A. Any person who shall bring or cause to be brought into the Borough any dog licensed in another state for the current year, and bearing a registration tag, and shall keep the same or permit the same to be kept within the Borough for a period of more than 90 days shall immediately apply for a license and registration tag for each such dog, unless such dog is licensed under § 59-14.
- B. Any person who shall bring or cause to be brought into the Borough any unlicensed dog and shall keep the same or permit the same to be kept within the Borough for a period of more than ten days shall immediately apply for a license and registration tag for each such dog, unless such dog is licensed under § 59-14.

§ 59-11. Rabies vaccination of cats. [Added 8-5-1991 by Ord. No. 91-13; amended 12-9-2019 by Ord. No. 2019-19]

- A. Applicability. No person shall own, keep, harbor or maintain any cat over seven months of age within the Borough, unless such cat is vaccinated and licensed. The provisions of this section do not apply to cats held by a state or federal licensed research facility, or a veterinary establishment where cats are received or kept for diagnostic, medical, surgical or other treatments or licensed animal shelters, pounds, an animal care facility, animal rescue organization, kennels or pet shops.
- B. Vaccination. All cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest "Compendium of Animal Rabies Vaccines and Recommendations for Immunization" published by the National Association of State Public Health Veterinarians, except as provided for in Subsection D.
- C. Certificate. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the state.
- D. Exemptions. Any cat may be exempted from the requirement of such vaccination for a specified period of time by the Board of Health upon presentation of a veterinarian's certificate stating that because of an infirmity or other physical condition, or regimen of therapy, the inoculation of such cat shall be deemed inadvisable.

§ 59-12. Licensing of cats. [Added 8-5-1991 by Ord. No. 91-13]

- A. Annual renewal; fastening to cat. Any person who shall own, keep, or harbor a cat of licensing age shall annually apply for and procure from the Secretary of the Board of Health, or other official designated by the Borough Council to license cats, a license and official registration tag with license number or a registration sleeve for each cat so owned, kept or harbored and shall place upon such a cat a collar, or other device with the license number securely fastened or displayed thereto. Acceptable methods of displaying license number shall include but are not limited to breakaway or elastic collars. License tags or sleeves are not transferable.
- B. Time for applying for license. The owner of any newly acquired cat of licensing age, or of any cat which attains licensing age, shall make application for a license tag or sleeve for such cat to the Board of Health within ten days after such acquisition or age is attained. This requirement will not apply to nonresidents keeping a cat within the Borough for less than 90 days.
- C. Cats brought into jurisdiction.
 - (1) Any person who shall bring, or cause to be brought, into the Borough any cat licensed in another state for the current year, and bearing registration tag or sleeve, and shall keep the same or permit the same to be kept within the Borough for a period of more than 90 days shall immediately apply for a license and registration tag or sleeve for each such cat.
 - (2) Any person who shall bring or cause to be brought into the Borough any unlicensed cat, and shall keep same or permit same to be kept within the Borough for a period of more than 10 days, shall immediately apply for a license and registration tag or sleeve for each such cat.
- D. Application, preservation of information. The application shall state the breed, sex, age, color and markings of the cat for which the license and registration are sought, whether it is of a long- or short-haired variety and the name, street and post office address of the owner and the person who shall keep or harbor such cat. The information on said application and the registration number issued for the cat

shall be preserved for a period of three years by the Secretary to the Board of Health.

- E. License forms and tags. License forms and official tags or sleeves shall be furnished by the Borough and shall be numbered serially and shall bear the year of issuance and the name of the Borough.
- F. Evidence of inoculation. The Secretary to the Board of Health or other official designated by the Borough Council to license cats shall not grant any such license and official registration tag or sleeve for any cat, unless the owner thereof provides evidence that the cat to be licensed and registered has been inoculated with a rabies vaccine of a type approved by and administered in accordance with the recommendations of the United States Department of Human Services, or has been certified exempt as provided by § 59-11D of this chapter. The rabies inoculation shall be administered by a duly licensed veterinarian or by such other veterinarian permitted by law to do the same.
- G. Fees. A license shall be issued after payment of a fee of \$15 for each unneutered cat and \$12 for each neutered cat. Persons who fail to obtain a license as required within the time period specified in this section will be subject to a delinquent fee of \$5, as well as such other penalties as provided in § 59-34 of this article. **[Amended 12-5-2016 by Ord. No. 2016-29; 12-9-2019 by Ord. No. 2019-19]**
- H. Other municipalities; renewal; expiration.
 - (1) A license from another municipality in this state shall be accepted for the current year. The person applying for the license and registration tag and/or sleeve shall pay the fee fixed or authorized. The fee for the renewal of license and registration tag or sleeve shall be the same as for the original, and said license, registration tag or sleeve and renewal thereof shall expire on January 31 of the following year.
 - (2) Only one license and registration tag or sleeve shall be required in the licensing year for any cat in the Borough. Any valid New Jersey license tag or sleeve issued by a New Jersey municipality shall be accepted by the Borough as evidence of compliance.
- I. Loss of license. If a license tag or sleeve has been misplaced or lost, the Secretary to the Board of Health or other official designated by the Borough Council to license cats may issue a duplicate license and/or registration sleeve for that particular cat at a fee of \$0.50.
- J. Proof of licensing. Proof of licensing shall be produced by any person owning, keeping, maintaining or harboring a cat upon the request of any health official, police officer, animal control officer or other authorized person.
- K. Interfering with duties. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this ordinance.
- L. Disposition of fees collected. License fees and other moneys collected or received under the provisions of this section shall be forwarded to the Borough Treasurer and shall be placed in a special account separate from any of the other accounts of the Borough and may, at the discretion of the Borough Council, be used for the following purposes only: collecting, keeping and disposing of cats liable to seizure, for local prevention and control of rabies and for administering the provisions of this section. Any unexpected balance remaining in such special account shall be retained until the end of the third fiscal year following and may be used for any of the purposes set forth in this section. At the end of the third fiscal year thereafter, there shall be transferred from such special account to the general funds of the Borough any amount then in such account which is in excess of the total amount paid into the special account during the last two fiscal years next preceding.

§ 59-13. Removal or attachment of registration tags.

No person, except an officer in the performance of his or her duties, shall remove a registration tag from the collar of any dog without the consent of the owner, nor shall any person attach a registration tag to a dog for which it was not issued.

§ 59-14. Kennels, pet shops, animal care facilities, animal rescue organizations, shelters and pounds. [Amended 12-9-2019 by Ord. No. 2019-19]

Any person who keeps or operates or proposes to establish a kennel, a pet shop, an animal care facility, animal rescue organization, a shelter or a pound shall apply to the Secretary of the Board of Health for a license entitling him or her to keep or operate such establishment.

§ 59-15. Application for kennel, pet shop, animal care facility, animal rescue organization, shelter or pound license. [Amended 12-9-2019 by Ord. No. 2019-19]

The application for a kennel, pet shop, an animal care facility, animal rescue organization, shelter or pound license shall describe the premises where the establishment is located or is proposed to be located, the purpose for which it is to be maintained and shall be accompanied by the written approval of the Health Officer of the Borough showing compliance with the local and state rules and regulations governing location of any sanitation at such establishments.

§ 59-16. Purpose of licenses; expiration. [Amended 9-15-1997 by Ord. No. 97-20; 12-9-2019 by Ord. No. 2019-19]

All licenses issued for a kennel, pet shop, an animal care facility, animal rescue organization, shelter or pound shall state the purpose for which the establishment is maintained, and all such licenses shall expire on the last day of June of the following year.

§ 59-17. Individual dog licenses; transferability. [Amended 12-9-2019 by Ord. No. 2019-19]

Any person holding a license for a kennel, an animal care facility, animal rescue organization, shelter or pound shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishment. Such license shall not be transferable to another owner or different premises.

§ 59-18. Fees for kennels and pet shops. [Amended 9-15-1997 by Ord. No. 97-20; 12-9-2019 by Ord. No. 2019-19]

The annual license fee for a kennel providing accommodations for 10 or fewer dogs shall be \$10 and shall be \$25 for more than 10 dogs. The annual license fee for a pet shop shall be \$45. No fee shall be charged for an animal care facility, animal rescue organization, a shelter or pound.

§ 59-19. Control of dogs in kennels, pet shops, animal care facilities, animal rescue organizations, shelters and pounds. [Amended 12-9-2019 by Ord. No. 2019-19]

No dog kept in a kennel, pet shop, an animal care facility, animal rescue organization, shelter or pound shall be permitted off such premises, except on leash or a crate or other safe control.

§ 59-20. Annual canvass of dogs by Sanitary Inspector. [Amended 5-7-1973 by Ord. No. 73-10;

8-5-1991 by Ord. No. 91-13]

The Sanitary Inspector of the Board of Health shall annually cause a canvass to be made of all dogs or cats owned, kept or harbored within the Borough and shall report, on or before May 1 of each year, to the Secretary of the Board of Health and to the State Department of Health the result thereof, setting forth in separate columns the names and addresses of persons owning, keeping or harboring such dogs or cats, the number of licensed dogs or cats owned, kept or harbored by each of the persons, together with the registration numbers of each of the dogs or cats and the number of unlicensed dogs or cats owned, kept or harbored by each of the persons, together with a complete description of each of the unlicensed dogs or cats. Such canvass may be made with the assistance of the Borough police reserves.

§ 59-21. Impounding of dogs and cats. [Amended 9-15-1997 by Ord. No. 97-20]

The Animal Control Officer of the Borough shall take into custody and impound or cause to be taken into custody and impounded and thereafter offered for adoption or destroyed as provided in this section:

- A. Any dog off the premises of the owner or of the person keeping or harboring the dog which the warden or his or her agent have reason to believe is a stray dog.
- B. Any dog off the premises of the owner or of the person keeping or harboring the dog without a current registration tag on his or her collar.
- C. Any female dog in season off the premises of the owner or of the person keeping or harboring the dog.
- D. Any cat running at large contrary to the provisions of this article.

§ 59-22. Notice to owners of impounded animals. [Amended 8-5-1991 by Ord. No. 91-13]

- A. If any dog or cat seized pursuant to the provisions of the preceding section wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or the person keeping or harboring the dog or cat is known, the Animal Control Officer shall forthwith serve on the person whose address is given on the collar, or on the owner or the person keeping or harboring the dog or cat, if known, a notice in writing stating that the dog or cat has been seized and will be liable to be disposed of, offered for adoption or destroyed if not claimed within seven days after the service of the notice. **[Amended 9-15-1997 by Ord. No. 97-20]**
- B. A notice under this section may be served either by delivering it to the person on whom it is to be served or by leaving it at the person's usual or last-known place of abode or at the address given on the collar or by forwarding it by post in a prepaid letter addressed to that person at his or her usual or last-known place of abode or to the address on the collar.

§ 59-23. Pound and maintenance fees; redemption; destruction. [Amended 8-5-1991 by Ord. No. 91-13]

For every dog or cat seized pursuant to the provisions of § 59-21, there shall be a daily pound fee prescribed by the Board of Health. When any dog or cat so seized has been detained for seven days after notice, when notice can be given as set forth in § 59-22, or has been detained for seven days after seizure, when notice has not been and cannot be given as set forth in § 59-22, and if the owner or person keeping or harboring the dog or cat has not claimed the dog or cat and paid expenses incurred by reason of its detention, and if the dog or cat is unlicensed at the time of the seizure and the owner or person keeping or harboring the dog or cat has not produced a license or registration tag for the dog or cat, the Animal Control Officer may

cause the dog or cat to be destroyed in such a manner as to cause as little pain as possible.

§ 59-24. Weekly report of animals seized. [Amended 5-7-1973 by Ord. No. 73-10]

The Animal Control Officer shall submit a weekly report to the Secretary of the Board of Health, which report shall contain a description of each animal seized pursuant to the provisions of this article, the reason for such seizure and the disposition made of such animal.

§ 59-25. Quarterly report of animals captured, destroyed and redeemed. [Amended 5-7-1973 by Ord. No. 73-10]

The Secretary of the Board of Health shall render a quarterly report to the Board of Health and the Mayor and Council, which report shall contain the following information:

- A. The number of dogs captured.
- B. The number of dogs destroyed.
- C. The number of dogs redeemed from the pound.
- D. The number of cats captured.
- E. The number of cats destroyed.
- F. The number of cats redeemed from the pound.

§ 59-26. Right of entry to seize dogs.

Any officer or agent authorized or empowered to perform any duty under this article is hereby authorized to go upon any premises to seize for impounding any dog which he or she may lawfully seize and impound when such officer is in immediate pursuit of such dog, except upon the premises of the owner of the dog if the owner is present and forbids the same.

§ 59-27. Enforcement. [Amended 5-7-1973 by Ord. No. 73-10]

It shall be the duty of the Sanitary Inspector of the Board of Health, the Health Officer of the Board of Health and of each member of the Police Department of the Borough to assist in carrying out the provisions of this article and to enforce the provisions of this article.

§ 59-28. Interference with officers.

No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this article.²⁵

§ 59-29. Damage of property.

No person owning, keeping or harboring a dog shall permit or suffer it to do any injury or damage to any lawn, shrubbery, flowers, grounds or property of another.

25. Editor's Note: Original § 7-27, which dealt with permitting dogs to commit nuisances, which immediately followed this section, was deleted 9-15-1997 by Ord. No. 97-20.

§ 59-30. Howling or barking dogs. [Amended 9-15-1997 by Ord. No. 97-20]

It shall be unlawful for any person to possess or harbor upon his or her premises any dog which shall, by howling or barking, make any disturbing noises in any neighborhood in the Borough.

§ 59-31. Dogs running at large.

It shall be unlawful for any dog to run at large in the Borough off the premises of the owner of such dog. Any owner whose dog shall be found running at large in the Borough, off the premises of the owner of such dog shall, upon conviction therefor, be subject to pay a fine of not less than \$20 nor more than \$30 for the first offense, or imprisonment for a term of not less than five days nor more than 10 days, or both, in the discretion of the Judge. For a subsequent violation such owner shall be subject to a fine of not less than \$25 nor more than \$50 or imprisonment for a term of not less than 10 days nor more than 20 days, or both, in the discretion of the Judge.

§ 59-32. Cats running at large.

It shall be unlawful for any person to permit to run at large any cat, male or female, within the Borough, unless such cat shall carry or wear a small bell.

§ 59-33. Unauthorized keeping of dogs or cats. [Added 9-15-1997 by Ord. No. 97-20; amended 2-4-2013 by Ord. No. 2013-2]

The keeping of more than four cats and/or four dogs of licensing age, without written permission of the Secretary of the Board of Health, upon the showing of good cause, shall be prohibited. The denial of permission for the keeping of more than four cats and/or four dogs of licensing age shall be subject to appeal to the Board of Health.

§ 59-34. Violations and penalties. [Amended 5-7-1973 by Ord. No. 73-10; 9-15-1997 by Ord. No. 97-20; 12-9-2019 by Ord. No. 2019-19]

Any person who violates or refuses to comply with any provision of this article, except §§ 59-31 and 59-35, shall be subject to a fine not exceeding \$500 or to imprisonment for a period not exceeding six months, except where punishable under state law.

§ 59-35. Restrictions on sale of animals. [Added 12-9-2019 by Ord. No. 2019-19]

No pet shop or store shall sell, deliver, offer for sale, barter, auction, give away or otherwise transfer or dispose of cats or dogs. Nothing in this section shall prohibit stores from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs and cats. Nothing herein shall be interpreted as prohibiting the sale or purchase of dogs or cats directly from a responsible breeder. Further, nothing herein shall prevent the sale or purchase of the litter of pet cats or dogs by residents.

§ 59-36. Violations and penalties. [Added 12-9-2019 by Ord. No. 2019-19]

Any person, firm or corporation who violates or neglects to comply with any provision of § 59-35 shall be subject to a fine of not more than \$2,000 for each separate offense, or incarceration for a period of not more than 90 days, or community service for a period of not more than 90 days, or any combination of fine, imprisonment and/or community service, as determined at the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and

the person or persons allowing or permitting the continuation of the violation may be subject to penalties as provided herein for each separate offense. The violation of any one or more provisions of this article shall be subject to abatement summarily by a restraining order or by an injunction issued by a court of competent jurisdiction.

ARTICLE 2
(Reserved)²⁶

§ 59-37. through § 59-42. (Reserved)

26. Editor's Note: Former Art. 2, Dangerous Dogs, adopted 10-26-1987 by Ord. No. 87-18, was repealed 6-7-1999 by Ord. No. 99-9.

ARTICLE 3

Wildlife Feeding

[Adopted 10-17-2005 by Ord. No. 2005-16; amended in its entirety 2-4-2013 by Ord. No. 2013-2]

§ 59-43. Purpose.

The purpose of this article is to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Borough of Metuchen, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply. In addition, it has been well established that the feeding of wild animals is both detrimental to the animals and causes a public health nuisance and safety hazard that is detrimental to the health and general welfare of the public.

§ 59-44. Definitions and word usage.

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 article clearly demonstrates a different meaning. When not inconsistent 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.

FEED — To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

WILD ANIMALS — Any animal, which is not normally domesticated in this state, including but not limited to bears, coyotes, deer, feral cats, foxes, groundhogs, opossums, raccoons, skunks, and waterfowl, and any domesticated unlicensed animal, including but not limited to stray cats and/or dogs.

WILDLIFE — All animals that are neither human nor domesticated.

§ 59-45. Prohibited conduct.

- A. No person shall feed, in any public park or on any other property owned or operated by the Borough of Metuchen, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers).
- B. No person shall purposely or knowingly, as said terms are defined in Title 2C of the New Jersey Revised Statutes, feed, bait, or in any manner provide access to food to any wild animal in said Borough, on lands either publicly or privately owned. This section shall not apply to the feeding of farm animals.
- C. No person shall purposely or knowingly leave or store any refuse, garbage, food product, pet food, forage product or supplement, salt, seed or birdseed, fruit, or grain in a manner that would constitute an attractant to any wild animal.
- D. No person shall fail to take remedial action to avoid contact or conflict with wild animals, which may include the securing or removal of outdoor trash, cooking grills, pet food, bird feeders or any other similar food source or attractant, after being advised by the Borough to undertake such remedial action. Further, after an initial contact or conflict with a wild animal, no person shall continue to provide, or otherwise fail to secure or remove, any likely food sources or attractants, including, but

not limited to, outdoor trash, grills, pet food or bird feeders.

E. Nothing in this section shall apply to:

- (1) Any agent of the Borough authorized to implement an alternative control method set forth in any approved community-based deer management plan and possessing a special deer management permit issued by the New Jersey Division of Fish and Wildlife in accordance with the provisions of P.L. 2000, c. 46; or
- (2) Any hunter engaging in baiting for the purpose of hunting pursuant to a valid hunting license issued in accordance with the provisions of Title 23 of the New Jersey Revised Statutes.

§ 59-45.1. Feeding of songbirds and other backyard birds permitted.

- A. Feeding of songbirds and other backyard birds shall be permitted outdoors at such times and in such numbers that:
- (1) Such feeding does not create an unreasonable disturbance that affects the rights of surrounding property owners and renders other persons insecure in the use of their property; and
 - (2) Does not create an accumulation of droppings on the property and surrounding properties; and
 - (3) Does not become an attractant for rodents or other wild animals, and
 - (4) Bird feeders are placed at least five feet above the ground.

§ 59-46. Enforcement.

- A. This article shall be enforced by the Health Officer of the Borough of Metuchen.
- B. Any person found to be in violation of this article shall be ordered to cease the feeding immediately.
- C. Each property owner shall have the duty to remove any above-named materials or device placed on the owner's property in violation of this article.
- D. Failure to remove such materials or device or to make such modifications within 24 hours after notice from the Borough shall constitute a separate violation of this article.
- E. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this article.

§ 59-47. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed \$1,000.

Chapter 64**BUILDINGS, NUMBERING OF**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 5-15-1989 by Ord. No. 89-10. Amendments noted where applicable.]

§ 64-1. Preface and findings.

- A. The Police Department and the other borough emergency services have reported to the Mayor and Council that up to 10% of existing borough structures either have no street number affixed to them or are not visible from the street.
- B. These emergency services have, as a result, been prevented from quickly locating a particular house during an emergency with the possibility of consequent harm to the occupants and owners.
- C. The Borough Council finds that it is in the interest of public health and safety to provide that each dwelling and business establishment display its street number in a prominent location in order that it be both visible and legible from the street at all times in order to facilitate the expeditious response of police, fire and first-aid units.
- D. The Borough Council has concluded it to be in the borough's best interest to provide for an express declaration through this chapter of the responsibility of each property owner to post and maintain the address numerals provided for by the terms and conditions of the chapter.

§ 64-2. Owner responsibility and specifications for posting.

- A. Every residential dwelling unit and each principal commercial and industrial structure within the borough shall be obliged to post and maintain the address numerals referred to in this chapter. The responsibility for the posting and maintenance of the address numerals shall be that of the property owner listed in the most recent tax assessment records of the borough.
- B. Address numerals shall be mounted as either dark numbers on a light background or light numbers on a dark background and lighted, as necessary, so as to be visible from the curblin of the street or driveway. Each numeral shall be at least three inches in height. The use of printed words or script spelling the number, rather than numerals themselves, shall be prohibited.

§ 64-3. Application of regulation to various types of structures.

- A. The posting of address numerals for various types of structures shall be as follows:
 - (1) For single-family residences, including attached townhouse units, address numerals shall be displayed within close proximity to the front door or main entranceway. In any case where the main residential structure is not visible from the roadway, the address numerals shall be mounted, at least three feet above grade, on a fixed post or mailbox within 10 feet to either side of the driveway or walkway that leads to the main residence from the roadway.
 - (2) For multiple-family attached dwellings, including garden apartments, condominiums and flats, the address numerals for each structure within the complex shall be affixed either near the roofline of the building or mounted at least four feet above grade on a fixed post or mailbox visible from the street or internal roadway nearest the structure. Individual units within the multifamily structure shall affix address numerals on their main entry doors or within three feet of said doors to show their specific apartment or unit designations.

- (3) For commercial establishments, including but not limited to office buildings, strip stores, single businesses or industrial concerns, address numerals shall be posted within three feet of, affixed to or painted upon the main entry door.
- B. In addition to the above requirements, if any of these premises have a rear drive or alley which is visible from the street or the internal roadway which affords access, the address numerals of said unit shall be posted, as previously described, on or near the rear main entrance or overhead door as well.

§ 64-4. Enforcement.

Enforcement of this chapter shall lie within the responsibility of members of the Police Department and the Volunteer Fire Department of the borough who shall initially issue a warning if the property owner's property is not in compliance with this chapter and shall follow the warning with a summons to appear in the Municipal Court for violation of this chapter, should a reinspection, occurring no sooner than 10 days after the warning, find the property still in noncompliance.

§ 64-5. Violations and penalties.²⁷

A property owner who shall violate the provisions of this chapter shall be penalized as provided in Chapter 1, General Provisions, Article 1. Each day the property owner remains in noncompliance with the requirements of this chapter shall be deemed to a separate and distinct offense.

27. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

BUILDINGS, UNSAFE

Chapter 67

BUILDINGS, UNSAFE

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in article histories. Amendments noted where applicable.]

ARTICLE 1

**Procedures Regarding Unsafe Buildings
[Adopted 10-18-1971 by Ord. No. 71-25]****§ 67-1. Authority and construction.**

This article is adopted in accordance with N.J.S.A. 40:48-2.3 et seq., as amended, and the method of enforcement, definitions, procedure and remedies shall be governed and controlled thereby and as set forth therein, or in any amendments or supplements thereto.

§ 67-2. Enforcement officer designated.

The Construction Code Official of the borough, and the Health Officer in the matters of health, where permitted by law, are hereby designated to exercise the powers prescribed by this article.

§ 67-3. Securing of structure. [Amended 10-5-1992 by Ord. No. 92-33]

When in the opinion of the Construction Code Official the buildings, walls or other structures which shall be unsafe so as to be danger to life and limb shall immediately upon notice from the Building Code Office or Construction Code Official be made safe and secure or taken down, and when the public safety requires immediate action, the Construction Code Official may forthwith enter upon the premises with such assistance as may be necessary and cause such structure to be made secure or taken down at the expense of the owner or party in interest.

§ 67-4. Preliminary investigations.

Whenever a petition is filed with the Construction Code Official by a public authority, or by at least five residents of the borough, charging that any building is unfit for human habitation or occupancy or use, he or she shall make a preliminary investigation concerning the basis for such charges.

§ 67-5. Complaint; notice of hearing.²⁸

If a preliminary investigation as provided for in § 67-4 shall disclose to the Construction Code Official a basis for the charges filed, he or she shall issue and cause to be served upon the owner or any parties of interest in such buildings a complaint stating the charges in that respect. The complaint shall also contain a notice that a hearing will be held before the Construction Code Official or his or her designated agent at a place therein fixed not less than seven days or more than 30 days after the serving of such complaint.

§ 67-6. Right to answer complaint.

The owner and parties in interest shall have the right to file an answer to the complaint provided for by § 67-5 and to appear, in person or otherwise, and give testimony at the time and place fixed in the complaint.

§ 67-7. Rules of evidence.

The rules of evidence prevailing in the courts shall not be controlling in hearings before the Construction Code Official or his or her designated agent.

28. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

§ 67-8. Determination of Construction Code Official.

- A. If, after notice and hearing provided for by in §§ 67-5 through 67-7, the Construction Code Official determines that the building under consideration is unfit for human habitation or occupancy or use, he or she shall state, in writing, his or her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof, and the parties in interest, an order requiring the repair, alteration or improvement of such building to be made by the owner within a reasonable time, which time shall be set forth in the order or, at the option of the owner, to vacate or to have such building vacated and closed within the time set forth in the order.
- B. If the building is in such condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter or improve such building within the time specified in the order, then the owner shall be required to remove or demolish such building within a reasonable time as specified in the order of removal.

§ 67-9. Failure to comply with order to repair; posting of placard.

If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the building, then the Construction Code Official may cause such building to be repaired, altered or improved or to be vacated and closed. The Construction Code Official may cause to be posted on the main entrance of any building so closed, a placard with the following words: "This building is unfit for human habitation or occupancy or use; the use of this building for human habitation is prohibited and unlawful."

§ 67-10. Effect of failure to comply with order to remove or demolish.

If the owner fails to comply with an order to remove or demolish the building, the Construction Code Official may cause such building to be removed or demolished or may contract for the removal or demolition thereof after advertisement for, and receipt of, bids therefor.

§ 67-11. Municipal lien; costs when building removed or demolished; appeal.

- A. The cost of the filing of legal papers, expert witnesses' fees and advertising charges incurred in the course of any proceeding taken under this article determined in favor of the municipality and the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof shall be a municipal lien against the real property upon which such cost was incurred.
- B. If the building is removed or demolished by the Construction Code Official, he or she shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Tax Collector for the borough, and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited in the Superior Court by the Construction Code Official, shall be secured in such manner as may be directed by such court and shall be disbursed according to the order of judgment of the court to the persons found to be entitled thereto by final order or judgment of such court; provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the borough to define and declare nuisances and to cause their removal or abatement, by

summary proceedings or otherwise. Any owner or party in interest may, within 30 days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.²⁹

§ 67-12. Grounds for determination.

The Construction Code Official may determine that a building is unfit for human habitation or occupancy or use if he or she finds that conditions exist in such building which are dangerous or injurious to the health or safety of the occupants of such building, the occupants of neighboring buildings or other residents of the borough. Such conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair, structural defects or uncleanness.

§ 67-13. Powers of Construction Code Official and Health Officer.

- A. The Construction Code Official is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:
- (1) To investigate the dwelling conditions in the borough in order to determine which buildings therein are unfit for human habitation or occupancy or use.
 - (2) To administer oaths, affirmations, examine witnesses and receive evidence.
 - (3) To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.
 - (4) With the consent of the Borough Council, to appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the purposes of this article.
 - (5) With the consent of the Borough Council, to delegate any of his or her functions and powers under this article to such officers and agents as he or she may designate.
- B. The Health Officer shall have all of the above powers of the Construction Code Official when acting as the enforcing officer and when acting in matters of health as permitted by law under this article.

§ 67-14. Service of complaints and orders.³⁰

Complaints or orders issued by the Construction Code Official pursuant to this article shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the Construction Code Official in the exercise of reasonable diligence and the Construction Code Official shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same once in a newspaper printed and published in the borough or, in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the buildings are located. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall be duly recorded or ledged for record with the county recording officer of the county in which the building is located.

29. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

30. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

§ 67-15. Forms of complaint and enabling regulations. [Added 10-5-1992 by Ord. No. 92-33]

The Construction Code Official may cite the building or structure as being unfit or unsafe, pursuant to the rules and regulations of N.J.A.C. 52:27D-132 and file complaints using Unsafe Structure, Notice of Imminent Hazard, Notice of Violation and Order to Terminate forms, as well as others which may be developed, supplied by the Department of Community Affairs.

§ 67-16. Hearing. [Added 10-5-1992 by Ord. No. 92-33]

In the event the Construction Code Official's complaint is upheld by the Construction Board of Appeals on appeal, or in the event the time to appeal by the property owner expires, by resolution the governing body may institute litigation for the demolition of the building or structure, pursuant to this article.

ARTICLE 2

Repair or Demolition of Unfit Buildings
[Adopted 6-29-1998 by Ord. No. 98-3]**§ 67-17. Definitions.**

The following terms, whenever used or referred to in this article, unless a different meaning clearly appears from the context, shall have the following meanings:

ASSISTANT PUBLIC OFFICER — The officer designated as assistant to the public officer.

BUILDING — Any building or structure or part thereof, whether used for human habitation or otherwise, and includes outhouses and appurtenances belonging thereto or usually enjoyed therewith.

DWELLING UNIT — A building or portion thereof providing living facilities for one or more persons.

OWNER — The holder or holders of the title in fee simple.

PARTIES IN INTEREST — All individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.

PUBLIC AUTHORITY — Any housing authority or any officer who is in charge of any department or branch of the government of the township, relating to health, fire, building regulations or to other activities concerning buildings in the township.

PUBLIC OFFICER — The officer who is authorized by this article to exercise the powers prescribed for him or her.

§ 67-18. Public officer and assistant public officer.**A. Appointment.**

- (1) The public officer, who shall be appointed for a term of one year, shall be nominated by the Mayor and confirmed by the Borough Council.
- (2) The assistant public officer, who shall be appointed for a term of one year, shall be nominated by the Mayor and confirmed by the Borough Council, and when so appointed, he or she shall exercise all of the powers prescribed for the public officer at the direction of the public officer or in the event of the disability or temporary absence of the public officer.

B. Duties.

- (1) The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers, in addition to others herein granted:
 - (a) To investigate the building conditions in the borough in order to determine which buildings therein are unfit for human habitation, occupancy or use.
 - (b) To administer oaths and affirmations, examine witnesses and receive evidence.
 - (c) To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.
- (2) The public officer may request assistance from all available sources in determining whether a

building under this article shall be demolished or repaired pursuant to the provisions of this article, but the final order or determination in any case shall be deemed to be the order or determination of the public officer.

- (3) The public officer shall delegate and fix the duties of such officers, agents and employees as he or she deems necessary to assist him or her in carrying out the purposes of this article, subject to the confirmation by resolution of the Borough Council, and may delegate any of his or her functions and powers under this article to such officers, agents and employees as he or she may designate.

§ 67-19. Notice of violation; hearing.

Whenever a petition is filed with the public officer by a public authority or by at least five residents of the borough charging that any building is unfit for human habitation, occupancy or use or whenever it appears to the public officer, on his or her own motion, that any building is unfit for human habitation, occupancy or use, the public officer shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer or his or her designated agent, at a place therein fixed, not less than seven days nor more than 30 days after the service of the complaint, and that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise give testimony at the place and time fixed in the complaint, and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the public officer.

§ 67-20. Service of notice or order.

Complaints or orders issued by the public officer pursuant to this article shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer shall make an affidavit to that effect, then the serving of the complaint or order upon these persons may be made by publishing the same once in a newspaper printed and published in the borough or, in the absence of a newspaper, in one printed and published in the County of Middlesex and circulating in the borough. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall be fully recorded or lodged for record with the County Clerk of the County of Middlesex.

§ 67-21. Order for abatement or demolition.

If the public officer shall determine after such notice and hearing that the building under consideration is unfit for human habitation, occupancy or use, he or she shall state in writing his or her findings of fact in support of his or her determination and shall issue and cause to be served upon the owner thereof and parties in interest an order as follows:

- A. Requiring the repair, alteration or improvement of the building to be made by the owner, within a reasonable time, which time shall be set forth in the order, or, at the option of the owner, to vacate or have the building vacated and closed within the time set forth in the order.
- B. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter or improve the building within the time specified in the order, then the owner shall be required to remove or demolish the building within a reasonable time, as specified in the order of removal.

§ 67-22. Failure to comply; abatement or demolition by borough.

- A. If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the building, the public officer may cause the building to be repaired, altered or improved or to be vacated and closed, provided that the public officer shall not incur any expense to repair, alter or improve any building without the approval, by resolution, of the Borough Council.
- B. The public officer may cause to be posted on the main entrance of any building so closed a placard with the following words: "This building is unfit for human habitation, occupancy or use. The use or occupation of this building is prohibited and unlawful."
- C. If the owner fails to comply with an order to remove or demolish the building, the public officer may cause the building to be removed or demolished, subject to the approval, by resolution, of the Borough Council.

§ 67-23. Costs to become lien.

The amount of the cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under this article, determined in favor of the borough, the cost of such repairs, alterations or improvements or vacating and closing or removal and demolition, if any, and the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from the building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which the cost was incurred. If the building is removed or demolished by the public officer, he or she shall sell the materials of the building. There shall be credited against the cost of the removal or demolition thereof the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of the costs exceeds the total of the credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Municipal Tax Assessor or other custodian of the records of tax liens, and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceeds the costs, the balance remaining shall be deposited in the Superior Court by the public officer, shall be secured in such manner as may be directed by the Court and shall be disbursed according to the order or judgment of the Court to the persons found to be entitled thereto by final order or judgment of the Court. Nothing in this section shall be construed to impair or limit in any way the power of the borough to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. Any owner or party in interest, within 30 days from the date of the filing of the lien certificate, may proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

§ 67-24. Conditions constituting unfit buildings.

The public officer may determine that a building is unfit for human habitation, occupancy or use if he or she finds that conditions exist in the building which are dangerous or injurious to the health or safety of the occupants of the building, the occupants of neighboring buildings or other residents of the borough. Such conditions may include the following, without limiting the generality of the foregoing:

- A. Defects therein increasing the hazards of fire, accident or other calamities.
- B. Lack of adequate ventilation, light or sanitary facilities.
- C. Dilapidation, disrepair, structural defects or uncleanness.

§ 67-25. Appeal.

Any person aggrieved by an order issued by the public officer pursuant to this article may, within 30 days after the posting and service of the order, pursuant to N.J.S.A. 40:48-2.8, appeal for injunctive relief to restrain the public officer from carrying out the provisions of the order. A decision on the appeal shall be at the discretion of the court. The remedy herein provided shall be exclusive, and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant thereto or because of noncompliance by any person with any order of the public officer.

§ 67-26. Violations and penalties.

For violation of any provision of this article, the maximum penalty, upon conviction, shall not exceed the maximum penalties set forth in Chapter 1, General Provisions, § 1-2. Each and every violation of any provision of this article shall be considered a separate violation and shall subject the person so charged to the maximum penalty.

Chapter 70**BUSINESS ESTABLISHMENTS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 5-5-1986 by Ord. No. 86-7. Amendments noted where applicable.]

§ 70-1. Findings and purpose.

The Mayor and Council hereby find that unprotected and understaffed business and commercial enterprises have become easy prey to the criminal element in our society and that the perils from criminal predators to those individuals either employed at or patronizing those establishments is at its highest during the late night and early morning hours. The purpose of this chapter is to regulate closing hours of all retail, business and commercial establishments to which the public is invited in the interest of the protection of the employees and the patrons and to discourage and minimize criminal activities by mandating multiple employees on the premises and the installation of security devices, as hereinafter described.

§ 70-2. Closing hours; personnel; security.

No retail, business or commercial establishment shall be open for business between the hours of 12:00 midnight and 5:00 a.m. local time, unless:

- A. Two or more employees are continually on the premises within that portion of the business to which the public is invited; and, in addition thereto,
- B. One or more of the following security measures is taken:
 - (1) The employment of a uniformed guard solely for the premises during these hours, who may be counted as one of the two necessary employees if he or she continually remains on the premises.
 - (2) The operation on the premises of a security device approved by the borough Chief of Police which may consist of a silent and/or audible burglar alarm connected to a central security monitoring system designed to activate police response.
 - (3) A closed circuit television camera connected to a central security monitoring system designed to activate police response.
 - (4) Such other device as can be activated instantaneously to notify law enforcement officers that a crime or disorderly persons activity is or may be in progress.

§ 70-3. Exemption for certain establishments.

The provisions of this chapter shall not apply to any premises maintaining a license for plenary retail consumption of alcoholic beverages on the premises, which businesses shall continue to be regulated in accordance with N.J.S.A. 33:1-40 as implemented by other borough ordinances.³¹

§ 70-4. Enforcement.

Any and all persons or entities, as well as their chief operating and executive officers, shall be responsible for any violation of the provisions set forth in the within chapter, except that the employees of the retail, business or commercial establishment assigned to work during the restricted hours established by this

31. Editor's Note: See Ch. 53, Alcoholic Beverages.

chapter shall not be held answerable for any violation or penalty pursuant to its provisions. No employer of any covered retail, business or commercial establishment shall take any adverse personnel action against any employee who refuses to work on the premises of their establishment during the restricted hours described herein unless the employer is in full compliance with the terms of this chapter.

§ 70-5. Violations and penalties.³²

Any person or entity who shall violate or cause to be violated all or any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in Chapter 1, General Provisions, Article 1. Each day a violation occurs or continues shall be deemed to be the commission of a separate offense for purposes of assessing penalties described herein.

32. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

CANNABIS

Chapter 72

CANNABIS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 10-24-2022 by Ord. No. 2022-19. Amendments noted where applicable.]

ARTICLE I
General Provisions

§ 72-1. Purpose.

This chapter is enacted in accordance with the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the "Act" or "CREAMMA"), N.J.S.A. 24:61-32 et seq., and the regulations promulgated by the Cannabis Regulatory Commission ("CRC"). The purpose of this chapter is to regulate the establishment and operation of cannabis businesses in the Borough of Metuchen ("Borough") and to specify the conditions and limitations applicable thereto.

§ 72-2. Definitions.

For the purpose of this chapter and all other applicable chapters of this Code, words and phrases herein shall have the meanings set forth in CREAMMA.³³

§ 72-3. Applicable laws.

All applications for licenses, all licenses issued and all proceedings under this chapter shall be in accordance with the Act, rules and regulations referred to in § 72-1 above, and all other applicable laws of the State of New Jersey. The regulations set forth herein are subject to the enabling authority of the State of New Jersey, by and through the Cannabis Regulatory Commission, and are subject to compliance with all statutes and/or regulations promulgated and adopted by the State of New Jersey or its instrumentalities. If any provision of this chapter is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall prevail.

§ 72-4. License required.

No cannabis facility may lawfully operate in the Borough without the issuance of a State permit or license and full regulatory oversight of the cannabis business by the Cannabis Regulatory Commission or other state licensing authority as well as the oversight and issuance of a license by the Borough in accordance with the provisions of this chapter.

§ 72-5. Conditions and limitations.

- A. Only the following marketplace classes of cannabis facilities shall be conditionally allowed to operate in the Borough, subject to the limitations and requirements set forth herein and elsewhere in this Code and all other classes shall be prohibited:
 - (1) Class 3 Wholesaler.
 - (2) Class 5 Cannabis Retailer.
- B. Only a Borough conditional license issued pursuant to this chapter shall constitute "written municipal approval" pursuant to CREAMMA, N.J.S.A. 24:61-36(b)(1)(c)(i) and 24:61-45(c). Other written statements, letters, resolutions, or other documents issued by the Borough or any official, employee, or other representative shall not constitute annual or renewed "written municipal approval" for purposes of the CRC.

33. Editor's Note: New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24-61-31 et seq.

C. Cannabis wholesale and retail services ("facility") shall be permitted, pursuant to this chapter, only if in addition to all applicable land use regulations, the following requirements are met:

- (1) Land development regulations: The facility shall obtain all approvals required pursuant to the Borough's land development regulations set forth in Chapter 110 of this Code, which approval(s) shall be evidenced by the issuance of conditional use approval by the Planning Board or, where applicable, use variance approval by the Zoning Board of Adjustment.
- (2) Hours of operation: The operating hours of the licensed facility shall be between 9:00 a.m. and 10:00 p.m. daily. It shall be unlawful for any person to sell or dispense cannabis or cannabis products or for the operation of any licensed facility at any time other than between these hours.
- (3) The licensed facility shall be accessible directly from a right-of-way through a separate entrance independent from any other retail ingress.
- (4) Queuing. Queuing of customers outside a cannabis facility is prohibited. The cannabis establishment shall have a sufficient waiting area inside the facility to accommodate customers, or shall provide a reservation service, phone/text notification service or other alternatives to waiting on the exterior of the premises and/or the public right-of-way. Loitering is prohibited and shall be managed by the facility.
- (5) Location. No cannabis establishment shall be permitted within 200 feet of a Kindergarten through 12th grade school.
- (6) No cannabis product or paraphernalia shall be visible from a public sidewalk, public street or right-of-way or any other public place.
- (7) All cannabis products and paraphernalia shall be stored securely indoors and onsite.
- (8) Consumption of cannabis products, by any means of ingestion, or smoking, shall not be permitted in the licensed facility or adjacent grounds.
- (9) Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.
- (10) Odor. All cannabis facilities shall have equipment to mitigate cannabis- related odor. The building/premises shall be equipped with a ventilation system sufficient in type and capacity to eliminate cannabis odors emanating from the interior of the premises. The ventilation system must be approved by the Construction Code Official and/or appropriate inspector and may be subject to periodic inspection.
- (11) All cannabis facilities shall be secured in accordance with State of New Jersey statutes and regulations. All cannabis facilities shall be secured and shall have full-time security protocols. Security protocols shall be submitted to the Metuchen Police Department for compliance review with all safety and security standards established by the State of New Jersey for cannabis establishments. The Metuchen Police Department may, at its discretion and upon review of the proposed location, recommend or require additional safety and security measures. At a minimum, the following shall be required: (a) A video recording security system shall be employed covering all areas of the cannabis facility and the adjacent exterior of the building/premises with an around the clock 365 days per year, 24/7 recording system that records for a minimum thirty-day archive; (b) Trained security personnel shall be on-site at all times during operating hours; (c) The Metuchen Police Department and Zoning Officer shall be provided the

name and twenty-four-hour phone number of the responsible staff person to notify during suspicious activity or emergency; (d) Outside areas of the premises shall be well illuminated for safety and security, but not in a way that is counter to Code requirements for outdoor lighting and screening or obtrusive to pedestrians, drivers or other users of the public right-of-way; (e) The premises and right-of-way adjacent to the cannabis facilities shall be monitored by staff of the cannabis establishment and kept free of loitering, litter and other debris, and the sidewalks shall be swept and cleaned on a regular basis; and (f) To the maximum extent possible, wholesale cannabis facilities shall have security fencing and gates around the perimeter of the premises.

- (12) Signage design shall comply with the regulations of the State and the Borough's sign regulations contained in Chapter 110 of the Code.
- (13) No cannabis facility shall be housed in a vehicle or any movable or mobile structure.
- (14) Comply with all rules and regulations adopted by the New Jersey Cannabis Regulatory Commission.

ARTICLE II
Licensing

§ 72-6. Issuing authority.

- A. All licenses required by this chapter shall be issued by the Borough Council, which shall also administer the provisions of this chapter, except as provided herein.
- B. No license issued pursuant to this chapter shall be effective until or unless the State has issued the requisite permits or licenses to operate such a facility.
- C. Each local license issued pursuant to this Chapter shall be valid for a term of one year from the date of issuance subject to the payment of the annual registration fee and shall be renewed upon the submission of an application for renewal provided all conditions and requirements of applicable State law and this chapter are met.
- D. The Borough Council may, in its discretion, adjust the renewal date of the local license to correlate with an applicant's state licensing and renewal schedule.
- E. Renewal of any license shall be governed by any Code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed.
- F. The Borough of Metuchen and Borough Council reserve the right to add any terms or conditions upon the issuance and/or renewal of any cannabis license issued if determined to be in the best interest of the Borough promoting the health, safety and welfare of the Borough residents.

§ 72-7. Application process.

- A. After the passage of this chapter, the Borough will issue a request for proposals (RFP) and publicly advertise for applicants seeking licensing to submit an application for the review and pre-approval to obtain the appropriate land use approval and the subsequent Borough Council conditional license approval. After the above RFP process is complete should a license become inactive or available, the Borough within its sole discretion, may elect to issue a subsequent RFP, if applicable, elect to select an additional applicant from the initial RFP process, or publicly advertise the availability of the license and any applicant may apply for pre-approval from the Borough as provided for herein.
- B. Application/proposal. Persons wishing to obtain any classification of cannabis license shall submit a proposal in response to the RFP and/or file a license application with the Borough Clerk, on a standardized form established by the Borough. The Borough shall establish a reasonable application period and deadline for all applications and/or proposals. An application shall be deemed incomplete and/or non-responsive, and shall not be processed by the Borough, unless all documents and application fees are submitted.
- C. To be deemed complete and/or responsive, all applications and proposals shall be accompanied by the following:
 - (1) Nonrefundable application fee.
 - (2) Proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the Applicant contingent upon successful licensing.

- (3) Affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
 - (4) Affidavit or other documentary proof that any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five years.
 - (5) Any other documents, forms and/or documentation required by the Borough that are set forth in the Borough's Request for Proposals.
- D. In accordance with State law, the applicant shall receive a letter of support from the Borough of Metuchen upon completion of the RFP process and after the Borough Council approves the license application for a conditional municipal license. All applications upon being deemed complete and/or proposals timely received pursuant to the RFP shall be submitted to a Cannabis Subcommittee for review. The Cannabis Subcommittee shall be made up of the following: (i) Two members of Council (appointed by the Mayor), (ii) the Metuchen Chief of Police, (iii) the Borough Administrator or their designee; and (iv) the Mayor or their designee. This Committee shall review completed submissions and/or proposals for any cannabis license and issue an endorsement for the applicant/s or respondent/s to proceed to obtain the appropriate land use approval and eventually the Borough's Council approval for a conditional municipal license. In evaluating the application(s)/proposals, the Committee shall establish a minimum percentage score required using the criteria and percentage attributed to said criteria as set forth in the Borough's Request for Proposals to be awarded an endorsement to proceed to obtain the appropriate land use approval and the eventual conditional municipal license. In the event, there are multiple applicants/proposers for a license, the Committee shall evaluate all applicants/respondents, and issue an endorsement/s to the highest scoring applicants/respondents, based upon the criteria and scoring methodology contained the Borough's Request for Proposals, limited in number to those licenses permitted by this chapter. Thereafter, the applicants/respondents with the Committee's endorsement shall be permitted and required to proceed to obtain the necessary land use approval from the appropriate Land Use Board. After receipt of the appropriate land use approval, the applicant's or respondent's shall be submitted to the Council for the Borough's approval of a conditional municipal license.
- E. Notwithstanding the foregoing competitive application process, a notification of award and conditional municipal license shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended in the Administrator's discretion for an additional six months for good cause. No final license to operate shall issue until the applicant has received a State permit and satisfied other prerequisites of municipal licensure. If the recipient of a notice of award and conditional licensee has not received a State permit or license within 12 months from issuance, unless extended for good cause, said notification of award and conditional municipal license may be revoked by the Borough Council. In such an event, the Borough within its sole discretion may authorize the Committee thereafter to issue an endorsement to the next highest scoring Applicant/Respondent or may issue a new request for proposals and receive applications and evaluate all applicants for licensure under the criteria set forth in the request for proposals.

§ 72-8. Fees; number of licenses.

- A. The number and type of cannabis licenses and the application and annual registration fees therefor

shall be as follows:

Class of License	Application Fee (nonrefundable)	Application Fee (Renewal)	Annual Registration Fee	Number of Licenses within the Borough of Metuchen
Class 3 Cannabis Wholesaler	\$2,500	N/A	\$15,000	2
Class 5 Cannabis Retailer	\$2,500	N/A	\$15,000	3

- B. The initial license registration fee shall be paid within 10 days of applicant's notification that it has received a State permit. Thereafter, the annual registration fee shall be paid to the Borough 10 days prior to each anniversary of the issuance of the license or the notification by the Borough of its intent to renew the license.
- C. Licenses issued pursuant to this chapter shall be personal to the licensee and shall not be transferable.
- D. A separate license shall be required for each class of cannabis business, and a separate application fee and registration fee shall be charged for each type of license.
- E. Licensees shall file an application to renew its cannabis license no later than 60 days from the date of its expiration on a standardized form to be established by the Borough. There shall be no application renewal fee upon timely filed applications for renewal.

ARTICLE III

Suspension or Revocation of License

§ 72-9. Suspension; revocation; non-renewal.

Any suspension, revocation or non-renewal of a license pursuant to this chapter, or any suspension, revocation or non-renewal of a CRC-issued license or permit for the operation, or any adjudication of felony criminal guilt by the cannabis business or its principals shall constitute an automatic revocation of a Borough license issued pursuant to this chapter, at which time the operation shall immediately cease. A criminal adjudication voids and prohibits any future reinstatement of a Borough license.

ARTICLE IV
Enforcement, Violations and Penalties

§ 72-10. Violations and penalties.

Any violation of the terms of this chapter, of any condition of the license, or of any State, or local law or regulation may result in the revocation of the license and may further subject the licensee to any applicable penalties, including but not limited to the general penalties set forth in Chapter 1, § 1-2 of this Code.

§ 72-11. Enforcement.

The provisions of this chapter shall be enforced by the Borough Police Department, Borough Zoning Officer and/or Borough Health Officer as appropriate based on the nature of the violation.

SPECIAL EVENTS

Chapter 75

SPECIAL EVENTS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-15-1997 by Ord. No. 97-20; amended in its entirety 6-26-2023 by Ord. No. 2023-19.³⁴ Subsequent amendments noted where applicable.]

34. Editor's Note: This ordinance also renamed this chapter, previously "Circuses and Carnivals."

ARTICLE I
Special Event Provisions

§ 75-1. Purpose and intent.

The purpose of the within article is to establish special event approval procedures and fees to remediate the impact of such events, and it shall be construed to secure the beneficial interests and purposes thereof, which include public safety, health and general welfare through structural strength, stability, sanitation and safety to life and property from fire and other hazards incidental to the congregation of persons at special events. This article shall ensure that special events do not create disturbances, become nuisances, menace or threaten life, health, and property, obstruct or disrupt, or cause undue, traffic or threaten or damage public property. It is not the intent of this article to regulate in any manner the content of speech or infringe upon the right to assemble, except for the time, place and manner of speech and assembly, and this article should not be interpreted nor construed otherwise.

§ 75-2. Definitions.

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

ABOVE-BASE SERVICE — The cost of providing municipal services, such as public safety and sanitation, in excess of those services and facilities typically provided by the municipality to all other residents.

APPLICANT — The person or group sponsoring or organizing a special event and applying for a special event approval as required under this article.

CARNIVAL, EXHIBITION, FAIR or TRAVELING SHOW — Includes a transient outdoor show or exhibition conducted in a temporary structure, composed wholly or partly of canvas, vinyl or similar material, as a place of amusement or recreation or for any other similar public assemblage in which is conducted, operated or permitted games of chance, skill or partly chance or skill; or wherein goods are given or awarded to persons paying a consideration for a chance or opportunity to win or secure the same as a prize or award; or where concession stands or amusement stands are operated, conducted or maintained.

CIRCUS — Includes a transient show or exhibition typically conducted in a temporary structure, composed wholly or partly of canvas, vinyl or similar material, in which are displayed or exhibited for the amusement or recreation of the general public feats of horsemanship, tumbling, acrobatics and feats of human skill and daring, together with feats of highly trained or unusually skilled animals, either alone or in concert with their tamers, trainers or keepers, as permitted by law, and the performances of those persons garbed or dressed and made up in the costumes and makeup commonly or generally associated with circus clowns. Circuses shall not be permitted within the Borough of Metuchen.

COST RECOVERY CHARGES — Above-base service costs for municipal services charged by the Borough to an applicant in conjunction with a special event permitted under this article.

DEMONSTRATION — A public assembly, a meeting or gathering, a rally or protest event, a political rally or event, speechmaking, marching, the holding of vigils, and all other like forms of conduct, the primary purposes of which is expressive activity or the communication or expression of views or grievances, that: 1) is engaged in by less than 50 persons; or 2) will not occur upon any Borough property, including a street, sidewalk, park or alley, without compliance with the normal and customary traffic regulations or controls governing such places (for example, do not require street, or sidewalk closure or traffic diversion); (which event meeting one or more of these characteristics shall be deemed a special event). The term "demonstration" shall not mean the casual use of Borough property which does not have an intent or propensity to draw a crowd of onlookers.

FARMERS MARKET — A common facility or area where several farmers or growers gather on a regular, recurring basis to sell a variety of fresh fruits and vegetables or other locally grown farm products directly to consumers.

FIRST AMENDMENT ACTIVITY — Expressive and associative activity that is protected by the United States Constitution and/or the New Jersey Constitution, including, but not limited to, speech, press, assembly, and/or the right to petition, for example, but not by way of limitation, a march, an assembly in support of or opposition to a political or social issue, or a vigil, excluding commercial activities.

FLEA MARKET — An open market, usually held outdoors where a variety of goods are sold, including jewelry, household goods, food and other inexpensive items.

NON-PROFIT — An organization or entity which has been duly established and operates in accordance with the New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 et seq., or a similar entity which has been organized under the laws of a jurisdiction other than the State of New Jersey (defined as a "foreign corporation" under N.J.S.A. 15A:1-2f) and which may have obtained federal tax-exempt status under Section 501(c) of the Federal (IRS) Tax Code.

PARADE — Organized public procession on a festive or ceremonial occasion; to march or walk in a procession.

RACE — A competition of speed in which participants utilize various transportation mechanisms to get from one location to another in the shortest period of time, occurring on a Borough street and/or sidewalk; these transportation mechanisms may include, but are not limited to, bicycles, automobiles, and/or running.

RALLY — A demonstration and/or First Amendment activity as that term is defined above.

RUN/WALK — A noncompetitive race in which participants run and/or walk from one location to another on a Borough street and/or sidewalk.

SPECIAL EVENT — A preplanned event or series of events, sponsored by a public or private person or entity, which is:

- A. Located wholly or partially on property owned or maintained by the Borough; or
- B. Permissibly located on any other property and requires for its successful execution the provision and coordination of municipal services to a degree significantly over and above that which the Borough routinely provides; or
- C. Any parade or other event, such as a carnival, fair, concert, exhibition, race, rally, run, walk or walkathon, bicycle race, celebration, sporting event, farmers market, flea market, bonfire, show, or wedding, traveling show, or any other type of large event generating a parking or traffic situation that may interfere with the movement of normal traffic and/or emergency vehicles, taking place in or upon any street, park, or other public place, or private property, in the Borough of Metuchen.
- D. First Amendment activity meeting the above definition of "demonstration" shall not be considered a special event requiring a permit.

§ 75-3. Application of provisions.

This chapter imposes regulatory requirements on certain activities which are held on municipal streets, public or private property defined herein as special events. The requirements imposed by this chapter do not alter, supersede or nullify any requirements contained in other statutes, ordinances or regulations which may also regulate these same activities. These requirements shall be applied in a content-neutral manner

and without discrimination as to race, religion, sex, national origin, political affiliation or other unlawful discriminatory classification. This article shall not apply to the following events:

- A. Events occurring inside permanently established, fully enclosed locations, places of assembly, such as a place of worship, public auditorium, theater, recreation hall, gym, or other enclosed structure designed and approved primarily for housing, hosting an event for such a purpose, provided that the maximum number of persons expected to attend or in actual attendance does not exceed the maximum capacity of the enclosed location or wherein the special event is to be located.
- B. Events in conjunction with school-sponsored and school-related events on school property held in normal course of its operations, which would include sporting events that include at least half of the participants to be students of said school, house of worship events on house of worship property if designed for that use, or government sponsored public hearings. The within exception shall not apply to the lease, license or use of the school or house of worship property to or by a third party.

§ 75-4. Permit required.

Any person or organization desiring to hold any special event as defined herein, must first apply for and obtain a special event permit in accordance with the requirements of this article. Any application for a special event sought to occur at the Metuchen Town Plaza must also fully comply with and meet all of the conditions and requirements of Article 3 of Chapter 124 of the Code of the Borough of Metuchen. Permits for block party street closure permits shall be governed by Article 2 below, §§ 75-16 through 75-19.

§ 75-5. Application.

- A. Any person or organization seeking issuance of a permit hereunder shall file an application with the Borough Clerk, on a form to be provided for that purpose, on which form the applicant shall furnish pertinent information to include, but not be limited to, the following:
 - (1) The name, address, email address and telephone number of the applicant.
 - (2) The name, address, email address and telephone number of the person or persons, corporation, organization or association sponsoring and/or conducting the activities at special event.
 - (3) The name, address and telephone number of the person or persons who will chair the special event and be responsible for the conduct thereof. If this individual is a participant in the event, then the name, address and telephone number of a nonparticipant who can be reached during the event.
 - (4) The address of all property upon which the special event is to be held, together with the name and address of the record owners of such property. Proof of ownership of all property upon which the special event is to be held or a statement under oath by the record owner or owners of all such property for an outdoor special event of 50 people or more for the purpose set forth on the application.
 - (5) The specific nature and purpose of the special event, together with a schedule of all events, activities or acts and examples of the proposed advertising of the event, if any, together with the names of the performers who will be performing at the special event.
 - (6) A detailed description of the proposed event and a sketch that shows location of the event, the area or route to be used, along with proposed structures, tents, fences, barricades, signs, banners and restroom facilities, more commonly referred to as a "footprint." The sketch or plan of the

proposed site, should include the area where the special event will be situated, the location and routes of ingress and egress, all proposed parking areas, driveways and roads as they relate to traffic flow, traffic control and safety measures, fire access lanes and lanes for other emergency vehicles should be shown on the sketch or plan.

- (7) The date(s) and hours for which the permit is desired, and proposed rain date if requested.
 - (8) Complete details as to how the applicant intends to provide for security, traffic control, adequate toilet and other sanitary facilities, site cleanup, separation of recyclables and disposal of trash and debris and parking (and in particular, whether any temporary parking areas will be required). Applicant shall also include the number of staff, including security personnel.
 - (9) The number of attendees, participants, spectators, contestants, admission tickets to be sold, and/or other people that are reasonably anticipated to attend the event, as well as the number of the proposed vehicles.
 - (10) The plans for sound control and sound amplification, if any, including the number, location and power of the amplifiers and speakers, together with the applicant's proposal to confine the sound to the area of the special event. In addition, provide whether any music will be either live or recorded or whether any other unusual noise will accompany the event.
 - (11) A detailed description of the Borough's resources or services that are anticipated to be required to be provided in connection with the event, police, fire, and/or emergency.
 - (12) All required licenses where appropriate, i.e., for alcoholic beverage consumption or service, use of tents, conducting of raffles, or other licenses, approvals or permits required to conduct the event.
 - (13) The name of the company or firm, address and telephone number which will provide insurance for indemnification.
 - (14) The name, address and telephone number of person(s) responsible for clean up at the conclusion of the special event.
 - (15) Such other information as the Borough Administrator, Chief of Police, Fire Department and/or Board of Health may deem necessary in order to properly provide for traffic control, street and property maintenance and the protection of the public health, safety and welfare.
 - (16) Any applicant claiming status as a nonprofit organization shall be required to provide the necessary documentation to that effect.
 - (17) A nonrefundable application fee in the amount of \$100.
- B. Upon verification that the application is complete, the Borough Clerk shall refer the application to the Borough Administrator and Chief of Police for preliminary review in accordance with this article. The Borough Administrator and/or Chief of Police may require the applicant to supplement its application with any pertinent documentation that may be of assistance in their review of the application. The Borough Administrator and/or Chief of Police may also require the applicant to meet to discuss the proposed special event during the consideration of whether to issue a permit and/or after the issuance of the permit.
- C. All completed applications must be submitted to the Borough Clerk or his or her designee at least 60 days prior to the desired event, unless the applicant receives a waiver of this requirement from the

Mayor and/or Borough Council, or unless the application is for a special event of the type covered by Subsection D below. The Borough reserves the right to reject an application if fees for a prior year's event have not been paid in full or if the applicant is delinquent in payment of any Borough taxes, fines or fees.

- D. Demonstrations and/or First Amendment activities. Applications for a First Amendment activity not encompassed within the definition of a "demonstration" shall be processed by the Borough no later than five business days prior to the date and time the event is proposed to occur. In order to preserve the health, safety and welfare of the Borough residents and guests and the general public, the Borough still requires the receipt of a completed application. If the Borough does not have the opportunity to complete its review prior to the Borough's approval under these expedited circumstances, the Borough reserves the right to modify the authorized duration, route and/or location of the event based on content neutral public health, safety and welfare concerns, including, but not limited to, accommodations for pedestrians, vehicular traffic, staffing availability, and emergency vehicle access. Notwithstanding anything to the contrary herein, the Borough Administrator shall have the discretion to waive these time periods, in the interest of accommodating the free expression of opinion. Such waiver shall not be unreasonably withheld but can be denied upon a finding that the Borough would be unable to provide for legitimate health, safety and traffic concerns. If a waiver is denied, all efforts shall be made to find alternative avenues for the applicant to reach his or her intended audience.
- E. Any person or organization seeking issuance of multiple permits throughout the course of a calendar year are strongly encouraged to and may request an appointment with the Borough Administrator and Borough Clerk, prior to and for the submission of an applications to the Borough for more than one special event permit hereunder. In such a case, the Borough Administrator shall consider a reduction in the \$100 application fee for each of the special events permits. Otherwise, to the extent that multiple special event permits are required by said person and/or organization a separate application fee and all of the requirements of this chapter shall be met.
- F. Applicants shall not advertise or promote, either in printed, digital or electronic format on the internet and/or social media platforms prior to obtaining a special events permit. Premature advertising and/or promotion may be sole grounds for denial of the permit.

§ 75-6. Standards.

- A. The standards for the issuance of a permit pursuant to this article by the Borough Administrator shall include, but shall not necessarily be limited to, the following findings:
 - (1) That the proposed event will not unreasonably interfere with or detract from the general public's enjoyment of public parks, facilities, roadways, or facilities to be utilized.
 - (2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation.
 - (3) That the proposed activity and uses that are reasonably anticipated will not be likely to include violence, crime or disorderly conduct.
 - (4) That the facilities desired have not been reserved for other use at the date and hour requested in the application.
 - (5) That the applicant will maintain premises in the same condition which existed prior to the event.

- B. The Borough Administrator and/or Chief of Police may consider the following factors when considering if a special event requires cost recovery charges and the employment of above-base municipal services beyond the regularly scheduled shift or the employment of a private contractor:
- (1) The number of anticipated attendees.
 - (2) The size of the geographical area for which this special event requires municipal services.
 - (3) Whether the event historically has, or is likely to, produce an excessive amount of traffic garbage, trash and litter.
 - (4) The proximity of the special event to residential areas or the likelihood that garbage from a special event will affect residential areas.
 - (5) The proximity of the special event to bodies of water or any natural resource that should be protected from garbage and pollution.
 - (6) The likelihood that garbage from the event could constitute a fire hazard.
 - (7) The number of special events, the person and/or organization has conducted throughout the course of the calendar year.

§ 75-7. Hours of operation; rules of conduct.

- A. Hours of operation. All special events shall be conducted between the following hours only:
- (1) Monday through Friday: 9:00 a.m. to 10:00 p.m.
 - (2) Saturday: 9:00 a.m. to 10:00 p.m.
 - (3) Sunday: 11:00 a.m. to 10:00 p.m.

§ 75-8. Conditions of approval; temporary closing of streets.

- A. The Borough Administrator and/or Chief of Police may impose any such conditions reasonably calculated to reduce or minimize dangers and hazards to vehicle or pedestrian traffic and the public health, safety, and welfare, including, but not limited to, changes in the date, time, duration or number of participants as requested by the applicant.
- B. Prior to the approval of a permit by the Borough Administrator, the Chief of Police shall determine whether in his or her judgment the presence of off-duty Metuchen police officer(s) shall be required at said special event. If the presence of off-duty police officer(s) is deemed necessary by the Chief of Police, the applicant shall agree to pay for such off-duty police officer(s) at the rate of pay established by the Mayor and Council for off-duty police officers.
- C. For the purpose of public safety and welfare, the Chief of Police is authorized, with prior notice to the Mayor and Borough Council, to temporarily close Borough roads or streets for a period of 24 hours and/or temporarily prohibit parking along the same during the event. The sponsor(s) of the event shall be responsible for direct notification located to each residence on the street or roadway to be temporarily closed or where specific parking prohibitions have been approved by way of a mailing approved by the Chief of Police.
- D. Where the event will take place and/or will impact the normal flow of traffic on any street or road, public notice in the form designated by the Chief of Police shall be developed and approved by the

Chief of Police prior to conducting said event.

§ 75-9. Fees.

- A. All applicants for special event permits shall be required to pay a nonrefundable application fee, and a \$100 permit fee, as well as all other fees that are determined to be necessary by the Borough Administrator, in consultation with the Chief of Police and other appropriate Borough officials and employees depending upon the nature and extent of the proposed activity. The application fee shall be due and payable at the time that an application is submitted.
- B. Other fees that may be required include, but are not necessarily limited to, above-base service costs, including costs associated with the provision of police and/or fire supervision, emergency and sanitation services, staffing, use of Borough-owned property and/or use of Borough-owned vehicles or equipment and the creation and/or use of temporary parking areas.
- C. Applicants shall be provided with an estimate of required fees by the Borough Administrator after review of the contents of the application. All required fees shall be due and payable at least five days prior to the event. In addition to the fees payable prior to each event, the applicant shall be required to pay for any and all additional or unanticipated expenses which were occasioned or become necessary during or after the special event, as a result of the special event.

§ 75-10. Waiver of fees.

The Borough Administrator may waive, some or a portion of the fees provided for in this chapter upon the written request of any civic association, charitable association or nonprofit corporation. The Borough Administrator may consider the following factors when considering a civic association, charitable organization, and/or nonprofit corporation's request for waiver of any fee or portions thereof:

- A. Benefit to the residents of Borough of Metuchen from the civic association, charitable organization, and/or nonprofit corporation's activities.
- B. Benefit to residents of the area from the civic association, charitable organization, and/or nonprofit corporation's activities.
- C. Amount of money expected to be raised by the civic association, charitable organization, and/or nonprofit corporation by the activity for which the waiver is requested.
- D. Percentage of amount raised by the civic association, charitable organization, and/or nonprofit corporation through the activity for which the waiver is requested, which is expended on costs and administrative expenses.
- E. Dollar amount of fees to be waived.
- F. Above-base services of the Borough attributable to the activity for which the waiver is requested become necessary during or after the event, as a direct result of the event.
- G. The number events that such civic association, charitable organization, and/or nonprofit corporation's has conducted over the course of the calendar year. In the event that more than two special events have been conducted in a single month, the Borough will not waive any such fees.

§ 75-11. Responsibility; liability; performance guarantee/security deposit; insurance coverage and indemnification.

A. Responsibility.

- (1) It shall be the permit applicant's responsibility to secure all necessary other permits, licenses and/or approvals which may be required (i.e., by state, local or other outside agencies), in conjunction with the proposed event.
- (2) All permit applicants shall assume all risks associated with premature advertisement of any event prior to the time of issuance of a permit by the Borough Administrator, as well as any and all other costs which may have been expended prior to the time of official approval of the application by the Borough Administrator.
- (3) All permit holders shall be required to abide by all requirements set forth in the permit, as well as all Borough ordinances, state statutes (including, but not limited to, the New Jersey Riot Act, N.J.S.A. 2C:33-1 et seq. and New Jersey's Nosey's Law, N.J.S.A. 23:2A-16, prohibiting the use of wild and exotic animals in traveling animal acts), and all other rules and regulations which may be applicable to the special event.
- (4) All permit holders shall be responsible for any and all additional costs that are incurred as a result of the event, including costs which may not have been foreseen at the time that the permit was issued but which becomes necessary, such as costs associated with additional resources provided by the Borough, including, but not limited to, manpower and/or equipment costs, police and/or fire supervision, emergency services, cleanup activities, etc.
- (5) Any personnel provided by the Borough (i.e., police, fire, emergency, public works or other Borough employees) in connection with any special event sponsored by an outside party shall not be considered employees or agents of the outside party.

B. Liability; performance guarantees/security deposit.

- (1) All permit holders shall be liable for all losses, damages and/or injuries sustained by any person whatsoever by reason of the special event or activities associated with the special event.
- (2) The terms of this article shall not be construed as imposing upon the Borough or its officers or employees any liability or responsibility for any injury or damage to any person in any way connected to the use for which the permit was issued. The Borough and its officials and employees should not be deemed to have assumed any liability or responsibility by reason of any inspections performed, the issuance of any permits, or the approval for use of any Borough property or private property in connection with a permit issued hereunder.
- (3) All permit holders shall assume full responsibility for the acts and conduct of all attendees, persons admitted to the event by or with the consent of the permit holder, or of any person acting for or on behalf of the permit holder.
- (4) If any portion of Borough property or other premises where the event is held is damaged by the act or omission of the permit holder, or by the permit holder's agents, employees, patrons, customers, guests, invitees, attendees, or any other person admitted to the premises by the permit holder, the permit holder shall be responsible for all costs associated with restoration of the property or premises to the condition that existed prior to the occurrence of such damage. The amount of such damage shall be considered an additional fee.
- (5) A refundable security deposit in the amount of \$500, which shall be posted in the form of cash or by check, or a refundable security deposit in another amount (also to be posted in the form of cash or by check) as determined in the sole discretion of the Borough to be sufficient to cover

any damages which may be occasioned as a result of the special event or to ensure compliance with all terms and conditions imposed by the Borough Administrator and/or Chief of Police in connection with issuance of the permit. The refundable security deposit shall be required to be posted at least 10 days prior to the event.

C. Insurance coverage.

- (1) All permit holders must submit minimum liability insurance coverage in an amount to be determined by the Borough Administrator, depending upon the size and nature of the event planned. The Borough of Metuchen, its officers, employees, agents and representatives must be named as additional insured parties on the policy. Proof of said insurance coverage shall be provided to the Borough at least five days prior to the event.
- (2) The applicant shall be required to submit to the Borough Clerk, a certificate of insurance from an insurance company licensed to do business in New Jersey, in the amount of \$2,000,000 of liability per occurrence, or \$1,000,000 of liability per occurrence plus \$1,000,000 of umbrella liability per occurrence, naming the Borough of Metuchen as additional insured for the date of the event.

D. Indemnification. All permit holders shall defend, indemnify and hold the Borough of Metuchen, its officers, employees, contractors, agents and representatives harmless from and against any and all liability for claims, demands, damages, suits, judgments, fines, losses and expenses, of any nature, which are sustained as a result of the special event, and shall execute an indemnification and hold harmless agreement in a form acceptable to the Borough prior to the event.

§ 75-12. No rights conveyed; revocation of permit.

All permits issued pursuant to this article shall be temporary and do not invest any permanent or continuing rights. No permit issued pursuant to this article shall convey any right, interest or title in any Borough property to the permit holder. Any permit may be revoked at any time by the Borough Administrator and/or the Chief of Police for violation of the conditions for which the permit was issued, or for violation of any ordinance which relates to the conducting of the event, for violation of any of the terms of this chapter, or violations of any other law, regulation, code or Borough Ordinance by the permit holder, the permit holder's agents, employees, patrons, customers, guests, invitees, attendees, or any other person admitted and/or when the event is found not to be in the best interests of the Borough, or for other good cause shown.

§ 75-13. Permit nontransferable.

Permits issued for special events shall not be transferrable.

§ 75-14. Denial of permit.

The standards for denial of a permit pursuant to this chapter shall include, but shall not necessarily be limited to, the following:

- A. That the proposed event will disrupt traffic within the Borough beyond practical solutions.
- B. That the location of the special event will cause undue hardship to adjacent property owners.
- C. That the proposed event will require the diversion of so many public employees that allowing the event would unreasonably deny service to, or jeopardize the safety of, the remainder of the Borough's residents.

- D. That the application contains incomplete or inaccurate information, or that the applicant has failed or refused to provide necessary information upon request from the Borough.
- E. That the proposed event is not permitted by law, statute, regulation, code and/or Borough ordinance, or the applicant has failed to demonstrate that all necessary permits, licenses, permissions have been or may be secured for the special event and/or activities proposed thereat.
- F. That the application fails to comply with all terms of this chapter, including the failure to remit all fees or deposits, or the failure to provide proof of proper liability insurance coverage, or the failure to execute an indemnification and hold harmless agreement, or the failure to provide a performance bond or cash security deposit when required by the Borough Administrator, or for any other violation of the terms and conditions of this chapter.

In addition, the Borough may deny the issuance of a special events permit if an applicant has publicly advertised in print, digital or electronic format on the internet or on social media platforms, prior to receiving a special event permit issued by the Borough.

§ 75-15. Appeal.

- A. Within five days after the receipt of the denial for a permit, any aggrieved person, entity or group shall have the right to appeal to the Mayor and Council President by submitting a formal written request. The Mayor and Council President shall consider the request for an appeal and shall provide the applicant with a decision, in writing, no later than 14 days in advance of the proposed date for the special event.
- B. In considering the request for appeal, the Borough officials may request further information from the applicant or from any other person or entity.
- C. In addition to the criteria set forth in § 75-13, the following will be considered in the review of the request to appeal:
 - (1) A report of the Borough Administrator or other Borough official providing for the reasons for the denial and any information provided by the applicant;
 - (2) Whether the application form and/or the information provided by the applicant was complete and accurate;
 - (3) Whether the applicant is able to provide the Borough with the adequate protection for the public health, safety, welfare and protection of property.
- D. The decision of the Mayor and Council President shall be final. In the event that the Mayor and Borough Council President are unable to agree upon the determination of the appeal, the appeal shall be submitted to the entire Borough Council for a determination of the appeal, with the Mayor being able to vote in the case of a tie.

ARTICLE II
Block Parties

§ 75-16. Definitions.

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

BLOCK — A designated area with the public street shall be closed for a neighborhood party.

PARTY — A neighborhood block party, celebration or event, but shall not include a garage sale, yard sale, bazaar, rummage sale having the principal purpose as revenue generating, fundraising for an individual or organization, nor shall it include a political meeting or rally, carnival or theatrical or musical performance such as a concert or similar events.

STREET — A Borough of Metuchen street, highway or road.

§ 75-17. Permit required; limitation.

No person, association, or group except for the Borough shall cause or permit a municipal street to be closed for the purpose of conducting a block party, without first having obtained a permit therefor issued by the Borough Clerk after approval; of such temporary street closing by the Council of the Borough of Metuchen ("block party street closure permit"). Block party street closure permits shall be limited to two per calendar year per block/area or portion of street.

§ 75-18. Permit applications.

- A. Applications for block party street closure permits shall be made to the Borough Clerk at least 45 days before the date selected for holding of the block party and shall be made on the official forms furnished by the Borough for that purpose.
- B. The block party street closure permit application shall contain:
 - (1) A designated contact person, including their name, address, telephone and email address.
 - (2) The date and period of time for such temporary street closings.
 - (3) Explanation of the extent and nature of the proposed temporary street closing, including the estimated amount of people to attend the event.
 - (4) Sketch of the location of any and all barriers to be provided by the Borough to be used in restricting the flow of vehicular traffic through the closed street. The sketch shall also include the proposed location and description of any temporary items to be placed in the roadway, i.e., tables and/or chairs. All items and/or equipment placed upon the street must be temporary and readily available to be removed in able to permit emergency vehicle access. Temporary rides, bounce houses and other amusements are not permitted to be located in the roadway during the block party.
 - (5) Signed acknowledgement of at least 75% of the property owners affected by the street closing acknowledging that no motor traffic will be permitted during the block party except for vehicles used in connection with the block party, municipal vehicles and emergency vehicles.
 - (6) Copy of letter sent to all residents of the street providing notification of the proposed block party with a representation of service of the letter upon the residents.

- C. Application fee. There shall be a nonrefundable application fee of \$25 for a block party street closure permit.
- D. Referral to the Chief of Police. Upon receipt of a completed application the Borough Clerk Shall refer the application to the Chief of Police or their designees for evaluation based upon the following objective criteria:
- (1) The conduct and location of the block party will not substantially interrupt or impede the safe and orderly movement of traffic.
 - (2) The conduct of the block party will not be likely to result in damage to persons or property nor likely to cause serious harm to the public.
 - (3) The conduct of the block party will not interfere with the movement of first aid or firefighting equipment to such an extent that adequate fire protection cannot be provided to the Borough.
 - (4) The conduct of the block party will not require an increased amount of public resources to ensure the safety of the block party participants and/or the drivers on municipal roadways.
 - (5) Such other concerns deemed necessary in order to properly provide for traffic control, street and property maintenance and the protection of public health, safety and welfare.
- E. Municipal Council permit issuance and denial standards.
- (1) Standards for issuance. The Borough Council may authorize the issuance of a block party street closure permit conditioned upon the applicants written agreement to comply with the terms of such permit unless the Borough Council is advised by the Borough administration or a department thereof that:
 - (a) The time, size and location of the block party will disrupt to an unreasonable extent the movement and flow of traffic;
 - (b) The block party is of a size or nature that the diversion of so great a number of police officers of the Borough that reasonable police protection would be jeopardized;
 - (c) The time, size and location of the block party will require an increased amount of public resources to ensure the safety of the block party participants and/or the drivers on municipal roadways;
 - (d) Said block party will interfere with another block party street closure permit or special event which has already been issued by the Borough;
 - (2) Standards for denial. The Borough Council may deny an application for a block party street closure permit and the Borough Clerk shall notify the applicant of such denial where:
 - (a) The Borough Council makes any finding contrary to the findings required to be made for the issuance of the permit;
 - (b) The information contained in the permit application is found to be false, inconsistent or nonexistent in any material detail;
 - (c) The applicant refuses to agree to abide by or comply with all of the conditions of the permit;
 - (d) The proposed block party prevent emergency vehicles to provide timely responses to calls

for services;

- (e) A block party street closure permit of a similar portion of the proposed roadway or roadways has been issued on two occasions within 12 months of the requested date;
 - (f) More than 25% of the residences affected by the block party closure permit application have not signed the application form.
 - (3) After the Borough Council's approval or denial of the application for a block party street closure permit, the Borough Clerk shall notify the designated contact representative in the application of the Borough's Council's determination.
- F. Term of permit. The block party street closure permit shall be valid for a period not to exceed eight continuous hours. Notwithstanding the forgoing, no block party street closure agreement shall extend beyond the earlier of 10:00 p.m.

§ 75-19. Permittee responsibility; revocation of permit.

A. Responsibilities of permittee.

- (1) If a block party street closure permit is granted by the Borough Council, the person association, or group that is granted the permit shall be responsible for conducting the operations so authorized in such a manner that there shall be minimum inconvenience and/or disruption to the general public and, upon the expiration of the permit, such street shall be reopened free of any debris, refuse, or other material interfering with the safe and free passage of pedestrians, vehicles and traffic.
- (2) The applicant shall be solely responsible for the removal of litter, debris, and other material from the street or portion thereof used and is attributable to or caused by the block party. The applicant shall also be solely responsible to take all necessary measures to prevent the underage consumption of alcohol during the term of the block party street closure permit.
- (3) The persons, organizations or associations to whom the block party street closure permit agrees to save the Borough, its officers, employees and agents harmless from any and all losses, liabilities, damages or injuries which may accrue or be claimed to accrue by reason of, or during the temporary street closing and/or block party. The submission of the signed application under this article shall constitute such agreement. The Borough Clerk, in consultation with the Borough Administrator, shall have the option to require that prior to the issuance of the permit or commencement of the temporary street closure, the applicant submit evidence of liability insurance covering damages to property and injury to members of the general public arising out of the temporary street closure in such an amount as may be determined by the Borough Administrator in consultation with the Borough's Risk Manager.
- (4) Deposit. A security deposit will not be required unless the applicant has had prior negative experience with a street closure with the Borough. Prior negative experience is defined as the failure to return the closed street and surrounding areas, staging areas and breakdown areas to a condition free of debris, litter, refuse or other materials that interfere with the safe and free passage of pedestrian and vehicles.

- B. Revocation of permit. Any block party street closure permits issued pursuant to this article may be summarily revoked by the Chief of Police and/or the Borough Administrator and/or their designee/s at anytime, when by reason of disaster, public calamity, riot or other emergency or any other situation

that the Chief of Police and/or the Borough Administrator and/or their designee/s deems that the safety of the public, including the participants at the block party, or property requires such revocation or that the permittee has violated any of the required conditions of the permit or this article. Notification of such action revoking a permit shall be delivered by contacting the designated contact person set forth in the application.

§ 75-20. Alcoholic beverages/open container area.

Pursuant to P.L. 2021, c. 395,³⁵ the Borough designates the specific area for which a block party street closure permit is issued as an open container area and it shall be lawful for any person who is at least 21 years of age to consume open containers of alcoholic beverages outdoors on any street in the Borough of Metuchen on which a block party street closure permit has been issued by the Borough for the hosting of a residential block party, but only during such times and at such locations as set forth in the approved block party street closure permit, provided that said street has been sufficiently closed to vehicular traffic and no vehicular traffic is permitted to travel upon same during the times of such activity.

§ 75-21. Violations and penalties.

- A. Violations of this chapter, the failure to comply with any condition, requirement or provision of the permit, or otherwise violations of any ordinance, rule or regulation that is applicable to the event by the permit holder, permit holder's agents, employees, patrons, customers, guests, invitees, attendees, or any other person admitted shall be grounds for revocation of the special event permit or block party street closing permit approval. Upon such revocation, all activities associated with the event shall be immediately terminated.
- B. Any person who violates any subsection of this article for sponsoring a special event or block party determined to be a public health or safety hazard, or for failure to obtain an approval, shall be subject to the penalties set forth in Chapter 1, General Provisions, Article 1, of the Borough Code. Each day's continued violation shall constitute a separate offense.
- C. Nothing provided herein shall be deemed or construed to limit the authority or ability of the Borough to seek civil injunctions to prohibit violations of this article or any other lawful remedy, in addition to the criminal penalties set forth in this article.

35. Editor's Note: See N.J.S.A. 33:1-24.4 et seq.

Chapter 78**CONSTRUCTION CODES, UNIFORM**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 12-27-1976 by Ord. No. 76-33. Amendments noted where applicable.]

§ 78-1. State Uniform Construction Code Enforcing Agency.

- A. There is hereby established in the Borough of Metuchen, a State Uniform Construction Code enforcing agency to be known as the Code Enforcement Agency, consisting of a Construction Code Official, Building Subcode Official, Plumbing Subcode Official, Electrical Subcode Official, and/or agency, Fire Protection Subcode Official and such other subcode officials for such additional subcodes as the Commissioner of the Department of Community Affairs of the State of New Jersey shall hereafter adopt as part of the State Uniform Construction Code. The Construction Code Official shall be the chief administrator of the enforcing agency. In lieu of an appointment of an Electrical Subcode Official or a contract with an electrical on-site inspection agency, the existing electrical inspection authorities may continue to operate as per N.J.A.C. 14:5-71.1 et seq. until the Borough of Metuchen directly contracts with same, but in no case shall such existing electrical inspection authorities continue after January 1, 1978, except in conformity with Article 36 of the Regulations of the New Jersey Administrative Code. The Plumbing Inspector currently employed by the Metuchen Board of Health shall be removed therefrom and shall assume the position of Plumbing Subcode Official pursuant to the law made and provided therefor, and under the terms and conditions hereof. **[Amended 9-15-1997 by Ord. No. 97-20]**
- B. Each official position created in Subsection A hereof shall be filled by a person qualified for such position pursuant to N.J.S.A. 52:27D-119 et seq., as amended, and N.J.A.C. 5:23, provided that in lieu of any particular subcode official, an on-site inspection agency may be retained by contract pursuant to N.J.A.C. 5:23. More than one such official position may be held by the same person, provided that such person is qualified pursuant to N.J.S.A. 52:27D-119 et seq. and N.J.A.C. 5:23 to hold each such position.
- C. The public shall have the right to do business with the Code Enforcement Agency at Borough Hall, corner of Main Street and Middlesex Avenue, Metuchen, New Jersey, except for emergencies and unforeseen or unavoidable circumstances.

§ 78-2. Schedule of fees. [Last amended 9-13-2021 by Ord. No. 2021-16]

- A. Definitions. Unless defined herein, all terms shall have the meanings described in the State Uniform Construction Code or as commonly understood in the construction industry unless the context indicates a different meaning.

COLLECTION OF FEES — All fees required for plan review and for the issuance of any permit or certificate shall be collected prior to the issuance of the permit or certificate. Fees shall be computed in accordance with the requirements and standards set in the State Uniform Construction Code and in accordance with the following fee schedule.

COMMERCIAL — All other use groups which are not R-5 use group, including but not limited to A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-2, I-3, I-4, M, R-1, R-2, R-3, R-4, S-1, S-2, U.

CONSTRUCTION PERMIT — The fee for a construction permit shall be the sum of the subcode fees, certificate fees, state fees, etc.

PLAN REVIEW FEE — Twenty percent of the construction permit fee shall be deemed to be the plan review fee. Plan review fees shall not be refundable.

RESIDENTIAL — Only use group R-5.

B. Construction fees.

(1) Plan review fees (N.J.A.C. 5:23-4.18).

- (a) The fee for a construction permit shall be as follows, and shall be paid before issuance of the construction permit:

[1] DCA training fees: In accordance with N.J.A.C. 5:23-4.19(b) per the State Uniform Construction Code.

- (b) Twenty percent to be paid for plan review and prototype plans is nonrefundable.

- (c) Request for permit refund. The amount paid as the plan review fee will be deducted from the total permit fee upon issuance. The plan review fee of 20% is nonrefundable.

(2) Variation fees.

- (a) N.J.A.C. 5:23-2.10 application for variation for:

[1] Use group R-5: \$120 per subcode.

[2] All other use groups: \$500 per subcode.

(3) Certificate of occupancy (CO).

- (a) Use group R-5: \$100.

- (b) All other use groups: \$200.

- (c) Continued use of occupancy (CCO).

[1] Use group R-5: \$50 per subcode.

[2] All other use groups: \$75 per subcode; \$50 per subcode for reinspection.

- (d) Change of use.

[1] All use groups: \$75 per subcode; \$50 per subcode for reinspection.

- (e) Temporary use/structure.

[1] Use group R-5: \$100.

[2] All other use groups: \$200.

- (f) Temporary trailer.

[1] Use group R-5: \$100.

[2] All other use groups: \$150.

- (g) Temporary certificate of occupancy.

- [1] All use groups: \$30.
- (4) Building subcode fee schedule:
 - (a) New construction.
 - [1] Use group R-5: basic volume multiplied by 0.030: cubic feet x 0.030.
 - [2] All other use groups: basic volume multiplied by 0.035: cubic feet x 0.035.
 - (b) Footing and foundation partial release all use groups: cubic feet x 0.035.
 - (c) Open area buildings as per the Uniform Construction Code 5:23-4.18(c)1vi: cubic volume x 0.024.
 - (d) For alterations, repairs, renovations, reconstruction, or work that cubic volume cannot be calculated, the fee will be based on cost of the work.
 - [1] Use group R-5: \$30 x \$1,000.
 - [2] All other use groups: \$35 x \$1,000.
 - (e) Antenna, dish, etc.
 - [1] Use group R-5: \$75.
 - [2] All other use groups: \$250.
 - (f) Asbestos removal, administrative fee: \$120.
 - [1] For educational and public buildings subject to the provisions of Subchapter 8 plus certificate of occupancy: \$24.
 - (g) Demolition.
 - [1] Residential structures.
 - [a] Use group R-5: \$500.
 - [b] Garages, decks, pools, utility sheds: \$100.
 - [2] All commercial structures and other groups: \$1,500.
 - (h) Fences.
 - [1] Residential R-5: \$75.
 - [2] All other use groups over six feet or pool barriers: \$35 per \$1,000.
 - (i) Pool.
 - [1] Private, above ground: \$75.
 - [2] Private, in-ground: \$150.
 - [3] Public: \$250.
 - (j) Roofing and siding.

- [1] Use group R-5: \$30 per \$1,000.
 - [2] All other use groups: \$35 per \$1,000, contract required.
- (k) Shed.
 - [1] Use group R-5: \$75.
 - [2] All other use groups: \$150.
- (l) Signs.
 - [1] All use groups: \$3.50 per square foot or minimum fee of \$75.
- (m) Tent, temporary structure.
 - [1] Use group R-5: \$75.
 - [2] All other use groups: \$150.
- (n) Temporary trailer.
 - [1] Use group R-5: \$75.
 - [2] All other use groups: \$250.
- (o) Fireplace, woodstove, fire pits.
 - [1] Use group R-5: \$100.
 - [2] All other use groups: \$200.
- (p) Change of contractor.
 - [1] Use group R-5: \$75.
 - [2] All other use groups: \$125.
- (q) Minimum fee.
 - [1] Use group R-5: \$75.
 - [2] All other use groups: \$125.
- (r) For items not listed above, fee shall be based on cost of alterations/installation at \$30 per \$1,000 with a minimum fee of \$75 for R-5 and \$35 per \$1,000 with a minimum fee of \$125 for all other Use groups, including, but not limited to, A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-1, I-2, I-3, I-4, M, R-1, R-2, R-3, R-4, S-1, S-2, and U.
 - [1] Special inspection request on off-duty hours: \$250.
- (5) Elevator devices (N.J.A.C. 5:23-12.4). New elevator and elevator test shall be performed by a State Subcode Department of Community Affairs (DCA) Inspector by approved resolution and in accordance with N.J.A.C. 5:23.12.
- (6) Electrical subcode fee schedule.

(a) Devices.

Number of Devices	Use Group R-5	All Other Use Groups
1 to 10	\$50	\$100
11 to 50	\$100	\$150
Add \$25 per each group of 25 devices, or fraction thereof, over 51 count		

(b) Electrical services.

Amperes	Use Group R-5	All Other Use Groups
Up to 100 AMPS	\$100	\$125
101 to 200 AMPS	\$125	\$150
201 to 300 AMPS	\$150	\$200
301 to 400 AMPS	\$200	\$300
401 to 800 AMPS	\$300	\$400
Over 800 AMPS: add \$100 per each additional 100 AMPS, or fraction thereof.		
Reconnect service	\$75	\$100

(c) Subpanels, disconnects and control panels.

Amperes	Use Group R-5	All Other Use Groups
Up to 100 AMPS	\$50	\$100
101 to 200 AMPS	\$75	\$125
Over 200 AMPS: add \$25 per each 100 AMPS, or fraction thereof.		
Meter change only	\$75	\$125

(d) Feeders.

Action	Use Group R-5	All Other Use Groups
Relocate, replace or add new	\$50	\$75

(e) Pools.

Type/Action	Use Group R-5	All Other Use Groups
Aboveground	\$75	\$125
In-ground	\$150	\$250
Over 1,200 square feet	\$250	\$500

Type/Action	Use Group R-5	All Other Use Groups
Bonding	\$75	\$125
Annual pool inspection		
One pool		\$200
Additional pool		\$100
Spa-hot tub	\$100	\$150
Fish pond	\$100	\$150
Hydro tub	\$75	\$150

(f) Transformers.

Kilovolts	Use Group R-5	All Other Use Groups
Up to 10 KVA	\$75	\$100
11 to 45 KVA	\$100	\$125
46 to 112.5 KVA		\$200
113 to 500 KVA		\$500
Add \$50 for each 100 KVA or fraction thereof over 500 KVA.		

(g) Motors.

Horsepower	Fee
Less than 1 HP	\$10
1 to 5 HP	\$40
6 to 25 HP	\$75
26 to 50 HP	\$100
51 to 100 HP	\$150
Add \$50 for each 50 HP or fraction thereof over 100 HP	

(h) Automatic transfer switches.

Amperes	Use Group R-5	All Other Use Groups
Up to 100 AMPS	\$50	\$100
101 to 200 AMPS	\$75	\$125
201 to 400 AMPS	\$100	\$150
401 AMPS up add \$50 for each 100 AMPS or part		

(i) Generators.

Kilowatts	Use Group R-5	All Other Use Groups
Up to 10 KW	\$50	\$100
11 to 25 KW	\$100	\$150
26 to 50 KW	\$150	\$250
51 to 100 KW	\$200	\$300
101 to 300 KW		\$500
Add \$100 for each 100 KW or fraction thereof over 300 KW		

(j) Light poles (each).

[1] Use Group R-5: \$50.

[2] All other use groups: \$125.

(k) Equipment.

Type	Use Group R-5	All Other Use Groups
A/C and air handler	\$75	\$125
Boilers/furnaces	\$75	\$125
Radon fan	\$75	\$125
HVAC CU	\$75	\$125
Kitchen appliances (fixed in place)	\$75	\$125
Electric water heater	\$75	\$125
Battery chargers	\$75	\$125
Signs (each)	—	\$125

(l) Solar systems.

Kilowatts	Use Group R-5	All Other Use Groups
1 to 50 KW	\$75	\$125
51 to 100 KW	—	\$250
Over 101 KW	—	\$500
Utility grid tie	\$75	\$125
(All related equipment to be itemized for fees)		

(m) Alarm systems (burglar, fire, CCTV, access, etc.).

Note: R-5 alarm systems exempt 3-5-2018.

Number of Devices	Use Group R-5	All Other Use Groups
1 to 15 devices	\$50	\$75
Add \$5 for each additional 5 devices or fraction thereof over 15		
Alarm panels	\$50	\$125

- (n) Irrigation systems: \$125.

Note: R-5 irrigation systems exempt 3-5-2018.

- (o) Minimum fee.

[1] Use Group R-5: \$75.

[2] All other use groups: \$125.

- (p) Change of contractor.

[1] Use Group R-5: \$75.

[2] All other use groups: \$125.

- (q) Voltages in excess of 600 volts AC fees shall be \$ 75 per \$1,000 of estimated job costs (with a minimum fee of \$500).

- (r) Plan review fee shall be 20% of electrical subcode fees, and nonrefundable. (Fee is subject to percentage of estimated costs, or itemized listing fees.)

- (s) Fee for devices not listed above shall be based on cost of alterations/installation at \$30 per \$1,000 with a minimum fee of \$75 for R-5 and \$35 per \$1,000 with a minimum fee of \$125 for all other use groups, including, but not limited to, A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-1, I-2, I-3, I-4, M, R-1, R-2, R-3, R-4, S-1, S-2, and U. Special inspection request on off-duty hours \$250.

- (7) Plumbing subcode fee schedule.

Type	Use Group R-5	All Other Use Groups
Bathtub	\$20	\$30
Condensate line	\$20	\$30
Dishwasher	\$20	\$30
Drinking fountain	\$20	\$30
Fixtures	\$20	\$30
Floor drain	\$20	\$30
Garbage disposal	\$20	\$30
Hose bib/hydrant	\$20	\$30
Humidifier	\$20	\$30

Type	Use Group R-5	All Other Use Groups
Ice maker	\$20	\$30
Lavatory	\$20	\$30
Medical gas points	\$20	\$30
Removal or capping of fixture	\$20	\$30
Roof drain	\$20	\$30
Shower	\$20	\$30
Sink	\$20	\$30
Stack	\$20	\$30
Trap primer	\$20	\$30
Urinal or bidet	\$20	\$30
Washing machine	\$20	\$30
Water closet	\$20	\$30
Similar device or fixture	\$20	\$30
Air-conditioning system	\$75	\$125
Backflow preventer	\$75	\$125
Backflow preventer yearly test/ certification		\$125
Backwater valve	\$75	\$125
Cooling tower	\$75	\$125
Fuel oil piping	\$75	\$125
Fuel piping	\$75	\$125
Furnace	\$75	\$125
Gas fire appliance/equipment	\$75	\$125
Gas piping	\$75	\$125
Generator	\$75	\$125
Grease trap	\$75	\$125
Hot water boiler	\$75	\$125
Interceptor/separator	\$75	\$125
Irrigation system	\$75	\$125
Lawn sprinkler	\$75	\$125
Oil separator	\$75	\$125
Pool heater	\$75	\$125
Pressure test	\$75	\$125

Type	Use Group R-5	All Other Use Groups
Refrigeration unit	\$75	\$125
Removal of equipment	\$75	\$125
Rooftop units	\$75	\$125
Sewer backflow valve	\$75	\$125
Sewer cap	\$75	\$125
Sewer connection	\$75	\$125
Sewer ejector	\$75	\$125
Sewer pump	\$75	\$125
Steam boiler	\$75	\$125
Sump pump	\$75	\$125
Warm-air heating unit	\$75	\$125
Water connection	\$75	\$125
Water-cooled air conditioner	\$75	\$125
Water heater	\$75	\$125
Similar equipment or devices	\$75	\$125
Minimum fee	\$75	\$125
Change of contractor	\$75	\$125

Fee for items not listed above shall be based on cost of alterations/installation at \$30 per \$1,000 with a minimum fee of \$75 for R-5 and \$35 per \$1,000 with a minimum fee of \$125 for all other use groups, including, but not limited to, A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-1, I-2, I-3, I-4, M, R-1, R-2, R-3, R-4, S-1, S-2, and U. Special inspection request on off-duty hours: \$250.

(8) Mechanical fees.

(a) Existing R-3 and R-5 replacement.

Type of Equipment/Service	Fee
A/C unit condenser	\$75
Air handler	\$75
A/C with air handler	\$125
Appliance, conversion of oil to gas	\$125
Backflow preventer	\$75
Boiler with gas piping	\$125

Type of Equipment/Service	Fee
Boiler, steam	\$75
Boiler, hot water	\$75
Chimney liner	\$75
Condensate line	\$20
Ductwork	\$75
Fireplace	\$75
Fireplace with gas	\$125
Fireplace insert	\$75
Fuel oil piping	\$75
Furnace	\$75
Furnace with ductwork	\$150
Gas piping	\$75
Generator	\$125
Grease trap	\$75
Irrigation	\$75
Kitchen hood systems	\$125
Kitchen, gas appliance	\$75
LP, gas tank	\$75
Makeup air-ventilation system	\$75
Oil to gas conversion	\$75
Oil separator	\$75
Pool heater	\$75
Pressure test	\$75
Refrigeration unit	\$75
Sewer ejector	\$75
Split system	\$125
Steam generator	\$75
Sump pump	\$75
Tankless water heater	\$75
Water heater	\$75
Similar equipment	\$75
Change of contractor	\$75

Type of Equipment/Service	Fee
Minimum fee	\$75

(9) Fire subcode fee schedule.

(a) Gas- or oil-fired appliances.

Type	Use Group R-5	All Other Use Groups
Appliance venting	\$75	\$125
Boiler	\$75	\$125
Chimney/chimney liner	\$75	\$125
Fireplace/wood stove	\$75	\$125
Gas fireplace insert	\$75	\$125
Furnace	\$75	\$125
Generator	\$75	\$125
Tankless water heater	\$75	\$125
Water heater	\$75	\$125
Solar	\$75	\$125

(b) Sprinklers and other equipment.

Type	All Use Groups
1 to 20 heads	\$150
21 to 100 heads	\$200
101 to 400 heads	\$400
400 to 600 heads	\$600
Each additional head over 600 add \$5	
Sprinkler riser	\$100
Spray booth	\$250
Standpipe riser	\$225
Fire pump	\$300
Hydraulically designed system calculation	\$75
Water storage tank for fire protection system	\$400
Fire flow test	\$125
Site fire protection, underground and mains	\$200

Type	All Use Groups
Hydrants	\$125
Fire Department connection	\$125
Main sprinkler alarm valve replacement	\$75
Post-indicator control valve (PIV valve)	\$75
Range hood extinguishing system	
Wet chemical	\$125
Dry chemical	\$125
CO2 suppression	\$125
Hood exhaust system	
Type 1	\$125
Type 2	\$125
Exhaust systems (gas, vapor and smoke)	\$125
Foam fire suppression system	\$150
Preengineered fire suppression system	\$125
Automatic fire alarm system	\$150
Central station alarm	\$75
Manuel fire alarm system	\$75
Fire alarm device (horn, strobes, pull station and signaling devices)	
1 to 5	\$75
6 to 20	\$100
Over 20, lots of 20, or part of	\$150
Duct smoke detector	
1 to 5	\$75
6 to 20	\$100
Over 20, lots of 20, or part of	\$150

(c) Smoke and carbon monoxide detectors.

Type/Number	Use Group R-5	All Other Use Groups
Smoke detectors		
1 to 5	\$50	\$125
6 to 20	\$75	\$150
Over 20, lots of 20, or part of	\$100	\$200

Type/Number	Use Group R-5	All Other Use Groups
CO detectors		
1 to 5	\$50	\$125
6 to 20	\$75	\$150
Over 20, lots of 20, or part of	\$100	\$200

(d) Additional equipment and services.

Type/Number	All Use Groups
Flame or beam smoke detector	
1 to 5	\$75
6 to 20	\$100
Over 20, lots of 20, or part of	\$150
Heat detector	
1 to 5	\$75
6 to 20	\$100
Over 20, lots of 20, or part of	\$150
Smoke/fire damper	\$75
Security locks to fire system	\$75
Smoke control/removal system	\$400
Elevator recall	\$150
Plan review of emergency lights, exit signs (each 5 or part of)	\$75
Tank installation, removal, abandon or replace	
0 to 500	\$100
501 to 1,000	\$200
1,001 to 2,000	\$300
2,001 to 5,000	\$400
5,001 to 10,000	\$500
10,001 to 20,000	\$600
20,001 to 50,000	\$700
50,001 and up	\$1,000
Fuel dispenser	\$150

Type/Number	All Use Groups
Vapor recovery system	\$150
Shear valves/connection	\$150
Fuel piping and valve	\$150
Fire protection backflow preventer	\$150
Incinerator and crematorium	\$400
Witnessing of test	\$300

(e) Minimum fee.

[1] Use Group R-5: \$75.

[2] All other use groups: \$125.

(f) Change of contractor.

[1] Use Group R-5: \$75.

[2] All other use groups: \$125.

(g) Fee for systems and devices not listed above shall be based on cost of alterations/installation at \$30 per \$1,000 with a minimum fee of \$75 for R-5 and \$35 per \$1,000 with a minimum fee of \$125 for all other use groups, including, but not limited to, A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-1, I-2, I-3, I-4, M, R-1, R-2, R-3, R-4, S-1, S-2, and U. Special inspection request on off-duty hours: \$250.

§ 78-3. Fire limits.

Pursuant to N.J.A.C. 5:23, the fire limits of the borough are hereby established as the lines designating the B-1 and B-2 districts as set forth in Chapter 110, Land Development.

§ 78-4. Construction Code Official's report.

The Construction Code Official shall prepare and submit to the Mayor and Council biannually, a report reevaluating the delineation of the fire limits. This report shall indicate the recommendations of the Construction Code Official, the Building Subcode Official and the Fire Subcode Official regarding those areas which should be designated as within fire limits, with the reasons therefor.

Chapter 82**DRUG-FREE SCHOOL ZONES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 10-3-1988 by Ord.

No. 88-19. Amendments noted where applicable.]

§ 82-1. Drug-Free School Zone Map adopted.

In accordance with and pursuant to the authority of N.J.S.A. 2C:35-7, the Drug-Free School Zone Map produced on or about August 25, 1987 by Harold G. Reed, P.E., Borough Engineer, is hereby approved and adopted as an official finding and record of the location of properties and areas within the municipality which are used for school purposes and which are owned by or leased to any elementary or secondary school or school board and of the areas on or within 1,000 feet of such school property.

§ 82-2. Location and boundaries of school property.

The Drug-Free School Zone Map approved and adopted pursuant to § 82-1 of this chapter shall continue to constitute an official finding and record as to the location and boundaries of areas on or within 1,000 feet of property owned by or leased to any elementary or secondary school or school board which is used for school purposes until such time, if any, that this chapter shall be amended to reflect any additions or deletions with respect to the location and boundaries of school property and Drug-Free School Zones.

§ 82-3. Notification of changes.

The school board, or the chief administrative officer in the case of any private or parochial school, is hereby directed and shall have the continuing obligation to promptly notify the Borough Engineer and the Borough Attorney of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary or secondary school or school board and which is used for school purposes.

§ 82-4. Copy of map on file.

The Clerk of the municipality is hereby directed to receive and to keep on file the original of the map approved and adopted pursuant to § 82-1 of this chapter and to provide at a reasonable cost a true copy thereof to any person, agency or court which may from time to time request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file. It is hereby further directed that a true copy of such map and of this chapter shall be provided without cost to the County Clerk and to the office of the Middlesex County Prosecutor.

§ 82-5. Map to be used as evidence.

The following additional matters are hereby determined, declared, recited and stated:

- A. It is understood that the map approved and adopted pursuant to § 82-1 of this chapter was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this state, and that pursuant to the state law, such map shall constitute prima facie evidence of the following:
 - (1) The location of elementary and secondary schools within the municipality.
 - (2) The boundaries of the real property which is owned by or leased to such schools or a school board.

- (3) That such school property is and continues to be used for school purposes.
 - (4) The location and boundaries of areas which are on or within 1,000 feet of such school property.
- B. All of the property depicted on the map approved and adopted herein as school property was owned by a school or school board and was being used for school purposes as of July 9, 1987, that being the effective date of N.J.S.A. 2C:35-7.
- C. Pursuant to the provisions of N.J.S.A. 2C:35-7, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than the one approved and adopted pursuant to § 82-1 of this chapter. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to a school or school board, or that such property is not used for school purposes.
- D. All of the requirements set forth in N.J.S.A. 2C:35-7 concerning the preparation, approval and adoption of a Drug-Free School Zone Map have been complied with.

METUCHEN CODE

Chapter 87

FEES

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1
Fingerprinting and Fees
[Adopted 6-6-1983 by Ord. No. 83-13]

§ 87-1. Fingerprinting fees.

Whenever a person is required to be fingerprinted under any provision of the Code of the Borough of Metuchen for license purposes or where any person requests to be fingerprinted by the Metuchen Police Department on account of the requirements of any other federal, State or municipal law regulations, other than being charged with a crime or offense, the person shall pay in addition to any required charge by the Federal Bureau of Investigation a fee of five dollars to the Borough of Metuchen to defray the cost and expense of said fingerprinting.

ARTICLE 2

License Fees and Expiration Dates
[Adopted 8-3-1992 by Ord. No. 92-24]

§ 87-2. Schedule. [Amended 9-15-1997 by Ord. No. 97-20; 8-5-2002 by Ord. No. 2002-10; 12-5-2016 by Ord. No. 2016-32]

- A. All applications for permits for annual renewal as encompassed herein shall be accompanied by the payment of the fees prescribed in the following table. Permits shall expire and shall be subject to renewal in accordance with the expiration date as prescribed. A late charge of 10% of the prescribed fee shall be assessed for all licenses, which are not renewed prior to the expiration date.³⁶

Description of Activity	Fee	Expiration Date
Food establishments:		
Pharmacies and confectioneries, permit to carry prepackaged foods	\$50	November 30
Food establishments:		
1 to 2,500 square feet	\$60	December 31
2,501 to 5,000 square feet	\$115	December 31
5,001 to 10,000 square feet	\$225	December 31
10,000 square feet and over	\$375	December 31
Restaurants:		
Counter service only	\$60	December 31
1 to 25 seating capacity	\$85	December 31
26 to 50 seating capacity	\$115	December 31
51 to 75 seating capacity	\$190	December 31
76 and over	\$285	November 30
Vending machines:		
Food and beverage	\$20	November 30
Ice	\$20	November 30
Itinerant food vehicles, each vehicle	\$70	November 30
Milk delivery vehicle		
First truck	\$10	November 30
Each additional truck	\$5	November 30
Temporary event food license per diem	\$10	N/A

36. Editor's Note: See Ch. 59, Animals, Art. 1, for dog and pet shop license fees.

Description of Activity	Fee	Expiration Date
Laundry, self-service, permit to operate, each machine (washer, dryer or dry cleaning)	\$10	June 30
Pet shop		
Permit to operate	\$60	November 30
Motor hotel, tourist lodge, permit to operate	\$10	November 30

B. Reinspection and plan review. **[Added 5-16-2011 by Ord. No. 2011-6]**

(1) Fees.

(a) Retail food establishment reinspection: \$50.

(b) Retail food establishment initial plan review: \$75.

(2) Fees are payable to the Middlesex County Public Health Department within 10 business days of the reinspection or plan review.

(3) Failure to pay the fee within 10 working days will result in a court summons with fines as follows:

(a) First penalty: \$100.

(b) Second penalty: \$200.

(c) Third and subsequent penalties: \$400.

ARTICLE 3

Fee for Returned Checks

[Adopted 9-8-1992 by Ord. No. 92-27]

§ 87-3. Purpose.

There is hereby created and established a fee for the return of checks issued to the Borough of Metuchen returned by banking institutions for insufficient funds. The fee shall be \$20 per returned item.

ARTICLE 4

Oakland Tennis Court Fees**[Adopted 4-7-1997 by Ord. No. 97-5; amended in its entirety 9-17-2002 by Ord. No. 2002-12]****§ 87-4. Fees established.**

The following fees for use of the Oakland Avenue Tennis Courts are hereby established:

Type	Fee
Individual	\$35
High school student	\$15
Husband and wife or two family members	\$40
Family	\$45
Nonresident	\$45

ARTICLE 5

Permit Fees Waived for Disabled
[Adopted 7-7-1997 by Ord. No. 97-11]**§ 87-5. Waiver requirements.**

Permit fees and fees for applications for development shall be waived for persons having disabilities to the extent permitted by Chapter 92 of the Public Laws of 1996,³⁷ for improvements to the dwelling unit of a person having a disability which promote accessibility to that unit.

§ 87-6. Definitions.

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

DISABILITY — The same meaning as set forth in Public Laws of 1996, Chapter 92.³⁸ The Administrative Officer or Code Enforcement Officer shall refer any question regarding disability to the Board of Health. A person engaged in substantial gainful activity shall not be considered as having a disability.

37. Editor's Note: See N.J.S.A. 52:27D-126e.

38. Editor's Note: See N.J.S.A. 52:27D-126e.

ARTICLE 6
Disabled Senior Citizens Fees Waiver
[Adopted 7-7-1997 by Ord. No. 97-12]

§ 87-7. Waiver requirements.

Fees payable to the Borough as set forth on Exhibit A hereto³⁹ shall be waived for all senior citizens (65 years of age or older) residing within the Borough of Metuchen and having a disability or having qualified pursuant to the state program known as "Pharmaceutical Assistance for the Aged and Disabled" (P.A.A.D.).

§ 87-8. Definitions.

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

DISABILITY — The same meaning as set forth in Chapter 92, Laws of 1996.⁴⁰

39. Editor's Note: A copy of Schedule A, Borough Fees to be Waived, is on file at the Borough offices.

40. Editor's Note: See N.J.S.A. 52:27D-126e.

ARTICLE 7
(Reserved)⁴¹

[Adopted 9-28-1998 by Ord. No. 98-8; repealed 11-7-2016 by Ord. No. 2016-28]

§ 87-9. through § 87-16. (Reserved)

41. Editor's Note: Former Article 7, Residential Development Fees was repealed by Ordinance 2016-28. See Chapter 110, Article 14B, Development Fees.

ARTICLE 8
Marriage, Birth and Death Certificates
[Adopted 7-1-2002 by Ord. No. 2002-9]

§ 87-17. Fees established. [Amended 7-6-2004 by Ord. No. 2004-12; 11-6-2006 by Ord. No. 2006-18; 12-21-2009 by Ord. No. 2009-18; 9-5-2017 by Ord. No. 2017-12]

- A. The Borough shall charge a fee that is equivalent to that charged by the State of New Jersey per copy for any request for marriage, birth, death and/or domestic partnership certificates (which at the time of passage of this Ordinance No. 2017-12 is \$25 for the first copy, \$2 for each extra copy requested at the same time.)

A fee of \$15 is hereby established for corrections to any certificate.

- B. The fees established by the Borough shall coincide with those fees established and charged by the State of New Jersey for the same and shall be automatically adjusted accordingly in the event that the State of New Jersey modifies (increases or decreases) its fees for the same.

ARTICLE 9
Borough Publications
[Adopted 9-17-2002 by Ord. No. 2002-12]

§ 87-18. Fees established. [Amended 12-21-2009 by Ord. No. 2009-18]

The following fees for Borough publications are hereby established:

Type	Fee
Code of the Borough of Metuchen	\$225
Land Development Pamphlet (only)	\$37
Zoning Map	\$3
Master Plan	\$50
MeTV DVD copies	\$25
CD Copies of Borough meetings	\$5

ARTICLE 10
Discovery Fees
[Adopted 2-3-2003 by Ord. No. 2003-2]

§ 87-19. Fees established.

- A. Mailing of discovery for other than DWI: \$1 per page.
- B. Mailing of discovery for DWI: \$50 flat fee.

ARTICLE 11
Recreation Program Fees
[Adopted 6-7-2004 by Ord. No. 2004-6]

§ 87-20. Fees established. [Amended 12-21-2009 by Ord. No. 2009-18; 3-15-2010 by Ord. No. 2010-5; 2-22-2011 by Ord. No. 2011-1; 5-16-2011 by Ord. No. 2011-6; 2-6-2012 by Ord. No. 2012-1; 11-5-2012 by Ord. No. 2012-9; 5-20-2013 by Ord. No. 2013-5; 12-16-2013 by Ord. No. 2013-16; 5-19-2014 by Ord. No. 2014-5; 2-1-2016 by Ord. No. 2016-05; 5-2-2016 by Ord. No. 2016-11; 8-15-2016 by Ord. No. 2016-20; 4-17-2017 by Ord. No. 2017-04; 2-5-2018 by Ord. No. 2018-01; 4-2-2018 by Ord. No. 2018-05; 5-21-2018 by Ord. No. 2018-09; 8-13-2018 by Ord. No. 2018-19; 9-4-2018 by Ord. No. 2018-20; 12-3-2018 by Ord. No. 2018-26; 4-8-2019 by Ord. No. 2019-07; 6-24-2019 by Ord. No. 2019-11; 2-3-2020 by Ord. No. 2020-03; 6-22-2020 by Ord. No. 2020-13; 10-19-2020 by Ord. No. 2020-16; 4-12-2021 by Ord. No. 2021-07; 12-12-2022 by Ord. No. 2022-23; 4-24-2023 by Ord. No. 2023-10; 10-2-2023 by Ord. No. 2023-28]

Program	Fee
Bulldog baseball camp	\$150 to \$180
Bulldog T-ball camp	\$90
Basketball camp	\$189
Summer field hockey	\$100
Field hockey mini camp	\$50 per session
Fall field hockey	\$100
Field hockey travel	\$150 to \$180
Lacrosse camp	\$189 to \$200
Lacrosse mini camp	\$50 per session
Bulldog soccer camp	\$150 to \$180
Men's softball	\$400
Adult fitness program	\$60 to \$120, depending on number of sessions
Turf field rental	Per § 124-28E of the Borough Code
Art Attack summer camp	\$160 for 1 session; \$285 for 2 sessions
Chess camp	\$200
Weekly STEAM/STEM instructional	\$140 to \$349
STEAM/STEM summer camp	\$75 to \$330
Summer movie-making camp	
1/2 day	\$217
Full day	\$412
Music Camp	\$295
Theater Camp	\$170 to \$185

Program	Fee
Special Events	
Bus Trips	\$50 to \$200, specific amount to be determined by the Recreation Director based on the total cost of the trip to the Borough
Parent-Child Events	\$10 to \$100
USSI Tennis Camp	\$219 per week
USSI Tennis, Spring/Fall	\$195 weekly
USSI Tennis, Summer	\$155
USSI Soccer	\$155
USSI Multi-Sports Camp, Summer	\$199
USSI Multi-Sports Camp, Spring/Fall	\$195
Vacation Sports Camp	
2 day	\$75
4 day	\$175
Yoga	\$100
Track Camp	\$150
Art classes - based on session and series	
Individual session	\$10 to \$75
Multiple sessions	\$76 to \$300

ARTICLE 12
Disposition Fees
[Adopted 2-6-2006 by Ord. No. 2006-1]

§ 87-21. Fees established.

- A. Certified disposition letters: \$5.
- B. Certified disposition letters with court seal: \$10.

ARTICLE 13

Tax Search Files; Tax Redemption Calculations
[Adopted 2-6-2006 by Ord. No. 2006-3]

§ 87-22. Fees established.

- A. Tax search files transmitted via e-mail: \$500 annually.
- B. Tax redemption calculations. **[Added 2-22-2011 by Ord. No. 2011-1]**
 - (1) All tax redemption calculations requests must be made in writing.
 - (2) Tax redemption calculation: \$50 for each request after the second request made by any party entitled to redeem a tax sale certificate; \$50 for any request by a lien holder on a certificate that it owns, with the requirement that the lien holder specify the date used in calculation.

ARTICLE 14

Senior Citizen Program Fees**[Adopted 12-21-2009 by Ord. No. 2009-18]**

§ 87-23. Fees established. [Amended 12-5-2016 by Ord. No. 2016-31; 12-12-2022 by Ord. No. 2022-24]

- A. There shall be an annual registration fee for the period January 1 to December 31 for nonresident senior citizens (age 60 and over) in the amount of \$60 per person. The payment of the annual registration fee shall be required prior to the participation and/or use by any nonresident senior citizen of the Metuchen Senior Center or participation in any program, event and/or service offered at the Metuchen Senior Center. The payment of such registration fee shall be in addition to any costs or fee established by the Borough for the participation in an event, service or program.
- B. The payment of the annual registration fee shall not provide a nonresident senior any right or entitlement to any or all of the benefits, programs, assistance and services offered by the Borough of Metuchen to the Borough of Metuchen senior citizens. The payment of the above annual registration fee set forth above shall be solely for the eligibility to participate in events, programs and services offered at the Metuchen Senior Citizen Center and shall not be a guarantee, license or entitlement to any services offered by the Borough of Metuchen.
- C. Senior citizen program fees. In addition to those fees established above, fees are established for participation in the following programs: **[Amended 6-24-2024 by Ord. No. 2024-16]**

Program	Fee
Senior Center sponsored luncheons	\$5 to \$50 (dependent upon the costs of luncheon)
Chartered bus trips	\$20 to \$200 (dependent upon cost of bus rental)

- D. The Council of the Borough of Metuchen authorizes and directs the Metuchen Seniors Commission, in coordination with the Borough Administrator and the Director of Recreation/Senior Services, to establish practices and procedures relating to the collection, enforcement and monitoring of the annual registration fee for nonresident seniors, including but not limited to providing notice to the seniors, the creation of an application for nonresident seniors, and the proration of the annual registration fee, which will be equal to 50% of the full-year membership for members joining after June 30, and the fees to be charged for the programs, services and events in accordance with the aforementioned guidelines.

ARTICLE 15
Metuchen Town Plaza Fees
[Adopted 9-17-2018 by Ord. No. 2018-22]

§ 87-24. Permit fee, security deposit and insurance requirements.

- A. There shall be a permit fee of \$300 for a full-day use of the Town Plaza. "Full day" shall be the use of the Town Plaza for over five hours. There shall be a permit fee of \$150 for a half-day use of the Town Plaza. Both setup and cleanup time shall be factored into the time required and which permit is required. The permit fee shall be waived by the Borough for all public entities and Metuchen-based school, civic, community, nonprofit, charitable, associations, entities or groups.
- B. A security deposit of \$250 in the form of a check made payable to the "Borough of Metuchen" shall be submitted with the application for a use permit. The security deposit shall be refunded, without interest, to the applicant within 30 days of the event date with any deductions made for any damage and/or failure to comply with cleanup policies after an event. The required security deposit may be waived by the Borough Administrator.
- C. In addition to the permit fee and security deposit set forth above, prior to a permit being issued for the use of the Town Plaza, an applicant shall provide the Borough with satisfactory proof of insurance as set forth is required by § 124-20C.

Chapter 88**FILMS AND MOTION PICTURES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 11-27-2023 by Ord. No. 2023-30. Amendments noted where applicable.]

§ 88-1. Definitions.

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

FAMILY VIDEOS AND PHOTOGRAPHY — The filming or videotaping of motion pictures, intended solely for private use.

FILMING — All activity attendant to staging, taking or shooting motion pictures, television shows or programs, videotaping either on film, videotape, computer-based program or other visual reproduction technology or similar recording medium, now known or hereafter created, for commercial or educational purposes intended for viewing on television, in theaters or for institutional uses. The period of filming includes the setup, time of filming and removal of all equipment. The provisions of this chapter shall not be deemed to include family videos and photography and news media within the Borough of Metuchen.

MAJOR MOTION PICTURE — Any film which is financed and/or distributed by a major motion picture studio, including but not limited to the following:

- A. Universal Pictures;
- B. Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel-Aire;
- C. Paramount, including MTV Films and Nickelodeon Movie;
- D. 20th Century Fox, including Fox Searchlight;
- E. Sony/Columbia;
- F. Disney/Miramax;
- G. MGM United Artists;
- H. Dream Works;
- I. Any film for which the budget is at least \$5,000,000;
- J. Recurrent weekly television series programming.

NEWS MEDIA — The filming and/or videotaping stories by recognized news gathering programs and organizations.

PUBLIC LANDS — Any and every public street, highway, sidewalk, square, right-of-way, public park or playground or any other public place within the Borough which is within the jurisdiction and control of the Borough of Metuchen.

§ 88-2. Permit required.

- A. No person or organization shall film or permit filming on public or private land within the Borough of Metuchen where such filming involves the use of public property for the operation, placement or

temporary storage of vehicles or equipment utilized in such filming, including, but not limited to, any temporary structure, barricade or device intended to restrict or block off pedestrian or vehicular traffic, without first having obtained a permit, approved by the Borough Administrator, from the office of the Borough Clerk, which permit shall set forth the approved location of such filming and the approved duration of such filming by specific reference to day or dates. Said permit must be readily available for inspection by Borough officials at all times at the site of the filming.

- B. All permits shall be applied for and obtained from the office of the Borough Clerk during normal business hours. Applications for such permits shall be in a form consistent with this chapter and approved by the Borough Clerk and Administrator and be accompanied by a permit fee in the amount established by this chapter in § 88-12 herein.
- C. If a permit is issued and, due to inclement weather or other good cause, filming does not in fact take place on the dates specified, the Borough Clerk, upon approval of the Borough Administrator, may, at the request of the applicant, issue a new permit for filming on other dates subject to full compliance with all other provisions of this chapter. No additional fee shall be paid for this permit.
- D. No permit will be required by this chapter if the following are met:
 - (1) There will be five or fewer people on the set;
 - (2) No more than two cameras will be used in filming;
 - (3) No parking is requested or required;
 - (4) No audio or light stands are being used;
 - (5) No exclusive access is requested or required; and
 - (6) There will be no interference with the free passage of pedestrian and traffic over public lands.

§ 88-3. Issuance of permits.

- A. No permits will be issued by the Borough Clerk unless applied for prior to 10 days before the requested shooting date; provided, however, that the Borough Administrator may waive the ten-day period if the Borough Administrator has judged that the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.
- B. All applications for permits shall include at least the following information:
 - (1) The name, address and telephone number of the applicant;
 - (2) The specific location of the property where filming, etc., is to take place;
 - (3) Whether applicant is the owner or tenant in possession of the property;
 - (4) The name, address of the owner of the property, if the applicant is not the owner;
 - (5) The written consent of the owner of the property;
 - (6) The name, address and telephone number of the person or entity the applicant wishes to allow to film, etc;
 - (7) The date/s the filming is to take place and the hours of filming;

- (8) The dates within the previous 12 months that any filming was conducted at this location;
 - (9) A statement detailing whether stunts, firearms, pyrotechnics, open flames, vehicle crashes, or other hazardous materials are to be used;
 - (10) A statement detailing whether any actors or crew members will wear costumes that resemble uniforms of any public personnel, including police and/or fire personnel;
 - (11) Acknowledgement that the Borough of Metuchen shall receive credit on the project which shall read "Thank you to the Mayor, Borough Council, Officials, Employees and Residents of the Borough of Metuchen."
 - (12) A signed statement that the applicant acknowledges the conditions of the permit and, under the penalty of perjury, that all statements contained in the application are true and accurate; and
 - (13) Any other information or documentation determined necessary for the consideration of the application.
- C. No permit shall be issued for filming upon public lands unless the applicant shall provide the Borough with satisfactory proof of the following:
- (1) Proof of insurance coverage as follows:
 - (a) For bodily injury to any one person in the amount of \$500,000 and any occurrence in the aggregate amount of \$1,000,000.
 - (b) For property damage for each occurrence in the aggregate amount of \$300,000.
 - (2) An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the Borough of Metuchen from any and all liability, expense, claim or damages resulting from the use of public lands.
 - (3) The posting of cash deposit of \$500 or a maintenance bond of \$500 running in favor of the Borough and protecting and ensuring that the location utilized will be left after filming, in a satisfactory condition, free of debris, rubbish and equipment, and that due observance of all Borough ordinances, laws and regulations will be followed. Within 21 days of the completion of the filming, the Borough will return the bond if there has been no damage to public property or public expense caused by the filming.
 - (4) To the extent deemed necessary within the sole discretion of the Borough, the hiring of off-duty police officer/s for the times indicated on the permit.
- D. The issuance of a filming permit contained herein is solely for filming and shall not provide the applicant with the exclusive use or permission for the use of Borough fields and/or properties. Said applicant shall be required to file a separate application and comply with all necessary requirements for said use of Borough fields and/or properties as provided in the Code of the Borough of Metuchen.
- E. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Metuchen Police Department with respect thereto.
- F. The Borough Administrator may immediately revoke a permit that has been granted, if the conditions of this chapter and all applicable laws are not, or are no longer, being met, or if the information supplied by the applicant becomes false and/or incomplete, or if any substantial change in

circumstances results in the proposed use becoming detrimental to the public peace, health, safety or welfare. It shall be expressly acknowledged that the Borough Administrator shall have the right to revoke a permit if filming becomes detrimental to the public peace, health, safety or welfare without the Borough and/or Administrator including any liability whatsoever. In the event that a permit is revoked, the applicant shall have the same right of appeal to the Borough Council, as set forth in this chapter, as if their application was denied.

§ 88-4. Interference with public activity; notice of filming.

- A. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming off the public streets.
- B. The holder shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands. Where the applicant's production activity, by reason of location or otherwise, will directly involve and/or affect any businesses, merchants or residents, these parties shall be given written notice of the filming at least 10 days' prior to the requested shooting date and be informed that objections may be filed with the Borough Clerk, said objections to form a part of applicant's application and be considered in the review of the same. Proof of service of notification to adjacent owners shall be submitted as part of the application to the Borough Clerk.

§ 88-5. Filming in residential zones.

Filming in residential zones shall be permitted Monday through Friday between the hours of 7:00 a.m. and 10:00 p.m., provided that all requests for night scenes shall be approved in the permit to be granted in accordance with §§ 88-2 and 88-3 hereof. The setup, production and breakdown required by all filming shall be included in the hours as set forth herein.

§ 88-6. Refusal to issue permit; employment of patrolmen and electrician.

- A. The Borough Administrator may refuse to issue a permit whenever it's determined, on the basis of objective facts and after a review of the application or a report thereon by the Police Department and/or by other Borough agencies involved with the proposed filming site, that filming at the location and/or the time set forth in the application would violate any law or ordinance or would unreasonably interfere with the use and enjoyment of adjoining properties, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.
- B. Further, the Borough reserves the right to require one or more on-site patrolmen in situations where the proposed production may impede the proper flow of traffic, the cost of said patrolmen to be borne by the applicant as a cost of production. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may be similarly required if the production company does not have a licensed electrician on staff.

§ 88-7. Appeals.

- A. Any person aggrieved by a decision of the Borough Administrator denying or revoking a permit or a person requesting relief pursuant to § 88-6 may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Administrator.
- B. An appeal from the decision of the Borough Administrator shall be filed within 10 days of the

Borough Administrator's decision. The Borough Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The Borough Council shall affirm, modify or reverse the decision of the Borough Administrator at the first regularly scheduled public meeting of the Borough Council after the hearing on the appeal, unless the appellant agrees in writing to a later date for the decision.

§ 88-8. Waiver of requirements by Borough Administrator.

The Borough Administrator may authorize filming other than during the hours herein described. In determining whether to allow an extension of hours under this section, the Borough Administrator shall consider the following factors:

- A. Traffic congestion caused at the location.
- B. Applicant's ability to remove film-related and other vehicles and equipment off the public streets or other public property.
- C. The nature and extent of when the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming.
- D. The nature of the film shoot itself; e.g., indoor or outdoors; day or night; on public or private lands.
- E. The nature and extent to which filming may adversely affect adjoining property owners' use and enjoyment of their property.
- F. Prior experience of the film company/applicant with the Borough, if any.

§ 88-9. Copies of permit; inspections.

Copies of the approved permit will be sent to the Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Fire Prevention Bureau or other Borough inspectors and officials to inspect the site and the equipment to be used. The applicant shall comply with all safety instructions issued by the Fire Prevention Bureau or other Borough inspectors/officials.

§ 88-10. Reimbursement of certain costs.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue, such as parking meter revenue, repairs to public property or other revenues that the Borough was prevented from earning because of filming.

§ 88-11. Special regulations for major motion pictures.

- A. When filming is requested with respect to a major motion picture, the approved location of such filming and approved duration of such filming by specific reference to day or dates may exceed three consecutive days and/or may exceed six days in duration if approved by the Borough Administrator in their discretion following a favorable review of the factors set forth in § 88-8.
- B. Any days necessary to be used for setup and preparation for a major motion picture filming may, in the discretion of the Administrator, be counted as a filming day where such setup is anticipated to involve one or more of the factors set forth in § 88-8.

§ 88-12. Fees.

The schedule of fees for the issuance of permits authorized by this chapter are as follows:

- A. Basic filming permit: \$150. Where an applicant requests a waiver of the provision of § 88-3A requiring expedited processing of a permit application within 24 hours of the filming date, the basic filming permit fee for processing the application on an expedited basis shall be \$500.
- B. Daily filming fee payable in addition to the basic filming permit shall be \$300 per day.
- C. Daily filming fee payable for a major motion picture shall be \$1,000 per day.
- D. Filming permit for nonprofit applicants filming for educational purposes (no daily rate required) shall be \$25.

§ 88-13. Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

FIREARMS

Chapter 90

FIREARMS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Section 17-3 of the 1966 Code, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. 2). Subsequent amendments noted where applicable.]

§ 90-1. Definitions.

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

FIREARM — Any gun, pistol, rifle, shotgun or other firearm, BB gun, pellet gun, bow and arrow, compound bow or crossbow.

§ 90-2. Prohibition.

No person shall discharge any firearm in the Borough of Metuchen unless previously authorized by the Chief of Police. This prohibition shall not affect any officer in the performance of official duty.

§ 90-3. Violations and penalties.

Any person violating any provision of this chapter shall be punished as provided in Chapter 1, General Provisions, Article 1.

Chapter 92**FIRE LANES AND FIRE ZONES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 7-1-2002 by Ord. No. 2002-7. Amendments noted where applicable.]

§ 92-1. Designation of fire lanes and fire zones.

- A. Certain areas adjacent to commercial buildings, businesses, stores, churches, schools, places of public assembly and apartment or condominium complexes shall be designated as fire lanes to provide clear access to buildings for fire-fighting equipment in the event of an emergency. Fire hydrants and water connection devices such as sprinkler connections and standpipes located on private roads and parking lots shall be designated as fire zones.
- B. Fire lanes and fire zones may be located on public or private property.
- C. Fire lanes and fire zones shall be established by the Borough Fire Official with the advice and consent of the Chief of Police, and drawings of properties delineating fire lanes and fire zones shall be kept on file in the office of the Borough Clerk.

§ 92-2. Notice to affected property owners.

- A. Notice that a property requires the posting of signs or painting of fire lanes and fire zones shall be sent to the property owner by the Bureau of Fire Prevention either by personal delivery or certified mail.
- B. Within 30 days of receipt of notice, said property owner shall install required signs and paint required pavement markings.

§ 92-3. Intervention by Borough for failure to comply.

In the event that a property owner fails to comply with the requirements of § 92-2, the Bureau of Fire Prevention may arrange to have signs installed and pavement painted at the expense of the property owner, said amount to be assessed against the property affected and collected through the Tax Collector's office.

§ 92-4. Parking, stopping or standing of vehicles prohibited.

No person shall park, stop or leave standing any vehicle, whether attended or unattended, in any designated fire lane or fire zone or obstruct any designated fire lane or fire zone. No person shall park, stop or leave standing any vehicle, whether attended or unattended, within 10 feet of any fire hydrant or other Fire Department water connection device.

§ 92-5. Restrictions for loading zones.

In loading zones, attended vehicles may stop solely for the purpose of loading or unloading and only for the period of time necessary to accomplish such loading or unloading.

§ 92-6. Installation of signs; painting of lines.

- A. Areas designated as fire lanes and fire zones shall be identified by signs placed along their entire length at intervals of no less than 50 feet apart. The words "Fire Lane (or Fire Zone) No Parking"

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FIRE LANES AND FIRE ZONES

shall appear on the sign, with red lettering three inches or more in height. Diagonal lines or the words "Fire Zone No Parking" shall be painted in yellow on the pavement along the length of the fire lanes and fire zones where possible. Fire lanes shall have a minimum width of 18 feet.

- B. Fire zones associated with fire hydrants and water connection devices shall be identified with yellow paint extending 10 feet in both directions on the curb and/or pavement where possible.

§ 92-7. Enforcement agencies.

The Metuchen Police Department and the Fire Official and Fire Inspectors assigned to the Bureau of Fire Prevention shall have concurrent jurisdiction in enforcement of this chapter and issuing parking summonses. The Fire Official and Fire Inspectors shall not issue summonses under this chapter unless they are authorized by the Chief of Police who may require the Fire Official and Fire Inspectors to attend training relative to the issuance of parking summonses. Such authority granted by the Chief of Police to issue summonses under this chapter may be revoked at any time.

§ 92-8. Violations and penalties.

- A. Property owners failing to install signs or paint pavement within 30 days of receipt of notice shall be subject to a fine not to exceed \$500 in accordance with the requirements of the New Jersey Fire Safety Code.
- B. Violators who park illegally in a fire lane or fire zone shall be subject to a fine of \$25. Said fine shall be imposed on complaint and conviction in the Municipal Court of the Borough of Metuchen.
- C. All fines and penalties shall be paid to the Borough of Metuchen treasury.

Chapter 93**FIRE PREVENTION**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 12-15-2003 by Ord. No. 2003-20⁴²; amended in its entirety 3-21-2011 by Ord. No. 2011-3. Subsequent amendments noted where applicable.]

§ 93-1. Local enforcement.

Pursuant to Section 11 of the Uniform Fire Safety Act (P.L. 1983 c. 383), the New Jersey Uniform Fire Code (N.J.A.C. 5:70-1 et seq.) shall be locally enforced in the Borough of Metuchen.

§ 93-2. Enforcing agency designated.

The local enforcing agency shall be the Bureau of Fire Prevention which is hereby created in the Municipal Fire Department of the Borough of Metuchen. The Bureau of Fire Prevention shall hereinafter be known as the local enforcing agency.

§ 93-3. Duties of agency.

- A. The local enforcing agency shall enforce the Uniform Fire Code in all buildings, structures, and premises within the established boundaries of the Borough of Metuchen other than premises owned or operated by the federal government, interstate agencies or the state.
- B. The local enforcing agency shall faithfully comply with all the pertinent requirements of the Uniform Fire Safety Act and the Uniform Code.

§ 93-4. Supervision and control.

The local enforcing agency established by § 93-2 of this chapter shall be a part of the Municipal Fire Department of the Borough of Metuchen and shall be under the direct supervision and control of a Fire Official who shall report to the Borough Administrator.

§ 93-5. Officials; qualifications; term of office; removal.

- A. Fire Official. The Fire Official shall be certified by the state and appointed by the Mayor in consultation with the Chief of the Fire Department.
- B. Term of office. The Fire Official shall serve for a term concurrent with the term of the Fire Chief with each term being for two years.
- C. Inspectors. Inspectors in the local enforcing agency shall be appointed by the Mayor in consultation with the Fire Official. All life-hazard-use inspectors shall be certified by the state.
- D. Removal from office. The Fire Official and inspectors of the agency shall be subject to removal by the governing body for just cause. Before removal from office, all persons shall be afforded an opportunity to be heard by the governing body or a hearing officer designated by the same.

42. Editor's Note: This ordinance provided for the repeal of former Ch. 93, adopted 11-7-1977 by Ord. No. 77-28, as amended.

§ 93-6. Appeals to Board of Appeals.

Pursuant to Sections 15 and 17 of the Uniform Fire Safety Act, any person aggrieved by any order of the local enforcement agency (or agencies) shall have the right to appeal to the Board of Appeals of the County of Middlesex.

§ 93-7. Violations and penalties.

- A. Any person, firm or corporation that is in violation shall be subject to a penalty. The penalty for the failure to register or failing to notify the Fire Official of a change in occupancy shall be up to \$500. Unpaid penalties can be subject to the issuance of a summons to appear in Municipal Court in the Borough of Metuchen.
- B. All annual registration set forth herein, except those registrations which are triggered by the sale or change of occupancy, must occur by June 1st. A late fee penalty shall be assessed in the amount of \$10 per unit multiplied by the number of months the registration is overdue.

§ 93-8. Life-hazard uses.

The local enforcing agency established by § 93-2 of this chapter shall carry out the periodic inspections of life-hazard uses required by the Uniform Fire Code on behalf of the Commissioner of the New Jersey Department of Community Affairs.

§ 93-9. Non-life-hazard uses.

- A. Each residential unit in the Borough of Metuchen, including owner-occupied single-family units, shall have a smoke detector and carbon monoxide detector on each level, and a fire extinguisher in the kitchen or within 10 feet thereof. Inspections of single-family units shall be scheduled for each change of occupancy. Fees shall be charged in accordance with this chapter.
- B. All residential units within the Borough shall be inspected and charged a fee upon sale or change of tenant.

§ 93-10. Registration fees.

The following non-life-hazard uses shall register with the Bureau of Fire Prevention and pay an annual registration fee, according to the following schedule:

- A. Fees.
 - (1) Mercantile/retail/banking: \$50 for the first 2,000 square feet; \$5 for each additional 1,000 or fraction thereof.
 - (2) Factories, assembly plants, wood and metal shops: \$75 for the first 1,000 square feet; \$10 for each additional 1,000 or fraction thereof.
 - (3) Warehouse, storage (no assembly) manufacturing or retailing: \$50 for the first 3,000 square feet \$5 for each additional 1,000 or fraction thereof.
 - (4) Business/office: \$50 for the first 2,000 square feet \$5 for each additional 1,000 or fraction thereof.
 - (5) Multiple dwellings (three or more dwelling units): \$50 for the first four dwelling units; \$10 for

each additional four units or fraction thereof.

(6) Other use: \$50 minimum inspection fee.

- B. Residential (one- or two-family houses): Annual registration fee is \$40 per rental unit.
- C. Uses not classified above that are subject to the Uniform Fire Code will be classified as business uses.
- D. Uses required to register with the state as life-hazard uses shall not be required to register under this section.
- E. In the discretion of the Fire Official, vacant buildings will be charged and inspected according to the previous use of the building.

§ 93-11. Inspections.

The Fire Official shall periodically inspect all uses registered hereunder once every two years. If more than one inspection is required in any year, due to a change in occupancy, the owner shall pay for each additional inspection an amount equal to the annual registration fee.

§ 93-12. Change of occupancy.

The owner of any premises that is registered hereunder shall notify the Fire Official in writing of each change of occupancy. At the time thereof or prior to the change of occupancy, the owner of any premises that is registered hereunder shall re-register with the Bureau of Fire Prevention and pay the annual registration fee.

§ 93-13. Additional required inspection and fees. [Amended 5-7-2018 by Ord. No. 2018-08]

In addition to the inspections and fees required pursuant to the Uniform Safety Act and the regulations of the Department of Community Affairs, the following additional inspections and fees shall be required.

- A. The application fees for the permits listed in N.J.A.C. 5:70-2.7(b) shall be as provided by state regulation and are currently as follows:

Type	Fee
1	\$54
2	\$214
3	\$427
4	\$641

- B. The cost for the issuance of a certificate of fire code status shall be \$35.
- C. The in-lieu-of-inspection application fee for a certificate of smoke detector (no substitution allowed for smoke detectors) and carbon monoxide alarm compliance (one on every level) (CSDCMAC), as required by N.J.A.C. 5:70-2.3, and portable fire extinguisher requirements in accordance with the New Jersey Law § 1 of P.L. 1991, c. 92 (N.J.S.A. 52:27D-198.1) (located within 10 feet of kitchen area), shall be based upon the amount of time remaining before the change of occupant is expected, as follows:

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- (1) Requests for CSDCMAC received more than 10 business days prior to the change of occupant: \$45.
- (2) Requests for CSDCMAC received four to 10 business days prior to the change of occupant: \$90.
- (3) Requests for CSDCMAC received fewer than four business days prior to the change of occupant: \$161.
- (4) Reinspection fee: \$25 each time.

§ 93-14. Prohibitions.

- A. Storage of explosives and blasting agents is hereby prohibited throughout the entire Borough of Metuchen.
- B. Storage of flammable liquids in outside aboveground tanks is hereby prohibited except where permitted by Chapter 110, Land Development, of the Code of the Borough of Metuchen. The construction, installation and maintenance of said tanks shall conform to the requirements of this Code and the Uniform Construction Code.
- C. Bulk plants for flammable or combustible liquids are hereby prohibited throughout the entire Borough of Metuchen.

§ 93-15. Construction requirements.

- A. All buildings open to the public, new or existing construction shall have portable fire extinguishers installed in accordance with NFPA 10. All buildings shall have illuminated exit signs and emergency lighting installed in accordance with the Uniform Fire Code (permit from Building Department required for exit signs and emergency lighting).
- B. All new construction that requires a water sprinkler system or standpipe system shall be installed according to the New Jersey Uniform Construction Code and maintained according to NFPA 25. All Fire Department connections shall be five-inch Storz.

§ 93-16. Effect on other provisions.

Nothing in this chapter shall be construed to permit any construction or use which is prohibited by Chapter 110, Land Development, of this Code or other ordinances of the Borough.

§ 93-17. Established fire areas and fire lanes.

Nothing herein contained shall be considered to repeal any previously established fire area or fire lane which shall continue to remain in full force and effect.

§ 93-18. Severability; conflicts with state law.

The invalidity of any section or provision of this chapter or of the Fire Prevention Code adopted by this chapter shall not invalidate other sections or provisions thereof. Any provisions of this chapter or the Fire Prevention Code adopted by this chapter which conflict with any state law or regulation shall have no effect, and such state law or regulation shall prevail in respect to the interpretation and enforcement of this chapter and the Code adopted herein.

METUCHEN CODE

Chapter 95

GAMES OF CHANCE

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 3-30-1981 by Ord. No. 81-6; amended in its entirety 12-19-2011 by Ord. No. 2011-11. Subsequent amendments noted where applicable.]

§ 95-1. Operation on Sundays.

Organizations, societies and associations duly licensed to hold and operate legalized games of chance under the provisions of N.J.S.A. 5:8-24 et seq. and 5:8-50 et seq. are hereby authorized, pursuant to N.J.S.A. 5:8-31 and 5:8-58, to hold, conduct and operate authorized games of chance in the Borough of Metuchen on Sundays.

§ 95-2. Violations and penalties.

Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in Chapter 1, General Provisions, Article 1.

§ 95-3. Issuing authority.

The Municipal Clerk is hereby delegated the authority to act as the issuing authority to approve the granting of raffle and bingo licenses.

§ 95-4. License fees.

The license fees for raffle and bingo licenses shall be the same fees as established by the State of New Jersey, except that the municipal licensing fee for instant raffle games awarding cash or merchandise as a prize shall be \$20 for each day on which instant raffle tickets are sold or offered for sale or \$100 for a one-year license to sell, or to offer for sale, instant raffle tickets during that year.

§ 95-5. License required.

It shall be unlawful for any person or entity to hold and operate legalized games of chance under the provisions of N.J.S.A. 5:8-24 et seq., N.J.S.A. 5:8-50 et seq., and N.J.S.A. 5:8-78 et seq. without having first obtained a license to do so from the Borough.

Chapter 98**GARAGE SALES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 10-15-1975 by Ord. No. 79-23. Amendments noted where applicable.]

§ 98-1. Definitions.

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

FLEA MARKET — Any facility where activities take place commonly known as but not limited to swap shops, penny markets, rummage sales and garage sales and where tangible articles are bought, sold or exchanged.

GARAGE SALES — All sales entitled garage sale, yard sale, lawn sale, attic sale, rummage sale or flea market or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of the sale.

GOODS — Any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

PERSON — Individuals, partnerships, voluntary associations and corporations.

§ 98-2. Permits.

- A. It shall be unlawful for any person to conduct a garage sale in the borough without first filing with the Borough Clerk the information hereinafter specified and obtaining from such Clerk a permit so to do, to be known as a "garage sale permit."
- B. Such permit shall be issued to any one person only twice within a twelve-month period, and no permit shall be issued for more than two consecutive calendar days. Any household in the borough shall be similarly limited to two permits within a twelve-month period, regardless of the number of persons in the household. No permit shall be issued for the same location in the borough in excess of two sales within a twelve-month period.
- C. The information to be filed with the Borough Clerk pursuant to this section, shall be as follows:
 - (1) Name of person, firm, group, corporation, association or organization conducting the sale.
 - (2) Name of owner of the property on which the sale is to be conducted and consent of owner if applicant is other than owner.
 - (3) Street address and location of property at which sale is to be conducted.
 - (4) Proposed date or dates of sale.
 - (5) Date and nature of any past sale.
 - (6) Relationship or connection applicant may have had with any other person, firm, group, organization, association or corporation conducting the sale and the date or dates of such sale.
 - (7) Whether or not applicant has been issued any other vendor's license by any local, state or federal agency.
 - (8) Sworn statement or affirmation by the person signing that the information therein given is full

and true and known to him or her to be so.

§ 98-3. Hours of sale.

All garage sales shall be conducted between the hours of 9:00 a.m. and 6:00 p.m.

§ 98-4. Signs.

- A. All persons are prohibited from making, causing to be made or erecting signs other than those signs specified by the borough. The signs shall be of uniform size and form (12 inches by 12 inches). The signs shall have a space allotted thereon upon which shall be placed the name and address of the person running the sale and the signs shall be removed within 48 hours after the completion of the sale.
- B. Signs shall be located on the premises on which the sale is to be conducted and on not more than three other locations of private property in the borough. Under no circumstances shall any signs be placed in the public right-of-way, including streets, sidewalk area, alleys or other thoroughfares. No signs shall be placed on any borough shade tree, telephone pole or on borough-owned property, including parks, playgrounds and other recreational areas, whether they be located in the public right-of-way or not.

§ 98-5. Exceptions.

The provisions of the chapter shall not apply to or affect the following persons or sales:

- A. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.
- D. Any publisher of a newspaper, magazine or other publication or other communication media who publishes or broadcasts an advertisement in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this chapter have not been complied with.
- E. Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the borough or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited by any other ordinance or statute.⁴³
- F. Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization, provided that they comply with the following:
 - (1) Make application to the Mayor and Council based on the submission of the following information:
 - (a) Name and address of the organization.

43. Editor's Note: See Ch. 110, Land Development.

- (b) Location of the property for the proposed flea market and name of owner if it differs from Subsection F(1)(a).
 - (c) Date of flea market.
 - (d) Proposed hours.
 - (e) Number of booths.
 - (f) Number of parking spaces available off street.
 - (g) Name, address and telephone number of contact person for the organization.
- (2) Receipt of permission from Mayor and Council by passage of resolution. Said permission shall be granted if the Mayor and Council find that the organization is bona fide as set forth above and that the operation of the flea market at the dates, times and locations requested will not unduly interfere with or impede the flow of traffic, will not create undue traffic congestion, will have satisfactory ingress and egress for motor vehicle and pedestrian traffic and will not create excessive noise in a residential neighborhood or endanger the health, safety and general welfare of the immediate neighborhood and the Borough of Metuchen.

§ 98-6. Enforcement.

- A. This chapter shall be enforced by the Chief of Police. It shall be the duty of the Chief of Police to investigate any violations of this section coming to his or her attention, whether by complaint or arising from personal knowledge, and if a violation is found to exist, he or she shall prosecute a complaint before the local municipal court pursuant to the provisions of this chapter. It shall be the duty of the Police Department to bring to the attention of the Chief of Police for further investigation any violations of this chapter of which the Police Department becomes aware during the course of its normal duties.
- B. The person to whom such permit is issued and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such person shall permit any loud or boisterous conduct on the premises, nor permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such persons shall obey the reasonable orders of any member of the Police Department or Fire Department of the borough in order to maintain the public health, safety and welfare.

§ 98-7. Violations and penalties.

- A. Any person, association or corporation conducting any such sale or similar activity without having the proper permit therefor or who shall violate any of the other terms and regulations of this chapter shall upon conviction be penalized as provided in Chapter 1, General Provisions, Article 1.⁴⁴
- B. Each day that such sale shall continue without being duly licensed shall be considered a separate violation.

44. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

METUCHEN CODE

Chapter 101

GASOLINE STATIONS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 6-15-1970 by Ord. No. 70-17. Amendments noted where applicable.]

§ 101-1. Definitions.

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

GASOLINE SERVICE STATION — Any building, structure, place or location designed primarily to supply motor vehicles with gasoline, oil, grease and supplies, for the inspection, testing and examination and the repair thereof and maintaining gasoline pumps and oil pumps for the purpose of selling gasoline and oil, provided that no premises maintained for the sale or display of motor vehicles and using gasoline and oil pumps for the servicing of customers' vehicles, its own vehicles or as an accommodation to customers shall be deemed a gasoline service station and that no store maintained for the sale of automobile parts and sundries and not maintaining gasoline pumps and oil pumps shall be deemed a gasoline service station.⁴⁵

§ 101-2. Display of motor vehicles.

No gasoline service station shall permit the outdoor display, storage or parking of any motor vehicles for sale, nor any wrecked or disabled motor vehicles, except such vehicles as are required to remain on the premises in connection with the immediate servicing or repair.

§ 101-3. Violations and penalties.⁴⁶

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article 1.

45. Editor's Note: Former § 17-3.2, dealing with hours of operation, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

46. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

HOTELS, BOARDINGHOUSES AND ROOMING

Chapter 104

HOTELS, BOARDINGHOUSES AND ROOMING HOUSES

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Ch. 11 of the 1966 Code. Amendments noted where applicable.]

ARTICLE 1
General Provisions

§ 104-1. Definitions.

- A. The following words and phrases as used in this chapter, unless otherwise expressly stated or unless the context or subject matter otherwise requires, shall have the meanings respectively ascribed to them by this section:

BOARDINGHOUSE — A structure, building, dwelling or house where the business of keeping boarders generally is carried on and where a furnished room and meals are regularly served as part of such accommodations.

HOTEL or INN — A structure, building, dwelling or house where the business of furnishing sleeping accommodations to guests, with or without meals, is conducted.

LODGING HOUSE — A structure, building, dwelling or house where the business of accommodating lodgers is carried on in substantially the same manner as a rooming house, except that the unit rented as part of such accommodations is a furnished apartment rather than a furnished room.

ROOMING HOUSE — A structure, building, dwelling or house where the business of accommodating roomers is carried on in substantially the same manner as a boardinghouse, except that no meals are served as part of such accommodations.

- B. For the purposes of this chapter, hotel, inn, lodging house, boardinghouse and rooming house shall include every dwelling house and any other building or structure kept, held or used where sleeping, lodging, boarding or light housekeeping rooms are offered for pay for three or more persons.

§ 104-2. Qualifications for operating hotel or similar accommodation.

The operation, conduct and management of a hotel, inn, lodging house, boardinghouse, rooming house, furnished room or similar accommodations shall not be under the management, control or supervision of any person convicted of a crime involving moral turpitude or suffering from a contagious or venereal disease, unless such person shall not reside at such premises or any part thereof and shall not at any time physically enter or visit the premises.⁴⁷

§ 104-3. Violations and penalties; enforcement

- A. Any person aiding, abetting, assisting or conspiring with any other person in the violation of any of the provisions of this chapter shall be guilty of a violation thereof and punished as provided in Chapter 1, General Provisions, Article 1.⁴⁸
- B. Each day any violation of this chapter exists or continues to exist shall be deemed a separate violation or offense under this chapter.
- C. Should any violation of this chapter be found by the Building and Zoning Inspector, Plumbing Inspector, Sanitary Inspector, Chief of Police or Fire Inspector of the borough, such officer shall notify the owner, manager or operator of such premises, in writing, to remove and abate such violation within five days and shall inform such owner, manager or operator that upon failure to

47. Editor's Note: Former § 11-10, which dealt with unrelated persons occupying the same sleeping quarters, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

48. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

comply with such notice, proceedings for violation of this chapter will be instituted against such owner, manager and/or operator in the Municipal Court of the borough. All of the aforesaid inspecting officers of the borough shall cooperate in the enforcement of this chapter and the prosecution of proceedings for the violation thereof.

§ 104-4. Exemptions.

This chapter is not intended to regulate:

- A. Nursing homes.
- B. Convalescent hospitals.
- C. Educational or secular institutions.
- D. Hotels where sleeping accommodations are supplied for pay to transients or permanent guests in which 15 or more rooms are rented, furnished or unfurnished, with or without meals or every building, or part thereof, which is rented for hire to 30 or more persons for sleeping accommodations. Such hotels with 15 or more rooms and such buildings for 30 or more persons are regulated by the Supervisor of Hotel Fire Safety in the State Department of Law under N.J.S.A. 29:1-8 et seq.⁴⁹

49. Editor's Note: Repealed by L. 1967, c. 76. See now N.J.S.A. 55:13A-1 et seq.

ARTICLE 2
Specific Regulations

§ 104-5. Fire escapes and stairways.

- A. All fire escapes in structures, buildings, dwellings, houses or parts thereof regulated by this chapter shall comply with the tenement house laws of the state⁵⁰ in structures, buildings, dwellings, houses or parts thereof subject to such laws. A red light shall be installed in the passageway or doorway leading to any such fire escapes. Doors leading to fire escapes shall be unlocked from the inside at all times and shall open outward.
- B. There shall be installed in every bedroom above the first floor in any structure, building, dwelling, house or part thereof not subject to the tenement house laws of the state a nonmechanical portable fire escape of nonrope construction which shall be of a reversible type, capable of having a tensile strength of 800 pounds, securely fastened to the wall or windowhead in the bedroom and enclosed in a metal box at all times accessible with written instructions for the use thereof on the cover of the box. In lieu of such nonmechanical portable fire escapes, an outside stairway of heavy wooden construction with stairs not less than three feet wide and risers not exceeding 7 3/4 inches and treads not less than 9 1/2 inches may be constructed from readily accessible passageways and exits to the ground. Where such nonmechanical portable fire escapes shall prove impractical by virtue of a protruding roof on the floor below, then an outside stairway as aforesaid shall be constructed from readily accessible passageway and exits to the ground. No outside stairway, however, shall be required where there is provided at least two independent and separated inside stairways of similar construction and dimension as herein required for outside stairways, each directly accessible to all occupants, each leading from the top floor to the ground floor and each located at opposite and different portions of the structure, building, dwelling, house or part thereof.

§ 104-6. Windows and ventilation.

All structures, buildings, dwellings, houses or portions thereof used for the purposes regulated by this chapter shall have a minimum of at least one window for adequate sunlight and ventilation in each room used for human occupancy, including a minimum of one window in the bathroom or lavatory and one window in the kitchen. Each such window shall open to the outer area and shall always be maintained in workable condition. In lieu of an outside window in the bathroom or lavatory, either mechanical or gravity ventilation may be substituted, provided that such ventilation meets the requirements of the Plumbing Code of the borough.⁵¹

§ 104-7. Water supply and adequate facilities.

Every occupant of any structure, building, dwelling, house or part thereof used for the purposes regulated by this chapter shall have a reasonable and sufficient supply of cold and hot running water, adequate water closet facilities and adequate bathtub or shower room for personal hygiene. All such facilities shall be installed in such manner that the control thereof shall be by the user at each of such facilities. Such structure, building, dwelling, house or portion thereof shall contain a minimum of at least one water closet or toilet, one bathtub or shower room, or a combination of both, for every four occupants.

50. Editor's Note: N.J.S.A. 55:1-1 et seq., Tenement Houses, was repealed by L. 1967, c. 76. See now N.J.S.A. 55:13B-1 et seq.

51. Editor's Note: See Ch. 78, Uniform Construction Codes.

§ 104-8. Food in sleeping quarters; required air space.

In any structure, building, dwelling, house or part thereof regulated by this chapter, no cooking shall be done, suffered or permitted by any occupant, lodger, roomer or owner in any room wherein sleeping accommodations are provided. No food of any kind shall be kept or permitted to be kept in any room used as sleeping quarters. Each such room shall have at least 400 cubic feet of air space for each person 12 years of age or over and at least 300 cubic feet of air space for each person under 12 years of age.

§ 104-9. Condition of facilities.

All plumbing, heating and drainage pipes, apparatus and facilities in every structure, building, dwelling, house or part thereof regulated by this chapter shall at all times be kept in a good, adequate and sanitary working condition.

§ 104-10. Accumulation of water and maintenance of doors and windows.

No owner of any building, structure, dwelling, house or part thereof used for the purposes regulated by this chapter shall cause, permit or suffer water or rainfall to accumulate on the roofs or porches, in the cellars or basements, or on any ceilings or floors within the premises, or any part thereof, or on the grounds upon which the structure, or any part thereof, is situated. All such structures, or parts thereof, shall have airtight and watertight roofs, ceilings, walls and windows. All windows shall be in good workable condition, and all windows and doorways in the warm periods of the year shall be provided with proper mesh-type screens, kept at all times in good condition by the owner.

§ 104-11. Heat and heating apparatus.

Whenever an owner of any structure, building, dwelling, house or part thereof regulated by this chapter is required by law to supply heat in such building, structure, or part thereof, or has undertaken or assumed the obligation to do so, expressly or impliedly, as part of the terms of the oral or written letting, such owner shall maintain such heating apparatus in good working order and condition at all times and in all seasons of the year. Should the outside temperature fall below 68° F., the owner of such premises shall supply a constant heat for such premises, or part thereof, at a minimum of 68° F., between the hours of 6:00 a.m. and 10:00 p.m., at such times.

§ 104-12. Letting of rooms for illicit purposes.⁵²

No owner of any building, structure, dwelling, house or part thereof used for purposes regulated by this chapter, or his or her servant, agent or employee, shall let any room for the purpose of prostitution, lewdness or sexual immorality.

§ 104-13. Compliance with state law, this chapter and other ordinances.

All structures, buildings, dwellings, houses or parts thereof used for the purposes regulated by this chapter shall comply with the requirements of state laws and regulations and with the requirements of this chapter and any other applicable ordinance of the borough.

52. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

§ 104-14. Compliance with uniform construction codes.⁵³

All structures, buildings, dwellings, houses or parts thereof regulated by this chapter shall comply with all uniform construction codes and particularly N.J.A.C. 5:18-3.5, and other applicable ordinances and regulations of the Borough of Metuchen.

53. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

ARTICLE 3

Licenses**§ 104-15. Required.**

No person shall establish, manage, conduct or operate a hotel, inn, boardinghouse, lodging house, furnished room or similar accommodation, as defined by this chapter, without first having obtained a license therefor from the Borough Clerk.

§ 104-16. Application.

Application for the license required by § 104-15 shall be made on or before May 1 of each year, on a form approved by the Mayor and Borough Council, and shall be signed and sworn to by the person actually engaged in such business and actually the true owner thereof.

§ 104-17. Investigations and certifications.

No license shall be issued under the provisions of this chapter unless and until the application therefor shall have been investigated and have endorsed thereon or attached thereto separate certifications by the Building and Zoning Inspector, Plumbing Inspector, Sanitary Inspector, Chief of Police and the Fire Inspector of the borough that the premises sought to be licensed have been inspected and found to comply with the respective ordinances and requirements of the borough, which are under their respective supervision and jurisdiction, including the provisions of this chapter applicable to their governmental function.

§ 104-18. Fee.

The fee for the issuance of each license under the provisions of this chapter shall be \$10 and such fee shall accompany the application for a license or any renewal thereof.

§ 104-19. Term and renewals.

All licenses under the provisions of this chapter shall be issued for a period of one year commencing on July 1 and expiring at midnight on June 30 of the following year. All renewals shall be applied for and issued in similar manner as an original application.

§ 104-20. Suspension and termination.

Any license issued under the provisions of this chapter shall terminate at any time after its issuance in the event that the use of the building or part thereof for such purposes shall cease. Should the structure, building, dwelling or house or part thereof fail to comply with the provisions of this chapter or any other applicable ordinance or regulation of the borough, as determined by either the Building and Zoning Inspector, Plumbing Inspector, Sanitary Inspector, Chief of Police or Fire Inspector, then such license shall be suspended until such time as the aforesaid respective officer shall find that the structure, building, dwelling or house or part thereof complies.

§ 104-21. Operating without required license. [Amended 8-2-1971 by Ord. No. 71-20]

Any person operating a building required to be licensed under this chapter, without a license, shall be guilty of a separate violation of this chapter and shall be punished as provided in § 104-3.

§ 104-22. Posting of sign by Chief of Police. [Amended 8-2-1971 by Ord. No. 71-20]

In the event that any building required to be licensed under this chapter is being operated by the owner without a license contrary to the provisions of this chapter, the Chief of Police shall cause to be posted on the main entrance of any said dwelling the following: "This building is closed for human habitation; anyone who uses, occupies or causes others to occupy this building shall be punished in accordance with the law." Any violation of this chapter, after the posting of such sign in respect to occupancy thereof, or any tampering or destruction of the sign shall be considered a separate violation of this chapter.

§ 104-23. Injunctive relief. [Amended 8-2-1971 by Ord. No. 71-20]

In addition to any penalties described in this chapter, upon the direction of the Mayor and Council, the Borough Attorney is authorized to seek injunctive relief to require the closing, repairing or demolishing, where necessary for the protection of the public health, safety and welfare, of any building which is operating without the license required under this chapter and which is in violation of any borough ordinance, state law or code in respect to human habitation.⁵⁴

54. Editor's Note: Former § 11-25, dealing with continuing violations and amended 8-2-1971 by Ord. No. 71-20, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 2.

METUCHEN CODE

Chapter 107

HOUSING

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 2-7-1972 by Ord. No. 72-3. Amendments noted where applicable.]

§ 107-1. Enforcement of State Housing Code.

The Building Inspector of the Borough of Metuchen, Fire Chief and Chief of Police are hereby authorized to enforce the State Housing Code of the State of New Jersey heretofore adopted by the Board of Health and to cooperate with the Chief enforcing officer of the Code, the Health Officer of the Borough of Metuchen to carry out the provisions of the Code.

LAND DEVELOPMENT

Chapter 110

LAND DEVELOPMENT

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 3-6-1989 by Ord. No. 89-1. Amendments noted where applicable.]

Part I
General Provisions

ARTICLE 1
Title; Purpose; Definitions

§ 110-1. Title.

The short title by which this chapter shall be known shall be "The Land Development Ordinance of the Borough of Metuchen."

§ 110-2. Purpose.

This chapter is adopted pursuant to N.J.S.A. 40:55D-1 et seq., in order to promote the following:

- A. The public health, safety, general welfare and morals.
- B. The purposes of the Municipal Land Use Law (N.J.S.A. 40:55D-2).
- C. The substantive goals, objectives, recommendations and policies of the Borough's Master Plan, including the Land Use Plan Element (adopted March, 1983), the Housing Plan Element (adopted March, 1983) and the Periodic Reexamination Report (adopted August, 1988).

§ 110-3. Word usage.

For the purposes of this chapter, certain phrases and words are herein defined as follows:

- A. Words used in the present tense include the future.
- B. Words in the singular number shall include the plural number and vice versa.
- C. The word "used" shall include the words "arranged," "designed," "constructed," "altered," "converted," "developed," "rented," "leased," "occupied," "operated" or "intended to be used."
- D. The word "lot" shall include the words "site," "tract," "land," "property," "plot" and "premises."
- E. The word "structure" includes the word "building," and the word "building" includes the words "dwelling," "residence" or "business."
- F. The word "shall" is mandatory and not discretionary, and the word "may" indicates a permissive action.
- G. Any word or term not defined herein shall be used with a meaning as defined in Webster's Third New International Dictionary of the English Language, unabridged (or latest edition). Moreover, whenever a term is used in this chapter which is defined in N.J.S.A. 40:55D-1, et seq., such term shall have the meaning in the statute, except to the extent expressly inconsistent with the terms herein.

§ 110-4. Definitions.

Unless otherwise specified herein, the following definitions shall be used for terms within this chapter:

ACCESSORY BUILDING — A separate and subordinate building on the same lot with a principal use, building or structure, and devoted exclusively to an accessory use, whether or not said accessory building has a foundation. Where an accessory building is attached to a principal structure by any means, such

accessory building shall be considered part of the principal structure for the purposes of determining height and setback requirements. **[Amended 9-15-1997 by Ord. No. 97-20]**

ACCESSORY STRUCTURE — A separate and subordinate structure located on the same lot as a principal use, building or structure and devoted exclusively to an accessory use, whether or not said accessory structure has a foundation. Where an accessory structure is attached to a principal structure by any means, such accessory structure shall be considered part of the principal structure for the purposes of determining height and setback requirements. **[Amended 9-15-1997 by Ord. No. 97-20]**

ACCESSORY USE — A use naturally and normally incidental and subordinate to the principal use of a structure or lot and located on the same lot as the principal use to which it relates.⁵⁵

ADMINISTRATIVE OFFICER — The Zoning Officer of the Borough of Metuchen.⁵⁶

ADULT ENTERTAINMENT USE — An establishment consisting of, including or having characteristics of any or all of the following: **[Added 9-15-1997 by Ord. No. 97-20]**

- A. **ADULT BOOKSTORE** — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes or films that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.
- B. **ADULT CABARET:**
 - (1) An establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.
 - (2) A cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators or similar entertainers for observation by patrons.
- C. **ADULT MINI MOTION-PICTURE THEATER** — An enclosed building with a capacity for fewer than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.
- D. **ADULT MOTION-PICTURE THEATER** — An enclosed building with a capacity for fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.
- E. **ADULT GIFT ESTABLISHMENT** — An establishment having as a substantial or significant portion of its stock-in-trade gifts, toys and other devices that are distinguished or characterized by their emphasis on depicting, describing, relating to or assisting with the stimulation of sexual activities or anatomical genital areas.

ADVERSE EFFECT OR CONDITIONS — Conditions or situations creating, imposing, aggravating or leading to impractical, unsafe or unsatisfactory conditions on a subdivided property or off-tract property, such as but not limited to improper circulation and drainage as defined in N.J.S.A. 40:55D-1, et seq., as amended, inadequate drainage facilities, insufficient street widths, unsuitable street locations to accommodate prospective traffic or to compose a convenient circulation system, lots located in a manner not adaptable for their intended purposes without danger to health or peril from flood, fire, erosion noise or

55. Editor's Note: The definition of "Acre" which immediately followed this definition was deleted 9-15-1997 by Ord. No. 97-20.

56. Editor's Note: The definitions of "Adult," "Adult Book Store" and "Adult Motion Picture Theater" which immediately followed this definition were deleted 9-15-1997 by Ord. No. 97-20.

other menace, or insufficient allowance for access to interior portions of remaining lands or other facilities required by this chapter.

AFFORDABLE SENIOR HOUSING — Multiple single-family housing, including townhouses and apartments, which are restricted to persons 62 years of age or older, or, in the case of a spouse 55 years of age or older provided the other spouse is 62 years of age, and who qualify as a low- or moderate-income household as defined by regulations of the New Jersey Council on Affordable Housing. **[Added 11-21-2005 by Ord. No. 2005-23]**

AGRICULTURE — The cultivation of the soil and the raising and harvesting of products of the soil, including but not limited to nursery, horticulture and forestry, whether for profit, private or personal use.

ALLEY — A second thoroughfare less than 30 feet in width dedicated for the public use of vehicles and/or pedestrians and which may afford access to abutting property.

ALTERATION — Any change, addition or modification in the construction, appearance or arrangement of a building or site.

ANATOMICAL GENITAL AREAS — Less than completely or opaquely covered human genitals, pubic region, buttocks or female breasts below a point immediately above the top of the areola. Human male genitals in a discernibly rigid state, even if completely or opaquely covered. **[Amended 9-15-1997 by Ord. No. 97-20]**

ANTENNA — An apparatus for sending and receiving radio or wireless communications signals. **[Amended 6-16-1997 by Ord. No. 97-8]**

APARTMENT — A dwelling unit located in a building used solely for residential purposes containing a total of three or more other dwelling units or one or more dwelling units located in a building containing another principal use or uses. **[Amended 9-15-1997 by Ord. No. 97-20]**

APPEAL — A means for obtaining review of a decision, determination, order or failure to act as defined by this chapter.

APPLICANT — The property owner or purchaser under contract, tenant occupant or any other person, partnership, corporation or public agency authorized to act in submitting an application for development under this chapter.

APPLICATION FOR DEVELOPMENT — The application form, required fees and all accompanying plans and documents required by this chapter for the approval of a subdivision, site plan, planned unit development, conditional use, zoning variance or direction of the issuance of a zoning permit application.

APPROVING AUTHORITY — The Planning Board or Zoning Board of Adjustment of the Borough of Metuchen, as the case may be.

ARTIST'S BODY PAINTING STUDIO — An establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the human body when such body is fully or partially nude.

AS-BUILT SURVEY — A property survey prepared and certified by a licensed land surveyor to reflect the actual location of structures and other improvements constructed on a property.

ASSISTED-LIVING FACILITY — Housing designed to provide a supportive living environment for semi-independent or infirm older adults, including congregate care and assisted-living facilities for which a certificate of need as an assisted-living residence has been obtained. Such facilities offer rental of private or semiprivate rooms and services, including meals, personal care, monitoring of medication or supervision of self-administration of medication, housekeeping, social and recreation activities, financial services, transportation and twenty-four-hour site supervision. Assisted-living facilities are licensed and inspected

by the New Jersey Department of Community Affairs as a Class C boarding home or are licensed and inspected by the New Jersey Department of Health as an assisted-living residence.**[Added 2-22-1999 by Ord. No. 99-2]**

ATTIC — The space between the ceiling beams of the top story and the roof rafters.

AUCTION MARKET — A room, building or open air space regularly or periodically devoted to the sale of goods to the highest bidder.

AUTOMOBILE DEALERSHIP — Any building, structure, place or location used for the display and/or sale of new or used motor vehicles of any type.**[Amended 9-15-1997 by Ord. No. 97-20]**⁵⁷

AUTOMOBILE REPAIR ESTABLISHMENTS — Any building, structure, place or location used for the inspection, examination, service and repair of motor vehicles and the installation of oil, grease, tires, batteries and similar motor vehicle accessories. No establishment that dispenses and supplies motor vehicles with gasoline and other fuels shall be deemed an automobile repair establishment (see "automotive service station"). No establishment maintained exclusively for the sale of motor vehicle accessories shall be deemed an automobile repair establishment.**[Added 9-15-1997 by Ord. No. 97-20]**

AUTOMOBILE SERVICE STATION — Any building, structure, place or location used for the dispensing and supply of motor vehicles with gasoline and other fuels and including the inspection, examination, service and repair of motor vehicles and the installation of oil, grease, tires, batteries and similar motor vehicle accessories. An automobile service station shall include any place where fuel pumps, containers or cans are maintained for the purpose of selling motor vehicle fuel. No store maintained exclusively for the sale of motor vehicle accessories shall be deemed an automobile service station.**[Added 9-15-1997 by Ord. No. 97-20]**

AUTOMOBILE WASHING ESTABLISHMENTS — Any building, structure, place or location used for the washing and cleaning of motor vehicles. No establishment that dispenses and supplies motor vehicles with gasoline and other fuels shall be deemed an automobile washing establishment (see "automotive service station"), and no establishment used for the inspection, examination, service and repair of motor vehicles and the installation of oil, grease, tires, batteries and similar motor vehicle accessories shall be deemed an automobile washing establishment (see "automotive repair establishments").**[Added 9-15-1997 by Ord. No. 97-20]**

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year. Also known as the one-hundred-year flood.

BASEMENT — A space having 1/2 or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 6 1/2 feet. A basement shall not be considered a story for the purposes of determining building height, pursuant to § 110-64.**[Amended 9-15-1997 by Ord. No. 97-20]**

BEDROOM — A room planned or used primarily for sleeping.

BERM — A graded, landscaped mounding of earth.

BLOCK — The area bounded by one or more public streets or a municipal boundary and of sufficient size to accommodate a lot or lots of the minimum size required in this chapter.

BOARD — The Planning Board or the Zoning Board of Adjustment of the Borough of Metuchen, depending on which Board has jurisdiction.**[Amended 9-15-1997 by Ord. No. 97-20]**

BOARDINGHOUSE or TOURIST HOUSE or ROOMING HOUSE or DORMITORY — A building

57. Editor's Note: The definition of "Automotive Service or Gasoline Station," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

arranged or used for lodging, with or without meals, for compensation, by more than two rooms that are rented or designed to be rented but which rooms do not constitute separate dwelling units.

BOND — See "guaranty."

BOROUGH — The Borough of Metuchen, Middlesex County, New Jersey.

BOROUGH ADMINISTRATOR — The Administrator of the Borough of Metuchen.

BOROUGH COUNCIL — The governing body of the Borough of Metuchen.

BOROUGH ENGINEER — The Municipal Engineer of the Borough of Metuchen as designated by the Borough Council.

BOROUGH PLANNER — The professional planner of the Borough of Metuchen.

BUFFER — A strip of land of specified width containing natural woodlands, earth berms, planted screening material, fences or walls, other screening devices or some combination of the above.

BUFFER PLANTING — A planted area devoted primarily to trees and/or shrubbery or other vegetation planted in a formal or informal manner to provide a basis for suitably screening or separating two areas within or between lots.

BUILDING — Any combination of materials forming a single structure which is erected on the ground and permanently affixed thereto, designed, intended or arranged for the housing, shelter or enclosure of persons, animals or property of any kind. A building divided by unpierced masonry division walls extending from the ground to or through the underside of the roof shall be deemed a single structure for the purposes of this chapter. (See "structure.")

BUILDING AREA — The area included within surrounding exterior walls, exclusive of vent shafts and courts. Areas of the building not included within surrounding walls shall be included in the building area if included within the horizontal projection of the roof or floor above.

BUILDING ENVELOPE — An area, generally described by building setback lines, depicting the area within which the building(s) can be constructed.

BUILDING FOOTPRINT — The horizontal area contained within the outer dimensions of the foundation walls of a building.

BUILDING HEIGHT — See "height of structure."

BUILDING INSPECTOR — The Construction Code Official of the Borough of Metuchen.

BUILDING LINE or BUILDING SETBACK LINE — A line drawn parallel to the street or lot line in such a manner that the minimum front, rear and side yards are provided for.

BUILDING, PRINCIPAL — A building which is the principal structure on a lot. (See "principal structure.")

CALIPER — The diameter of a tree trunk measured at 54 inches above grade.**[Added 9-3-2013 by Ord. No. 2013-12]**

CAMPER — See "recreational vehicle."**[Added 9-15-1997 by Ord. No. 97-20]**

CANNABIS CULTIVATOR — Any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license.**[Added 10-24-2022 by Ord. No. 2022-19]**

CANNABIS DELIVERY SERVICE — Any licensed person or entity that provides courier services for

consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 Cannabis Delivery license.**[Added 10-24-2022 by Ord. No. 2022-19]**

CANNABIS DISTRIBUTOR — Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license.**[Added 10-24-2022 by Ord. No. 2022-19]**

CANNABIS ESTABLISHMENT — A cannabis cultivator, a cannabis distributor, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, or a cannabis delivery service.**[Added 10-24-2022 by Ord. No. 2022-19]**

CANNABIS MANUFACTURER — Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license.**[Added 10-24-2022 by Ord. No. 2022-19]**

CANNABIS RETAILER — Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license.**[Added 10-24-2022 by Ord. No. 2022-19]**

CANNABIS WHOLESALER — Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license.**[Added 10-24-2022 by Ord. No. 2022-19]**

CHANGE OF USE — The use of a building or land which constitutes a different use group from the previous use group, pursuant to the New Jersey Uniform Construction Code, N.J.A.C. 5:23-1 et seq.**[Amended 11-1-1993 by Ord. No. 93-23; 12-16-1996 by Ord. No. 96-18;⁵⁸8-17-2009 by Ord. No. 2009-11; 9-3-2013 by Ord. No. 2013-12]**

CIRCULATION — Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits and the handling of people and goods by such means as terminals, stations, warehouses and other storage buildings or transshipments points.

CLEAR SIGHT TRIANGLE — The triangle formed by the point of intersection of the right-of-way lines of two intersecting streets and the points on each of the intersection right-of-way lines at a given distance from the point of intersection, providing for adequate sight distance.

58. Editor's Note: Section 8 of this ordinance provided that this chapter shall become effective immediately in the B-1, B-2, B-3 and B-4 Zoning Districts and shall be effective in all other zoning districts two years following adoption and publication.

CLUBHOUSE — A building to house a club, civic or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with or as a public eating and/or drinking establishment.[Amended 9-15-1997 by Ord. No. 97-20]

COAH — The New Jersey Council on Affordable Housing.[Added 6-29-1998 by Ord. No. 98-4]

COLLOCATE — A situation where two or more wireless communication providers, including governmental agencies, locate separate antennas on the same wireless communications tower or facility.[Added 6-16-1997 by Ord. No. 97-8]

COMMERCIAL VEHICLES — Any commercially registered vehicle, except a passenger car with no advertising matter exposed to view. Vehicles normally associated with a commercial use, but not registered as a commercial use, shall be deemed commercial vehicles.

COMMON ELEMENTS — Open space, buildings, structures, recreational facilities, utilities and other improvements owned by and/or operated for the benefit of the residents in common, including but not limited to swimming pools, tennis courts, building structures and entries, roads, drainage systems, pedestrian and bicycle pathways and other facilities.

COMMON OPEN SPACE — An open space area in common ownership.

COMMON OWNERSHIP — Ownership of land and/or real improvements by an association, cooperative or the like.

COMPLETE APPLICATIONS — A development plan which meets all of the submission requirements, including those pertaining to development plan details, set forth in Part II of this chapter and which is accompanied by payment of the required fee established in Part II of this chapter.

CONDITIONAL USE — A use permitted in a particular zone only upon a showing that such use in a specific location will comply with the conditions and standards for the location and operation of such use as contained in this chapter and upon the approval of a development plan therefor by the Board.

CONDOMINIUM — The form of ownership of real property under a master deed providing for ownership by one or more owners of units of improvements together with an undivided interest in common elements appurtenant to each such unit of improvement.[Amended 9-15-1997 by Ord. No. 97-20]

CONDOMINIUM PROPERTY — The land covered by the master deed, whether or not contiguous and all improvements thereon, all owned either in fee simple or under lease and all easements, rights and appurtenances belonging thereto or intended for the benefit thereof.

CONSTRUCTION CODE OFFICIAL — The municipal official designated by the Borough Council to enforce the Uniform Construction Code.[Amended 9-15-1997 by Ord. No. 97-20]

COOPERATIVE — A housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association or to lease or purchase a dwelling constructed or to be constructed by the corporation or association.

CORNER LOT — See "lot, corner."

COUNTY PLANNING BOARD — The County Planning Board, as defined in Section 1 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.1), of Middlesex County.

COVERAGE — [Amended 9-3-2013 by Ord. No. 2013-12]

- A. BUILDING COVERAGE — The aggregate square footage or other area measurement of the footprints by which all structures occupy a lot, including principal structures, detached garages, sheds, carports, porches, decks, raised patios more than 30 inches above grade and any other

structure deemed to be permitted accessory structures.

- B. IMPERVIOUS COVERAGE — The aggregate square footage or other area measurement of the footprints by which all structures and paved areas occupy a lot, including principal structures, detached garages, sheds, carports, porches, decks, patios, walkways, driveways, parking areas, sports courts, plazas and any other structure deemed to be permitted accessory structures. Swimming pool water surface areas, fences and walls less than two feet in width, loose stones and mulch areas intended for landscaping purposes shall be excluded.

CUL-DE-SAC or DEAD-END STREET — See "street."

DATE OF APPROVAL — The date of a resolution of action or a resolution memorializing the action of the Board.

DAY-CARE CENTER or CENTER — Any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day. In the case of a center operating in a sponsor's home, children who reside in the home shall not be included when counting the number of children being served. This term shall include, but shall not be limited to, day-care centers, drop-in centers, nighttime centers, recreation centers sponsored and operated by a county or municipal government recreation or park department or agency, day nurseries, nursery and play schools, cooperative child centers, centers for children with special needs, centers serving sick children, infant-toddler programs, school-age child-care programs, employer-supported centers, centers that had been licensed by the Department of Human Services prior to the enactment of the Child-care center Licensing Act, P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.) and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth. This term shall not include: **[Amended 9-15-1997 by Ord. No. 97-20]**

- A. A program operated by a private school which is run solely for educational purposes. This exclusion shall include kindergartens, prekindergarten programs or child-care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth.
- B. Centers or special classes operated primarily for religious instruction or for the temporary care of children while persons responsible for such children are attending religious services.
- C. A program of specialized activity or instruction for children that is not designed or intended for child-care purposes, including but not limited to Boy Scouts, Girl Scouts, 4-H clubs and Junior Achievement and single activity programs such as athletics, gymnastics, hobbies, art, music and dance and craft instruction, which are supervised by an adult, agency or institution.
- D. Youth camps required to be licensed under the New Jersey Youth Camp Safety Act, P.L. 1973, c. 375 (N.J.S.A. 26:12-1 et seq.). To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp issued by the Department of Health. A youth camp sponsor who also operates a child-care center shall secure a license from the Department of Human Services for the center.
- E. Day training centers operated by or under contract with the Division of Developmental Disabilities within the Department of Human Services.
- F. Programs operated by the Board of education of the local public school district that is responsible for their implementation and management.
- G. A program such as that located in a bowling alley, health spa or other facility in which each

child attends for a limited time period while the parent is present and using the facility.

- H. A child-care program operating within a geographical area, enclave or facility that is owned or operated by the federal government.
- I. A family day-care home that is registered pursuant to the Family Day Care Provider Registration Act, P.L. 1987, c. 27 (N.J.S.A. 30:5B-16 et seq.).
- J. Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for handicapped children, pursuant to N.J.S.A. 18A:46-1 et seq.

DAYS — Calendar days.

DBH or DIAMETER AT BREAST HEIGHT — Diameter of a tree trunk measured at breast height, three feet six inches above ground level.

DENSITY — The total number of dwelling units in a proposed development divided by the total number of acres of the tract of which the proposed development site is a part.

DEVELOPER — The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase or other person having an enforceable proprietary interest in such land.

DEVELOPMENT — The division of a parcel of land into two or more parcels or the construction, reconstruction, conversion, alteration, relocation or enlargement of any building or other structure or of any mining, excavation or landfill or any change in use or intensity of use of any building or other structure or land or any alteration of a site for which approval may be required pursuant to this chapter. **[Amended 9-15-1997 by Ord. No. 97-20]**

DEVELOPMENT FEES — Money paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules. **[Added 6-29-1998 by Ord. No. 98-4]**

DEVELOPMENT PLAN — See "application for development." **[Amended 9-15-1997 by Ord. No. 97-20]**

DEVELOPMENT REVIEW COMMITTEE — An informal board of Borough staff, officials and professionals that will review development plans or concept plans. **[Added 2-18-2020 by Ord. No. 2020-05]**

DISTRIBUTION CENTER — Any building or premises in which the principal use involves the handling and distribution of wholesale goods to purveyors but not for resale to the general public or individual members of wholesale clubs. **[Added 10-4-1993 by Ord. No. 93-26]**

DISTRIBUTOR — The person responsible for placing and maintaining a newsrack on the public right-of-way.

DRAINAGE RIGHT-OF-WAY OR EASEMENT — The lands required for the installation of storm sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage. **[Amended 9-15-1997 by Ord. No. 97-20]**

DRAINAGE SYSTEM — The system through which water flows from the land, including all watercourses, water bodies and wetlands.

DRIVEWAY — A private roadway providing access for motor vehicles to a garage, dwelling or other building.

DRIVE-IN BANKS — Any banking facility which either includes or consists entirely of a drive-in window or drive-in facility to accommodate customers remaining in their automobiles, regardless of whether or not enclosed walk-in banking facilities are also provided.

DRIVE-IN RESTAURANT — Any establishment whose principal business is designed for the sale of food and beverages to customers without the need to leave their vehicles or for consumption in vehicles either on or off the premises. **[Amended 3-17-2003 by Ord. No. 2003-4]**

DUPLEX — Two dwelling units, sharing a common horizontal separation, with two independent means of ingress and egress for each unit.

DWELLING UNIT — A room or series of connected rooms containing living, cooking, sleeping and sanitary facilities for one housekeeping unit. The dwelling unit shall be self-contained and shall not required access through another dwelling unit or other indirect route(s) to get to any portion of the dwelling unit, nor shall there be shared facilities with another housekeeping unit.

EATING AND DRINKING ESTABLISHMENTS — Any business use that provides food and/or beverages to patrons to be consumed either on or off the premises. However, a snack bar or refreshment stand at a public or community facility shall not be deemed an eating and drinking establishment.

EFFICIENCY — A residential dwelling unit without a separate bedroom. For the purposes of this chapter, an efficiency shall be considered a one-bedroom unit.

ENTRANCE PLATFORM — A building entrance open on three sides and extending not more than five feet from the face of the building.

ENVIRONMENTAL COMMISSION — The Borough of Metuchen Environmental Commission, a municipal advisory body created pursuant to N.J.S.A. 40:56A.

EQUALIZED ASSESSED VALUE — The value of a property determined by the Municipal Tax Assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Municipal Tax Assessor. **[Added 6-29-1998 by Ord. No. 98-4]**

EROSION — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

EXTERNAL IMPACT — The change off-tract resulting from the implementation of a development plan relating to, but not limited to, such items as traffic, drainage, light, noise, etc.

FAMILY — One or more persons living as a single housekeeping unit occupying a single dwelling unit and having their own sanitary and kitchen facilities, provided that any group whose number exceeds the number of people permitted to occupy space in a dwelling under the State Housing Code shall not be considered a family.⁵⁹

FAST-FOOD RESTAURANT — An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption within the restaurant building, or consumption in vehicles either on or off the premises. For the purpose of this definition, a fast-food restaurant may include fast-service techniques designed for higher speed and volume of customer turnover, including but not limited to prepayment by the customer at the time of ordering and in advance of the serving of such food, multiple cashier lines, and numbered or preset menus. Fast-food restaurants include any such use designated for higher speed and volume of customer turnover that requires parking in excess of that required for eating and drinking establishments by § 110-154. **[Added 9-15-1997]**

59. Editor's Note: The definition of "Fast Service Restaurant," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

by Ord. No. 97-20; amended 2-22-1999 by Ord. No. 99-1; 3-17-2003 by Ord. No. 2003-4]

FENCE — A structure used for screening or enclosure.

FINAL APPROVAL — The official action of a Board taken on an approved preliminary development plan after all requirements, conditions, engineering plans, etc. have been completed and the required improvements installed or guaranties properly posted for their completion. A development plan that receives such final approval must have been prepared by a licensed professional engineer and/or land surveyor in compliance with all of the provisions of N.J.S.A. 46:23-9.9 et seq. and, in the case of a subdivision, includes the map to be filed with the County Recording Officer in accordance with N.J.S.A. 45:55D-54.

FINAL DEVELOPMENT PLAN — The final map of all or a portion of the development plan which is presented to the Board for final approval in accordance with these regulations and which, if approved and as required, shall be filed with the County Recording Officer.

FINANCIAL INSTITUTIONS — Establishments such as banks, credit agencies, investment companies, brokers of and dealers in securities and commodities, and security and commodity exchanges. **[Added 7-16-2007 by Ord. No. 2007-4]**

FLAT — An apartment located above or below another dwelling unit or portion thereof.

FLEA MARKET — Includes any facility where activities take place commonly known as but not limited to swap shops, penny markets, rummage sales or garage sales and where tangible articles are bought, sold or exchanged.⁶⁰

FLOOR AREA — The gross area of all floors computed by using the dimensions of the outside walls of each floor of a building. Only those areas having five feet or more of clear head room with completed floors, ceiling and partitions may be considered in computing the second floor area of a one-and-one-half-story house, and at least 1/2 of the included second floor area shall have a minimum ceiling height of seven feet six inches. Cellars (but not basements), porches, balconies, patios, terraces, breezeways, carports, verandas and garages are excluded, as is enclosed parking for a nonresidential use, except that enclosed porches and patios which are heated and used year-round shall be counted in computing the floor area.

FLOOR AREA RATIO (FAR) — The aggregate floor area in square feet of the principal building on a lot, divided by the total area in square feet of the lot.⁶¹

FRONT LOT LINE — See "lot line, front."

FRONT SETBACK LINE — The line, measured from the street line, parallel and concentric with such street line marking the beginning of the permitted building area.

FRONT YARD — See "yards."⁶²

GARAGE — A detached accessory building or portion of the principal building designed primarily for the storage of passenger vehicles. **[Amended 9-15-1997 by Ord. No. 97-20]**

GARAGE, PUBLIC — Any building, premises or land, other than an automotive service station, in which or upon which a business, service or industry involving the storage, maintenance, cleaning or major repair of motor vehicles or the retail sale or rental of new or used motor vehicles, prepackaged motor fuels or

60. Editor's Note: The definitions of "Flood Fringe Area," "Flood Hazard Area," "Flood Hazard Design Evaluation," "Flood Map," "Flood of Record," "Floodplain" and "Floodway," which immediately followed this definition, were deleted 9-15-1997 by Ord. No. 97-20. See also Article 24, Flood Damage Prevention, of this chapter.

61. Editor's Note: The definition of "Four-Family Dwellings," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

62. Editor's Note: The definition of "Garage," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

motor vehicle parts is conducted or rendered.

GARDEN APARTMENTS — Two or more multifamily apartment houses on one lot containing three or more separate dwelling units and sharing joint utility services or facilities, or both.

GASOLINE FILLING STATION — See "automobile service station" and "garage, public."**[Amended 9-15-1997 by Ord. No. 97-20]**

GOVERNING BODY — The Mayor and Borough Council of the Borough of Metuchen.

GRADE —

A. The ground elevation.

B. The slope of a road, path, swale or other surface, expressed as a percentage.

GRADING — Any stripping, cutting, filling, stockpiling or combination thereof.

GROCERY STORE — See "supermarket."

GROSS LEASABLE AREA — The total area within a commercial or industrial structure available or proposed for rent or lease.

GROSS WEIGHT — The maximum total weight for which a vehicle is registered with the New Jersey Division of Motor Vehicles pursuant to N.J.S.A. 39:1 et seq.**[Amended 9-15-1997 by Ord. No. 97-20]**

GUARANTY — Any security which may be accepted by the Borough, including, without limitation, cash or a bond in the form of a surety underwritten by an insurance company approved by the State of New Jersey in a form approved by the Borough Council.

HANDICAPPED — An individual who because of a physical limitation would find stairs, doorways or other segments of construction a restraint to ease of entry.

HANDICAPPED ACCESSIBLE — Construction of a structure that enables a handicapped individual ease of entry.

HANDICAPPED ADAPTABLE — Construction of a structure that would easily adjust to accommodate a handicapped individual's ease of entry.

HAZARDOUS MATERIALS — Any materials classified as hazardous by the United States Environmental Protection Agency or the New Jersey Department of Environmental Protection and Energy.**[Amended 9-15-1997 by Ord. No. 97-20]**

HEALTH CLUB or GYM or FITNESS CENTER — An establishment that provides facilities for multiple types of exercise and fitness programs including aerobic exercises, running, exercise equipment and machines, weightlifting equipment, basketball or other sports/game court(s), swimming pool(s), hot tub(s), sauna(s), showers, locker room(s), changing rooms and other rooms for classes and training. They are generally open daily continuously from morning until evening and require a membership with guest privileges. They are not generally open to the public on a daily admission basis. Members and guests can normally use the facilities without the direction of an instructor or staff member.**[Added 8-12-2019 by Ord. No. 2019-12]**

HEIGHT OF STRUCTURE — The vertical distance from grade plane to the highest roof surface. A grade plane shall be defined as a reference plane representing the average of the preconstruction grade or finished grade, whichever is lower in elevation, adjoining the structure at all exterior walls. Exceptions: see § 110-109.**[Amended 9-11-2023 by Ord. No. 2023-26]**

HISTORIC SITE — Any building, structure, area or property that is significant in the history, architecture, archaeology or culture of the state, its communities or the nation and that has been so designated by a

federal or state agency or local governing body.

HISTORIC SITE INVENTORY — The list of buildings, structures and sites that the Borough has recognized as having historical, archaeological, cultural or other value to the community.

HOME OCCUPATION — Any use permitted pursuant to § 110-100.[**Amended 9-15-1997 by Ord. No. 97-20**]

HOTEL — A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment and recreational facilities. Living units may be provided for the sole use of resident employees, provided that the same do not exceed 3% of the living units provided.[**Amended 9-15-1997 by Ord. No. 97-20**]

HOUSEKEEPING UNIT — One or more persons living together in one dwelling unit and sharing living, sleeping, cooking and sanitary facilities on a nonprofit basis.

IMPACT — The projected or measured effect of a proposed development on a public facility or service, on the natural environment, on facilities, on traffic, on the fiscal balance of the Borough, its school districts and/or other local public agencies.

IMPERVIOUS SURFACE — Any site area that does not absorb water, including buildings, parking areas, driveways, roads, sidewalks, any areas of concrete or asphalt or stored materials (example lumber in lumberyards) and any streams, water bodies or detention or retention basins.

INCLUSIONARY DEVELOPMENT — A residential housing development in which at least 10% of the housing units are set aside for low- and moderate-income households, as defined by the New Jersey Council on Affordable Housing (COAH). The term may also mean housing developments comprised completely of low- and moderate-income housing.[**Added 6-15-1992 by Ord. No. 92-15**]

INN — A hotel or other lodging house serving food and drink and containing 25 rooms or less for transient lodging accommodations.[**Amended 9-15-1997 by Ord. No. 97-20**]

INSTITUTIONAL USE — A use by a public or nonprofit quasi-public or private institution for educational, religious, charitable, medical or civic purposes.

INTERSECTION — A point where two or more streets meet and/or cross.

JUDGMENT OF REPOSE — A judgment issued by the Superior Court approving a municipality's plan to satisfy its fair share obligation.[**Added 6-29-1998 by Ord. No. 98-4**]

JUNKYARD — Any area used for storage, keeping or abandonment of junk, including scrap metals or other scrap material or for the dismantling, demolition or abandonment of structures, automobiles or other vehicles, equipment and machinery or parts thereof; provided, however, that this definition shall not be deemed to include any of the foregoing uses which are accessory and incidental to any agricultural use permitted in any zone. The term "junkyard" as herein defined includes automobile wrecking yards.

KENNEL — Any building, structure or premises in which cats, dogs or other domesticated animals are kept, boarded, bred or trained. For the purpose of this chapter, pet shops and offices of veterinarians shall not be considered kennels, as long as such uses do not keep, board, breed or train cats, dogs or other domesticated animals in a manner inconsistent with the normal operation of such a use.

LIGHT INDUSTRIAL — An activity which involves the assembly or fabrication of products from previously prepared materials.[**Amended 10-4-1993 by Ord. No. 93-26**]

LIVESTOCK, RAISING AND KEEPING OF — The breeding and quartering of horses, cows, ponies, sheep, goats or other farm animals. This term shall not include the keeping of cats, dogs or other domesticated animals in kennels. Raising and keeping of livestock is prohibited in all zones.

LIVING AREA — The living area of any dwelling unit is that portion thereof used primarily for residential purposes, exclusive of basements and/or cellars, unimproved attics, open porches, exterior balconies, breezeways, open spaces, garages or other similar extensions.

LOADING BERTH — A space or berth located off-street and on-site for the temporary parking of a motor vehicle while engaged in loading and unloading activities, connected with a use on the site.

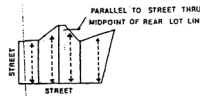
LOT — A parcel of land, identified and duly filed as a separate legal entity by deed or plat, which is occupied or capable of being occupied under this chapter by one or more buildings, and the uses or buildings customarily incidental to it.

LOT AREA — The total area included within the property lines. Where the property line extends to the center line of a street and the street right-of-way width has not been determined, the area of the lot for the purposes of this chapter shall not include land within 25 feet of the center line of this street. Where a right-of-way width is shown on either a subdivision plat or adopted Master Plan or Official Map, the area of the lot shall not include any portion of the actual or proposed right-of-way.

LOT, CORNER — A lot fronting on two or more streets at their intersection. A corner lot shall have one rear yard and two or more front yards but may not have more than one side yard.

LOT COVERAGE — The percentage of the lot area covered by the building as measured between the exterior surfaces of the exterior walls; the building area, in square feet, being the numerator, and the lot area, in square feet, being the denominator.

LOT DEPTH — The shortest horizontal distance between the front lot line and a line drawn parallel to the front lot line through the midpoint of the rear lot line (see illustration below). **[Amended 9-15-1997 by Ord. No. 97-20]**



LOT FRONTAGE — The horizontal distance between side lot lines measured along the street right-of-way line. In the case of a corner lot, either street frontage which meets the minimum frontage required for that zone may be considered the lot frontage.

LOT LINE — A line of record bounding a lot.

LOT LINE, FRONT — The lot line, coincident with the street right-of-way. **[Amended 9-15-1997 by Ord. No. 97-20]**

LOT LINE, REAR — The lot line opposite and most distant from the front lot line or the point at which the two side lot lines meet in the case of a triangular lot.

LOT LINE, SIDE — Any lot line other than a front or rear lot line.

LOT, NONCONFORMING — See "nonconforming lot." **[Added 9-15-1997 by Ord. No. 97-20]**

LOT, THROUGH — A lot fronting on two streets which do not intersect each other at the boundaries of the lot. A through lot shall have two side yards and two front yards but shall have no rear yard.

LOT WIDTH — The shortest distance between the side lot lines as measured between the front lot line and the required front setback line. **[Added 9-3-2013 by Ord. No. 2013-12]**

LOT WIDTH AT SETBACK LINE — The distance between the side lot lines measured along a line drawn parallel to the front lot line at a distance from the front lot line equal to the minimum front yard

setback.[**Amended 9-15-1997 by Ord. No. 97-20**]

LOT WIDTH AT STREET LINE — The distance between the side lot lines measured parallel to the street right-of-way along the front lot line.[**Amended 9-15-1997 by Ord. No. 97-20**]

MACHINE SHOP — Any business use that consists primarily of the use of power-driven machinery or tools.[**Amended 9-15-1997 by Ord. No. 97-20**]

MAINTENANCE GUARANTY — Any security that may be accepted by the Borough for the maintenance of any improvements required by this chapter. (See "guaranty.")

MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision.[**Amended 9-15-1997 by Ord. No. 97-20**]

MANUFACTURED HOME — A unit of housing which:[**Added 9-15-1997 by Ord. No. 97-20**]

- A. Consists of one or more transportable sections which are substantially constructed off-site and, if more than one section, are joined together on site;
- B. Is built on a permanent chassis;
- C. Is designed to be used, when connected to utilities, as a dwelling on permanent or nonpermanent foundation; and
- D. Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, P.L. 93-383 (42 U.S.C. § 5401 et seq.) and the standards promulgated for a manufactured or mobile home by the Commissioner pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217 (N.J.S.A. 52:27D-119 et seq.).

MASSAGE SHOP — An establishment or business which provides the service of massage and body manipulation, including exercises, heat and light treatments of the body, all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the State of New Jersey.

MASTER PLAN — A composite of one or more written or graphic proposals for the development of the Borough or sections thereof, pursuant to N.J.S.A. 40:55D-28, and setting forth the natural, historical, physical, social, housing and economic development policies, including goals and objectives for such, which have been adopted by the Planning Board.

MEMORIALIZATION, RESOLUTION OF — A resolution setting forth the decision of the Board on a particular application, including the findings of fact, reasons for the decision and conditions of approval, if any.

MINOR SITE PLAN — A development of land that meets the definitions and standards of a minor site plan, pursuant to Article 12 of this chapter.

MINOR SUBDIVISION — A subdivision of land that does not involve the creation of more than two new lots from one original lot, provided that such subdivision does not involve a planned development, any new street or the extension of any off-tract improvement, the cost of which is to be prorated, pursuant to Part III of this chapter.[**Amended 9-15-1997 by Ord. No. 97-20; 2-7-2000 by Ord. No. 2000-3**]

MOBILE HOME — See "manufactured home."[**Amended 9-15-1997 by Ord. No. 97-20**]

MOBILE HOME PARK — A parcel of land, or two or more parcels of land, containing no fewer than 10 sites equipped for the installation of manufactured homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a manufactured home for the installation

thereof and where the owner or owners provide services, which are provided by the municipality in which the park is located for property owners outside the park, which services may include but shall not be limited to:[**Amended 9-15-1997 by Ord. No. 97-20**]

- A. Construction and maintenance of streets.
- B. Lighting of streets and other common areas.
- C. Garbage removal.
- D. Snow removal.
- E. Provisions for the drainage of surface water from home sites and common areas.

MODELING STUDIO — An establishment or business which provides the service of modeling for the purpose of reproducing the human body wholly or partially in the nude, by means of photographing, painting, sketching, drawing or otherwise.

MOTEL — An establishment providing transient sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building. Such sleeping accommodations shall take place in furnished living units. Living units may be provided for the sole use of resident employees, provided that the same do not exceed 3% of the living units provided.[**Amended 9-15-1997 by Ord. No. 97-20**]

MUNICIPAL AGENCY — The Planning Board, Zoning Board of Adjustment or Borough Council of the Borough of Metuchen or any agency created by or responsible to one or more municipalities when acting pursuant to N.J.S.A. 40:55D-1 et seq.

MUNICIPALITY — The Borough of Metuchen.

MUNICIPAL LAND USE LAW — N.J.S.A. 40:55D-1 et seq.

NEIGHBORHOOD GREEN — A park or open space included in a PURD which may be either a public or a private common open space.[**Added 10-3-1994 by Ord. No. 94-14**]

NEW AUTOMOBILE DEALERSHIP — Any business use that displays and sells automobiles, trucks, motorcycles or such similar motorized vehicles, at least 75% of which are new as shipped from the manufacturer.

NEWSPAPERS — Any daily or weekly periodical or publication of general circulation duly entered with the United States Postal Service and accepted as such for mailing privileges by the Postal Service.[**Amended 9-15-1997 by Ord. No. 97-20**]

NEWSRACKS — Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or other periodicals.

NONCONFORMING LOT — A lot, the area, dimension(s) or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the requirements of the zone in which it is located by reason of such adoption, revision or amendment.[**Amended 9-15-1997 by Ord. No. 97-20**]

NONCONFORMING STRUCTURE OR BUILDING — A structure, the size dimension(s) or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the requirements of the zone in which it is located by reason of such adoption, revision or amendment.[**Amended 9-15-1997 by Ord. No. 97-20**]

NONCONFORMING USE — A use or activity which was lawful prior to the adoption, revision or

amendment of this chapter, but which fails to conform to the requirements of the zone in which it is located by reason of such adoption, revision or amendment. **[Amended 9-15-1997 by Ord. No. 97-20]**

NONENCLOSED OUTDOOR DINING STRUCTURE — A structure, whether accessory or attached to a principal structure, on the same lot as a permitted eating and drinking establishment and devoted exclusively to providing shelter from the elements for patrons of the eating and drinking establishment for outdoor dining purposes only. No cooking, food preparation or storage shall be permitted within the structure. The structure primarily consists of a roof structure with support posts, with no more than 50% of the sides of the structure comprised of permanent wall construction and windows, exclusive of support posts. Screening materials made of fabric, canvas, plastic, etc., may be used on open sides at any time from October 1 through March 31 and only during inclement weather from April 1 through September 30, and provided that such screens are retracted or raised when not in use. **[Added 2-8-2021 by Ord. No. 2021-01; amended 10-12-2021 by Ord. No. 2021-20]**

NURSERY SCHOOL — A place where three or more children are kept for the purpose of providing supplemental parental care, including day nursery, day-care home for children, kindergarten and education.

OFFICE — Executive, administrative, general or professional offices in which a business is conducted.

OFFICIAL COUNTY MAP — The map, with changes and additions therein, adopted and amended from time to time by resolution of the Board of Chosen Freeholders of Middlesex County pursuant to N.J.S.A. 40:27-5.

OFFICIAL MAP — A map adopted in accordance with the provisions of N.J.S.A. 40:55D-32, et seq. Such map shall be deemed to be conclusive with respect to the location and widths of streets, public parks and playgrounds and drainage rights-of-way shown thereon.

OFF-SITE — Located outside the lot lines of the lot in question but within the property (of which the lot is a part) which is the subject of the development plan or on a contiguous portion of a street or right-of-way.

OFF-TRACK BETTING PARLOR — A licensed off-track betting facility authorized by the New Jersey Gaming Commission and subject to its rules and regulations. **[Added 4-19-1999 by Ord. No. 99-4]**

OFF-TRACT — Not located on the property which is the subject of a development plan nor on a contiguous portion of a street or right-of-way.

OFF-TRACT IMPROVEMENT — A new street, water, sewage or drainage improvement or extension or modification of an existing improvement which is not located on the property which is the subject of a development plan, nor on a contiguous portion of a street or right-of-way, and which includes either of the following:

- A. All improvements of the types required for on-tract installation, where the need for providing for such improvements off-tract is, in whole or in part, made necessary by the proposed development plan and where such improvements will confer a benefit upon the lands which are the subject of the development plan.
- B. Any improvement or facility, the installation of which is required in the public interest but which would not otherwise be required except for the improvement of the lands which are the subject of the development plan, and the installation of which would confer a benefit upon the lands which are the subject of the development plan. In addition to improvements of the type referred to above, improvements required to maintain a safe flow of vehicular and pedestrian traffic are specifically declared to be necessary and in the public interest.

ON-SITE — Located on the lot in question.

ON-TRACT — Located on the property which is the subject of a development plan or on a contiguous

portion of a street right-of-way.

OPEN SPACE — An open space area within and related to a development and designed and intended for the use or enjoyment of residents and/or owners of the development. Open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of the open space by residents and/or owners of the development. Additionally, open space may be any parcel or area of land set aside, dedicated, designated or reserved for public use.

OPEN SPACE, USABLE — Usable open space is an area of land set aside, dedicated, designated or reserved for the public or private use as active or passive recreation.

OWNER — Any individual, firm, association, syndicate, copartnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

PARKING SPACE — An area, either within a structure or in the open, for the parking of a motor vehicle, exclusive of driveways, access drives, fire lanes and public rights-of-way, except that nothing shall prohibit private driveways for dwelling units from being considered off-street parking areas, provided that no portion of a private driveway lying within the right-of-way of the intersecting street shall be considered part of an off-street parking space. A parking space is intended to be of sufficient area to accommodate the exterior extremities of a vehicle, whether or not in addition thereto wheel blocks are installed within this area to prevent the bumper from overhanging one end of the parking space. The width and length of each space shall be measured perpendicular to each other, regardless of the angle of the parking space to the access aisle or driveway.⁶³

PERFORMANCE GUARANTY — Any security that may be accepted by the Borough to insure installation of any improvements required by the subdivision site plan or development plan, provided that the Borough shall not require more than 10% of the total performance guaranty in cash. (See "guaranty.")

PERMITTED USE — Any use which is allowed by the provisions of this chapter.

PERSONAL SERVICE BUSINESS — Any business use that provides services to individuals or businesses, such as acupuncturists, barbershops, beauty salons, learning and training centers, photocopy and print shops, computer repair, shoe repair, travel agencies, appliance repair shops and similar type uses.**[Added 9-3-2013 by Ord. No. 2013-12]**

PHYSICAL FITNESS STUDIO — An establishment that provides instruction, classes or training in specialized areas of physical fitness such as Pilates, boxing, martial arts, functional fitness training, yoga, stretching, cycling or other types of fitness training. Instruction or training can be provided in one-to-one or small group environments. The facility may provide shower(s), locker room(s) and changing room(s), but shall not have basketball or other sports/game court(s), swimming pool(s), hot tub(s), sauna(s) or other amenities usually found in health clubs, gyms and fitness centers. Studios may be equipped with exercise machines and equipment for instructed use. Memberships may be offered, but classes and use of the studio shall also be available on a "drop in" or daily admission fee basis. Hours of operation vary dependent on the class schedule of offerings. Exercise classes and training are normally led by an instructor or fitness trainer. An establishment that provides facilities and equipment for exercise and fitness without individual or group instruction and attention shall be considered a "health club, gym or fitness center" as defined herein.**[Added 8-12-2019 by Ord. No. 2019-12]**

PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD) — An area with a specified minimum contiguous acreage of five acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate commercial or public or quasi-public uses,

63. Editor's Note: The former definition of "parking stall," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

all primarily for the benefit of the residential development.

PLANNER — Professional planner, as certified by the New Jersey State Board of Professional Planners.

PLANNING BOARD — The Planning Board established pursuant to Part V of this chapter.

PLANTING STRIP — The area between the public street and the sidewalk within the right-of-way, usually planted in grass and within which street trees are usually located.

PLAT — The term "plat" is used interchangeably in this chapter with the term "subdivision plan" or "site plan."

POP-UP BUSINESS — Also known as "temporary retail," "flash retailing," "pop-up store" or "pop-up shop," a retail shop and store or a personal service business that is permitted pursuant to Article 17 of this chapter and is intended to be open to the public for a period no greater than 30 calendar days after it is opened to the public.**[Added 7-20-2015 by Ord. No. 2015-09]**

PORCH — A portion of the structure covered by a roof which has one or more sides open to the atmosphere.**[Amended 9-3-2013 by Ord. No. 2013-12]**

PRELIMINARY APPROVAL — The official action of a Board taken on a preliminary development plan after the Board has determined that the established standards adopted for design, layout and development in the Borough will be satisfied by the development plan. Such preliminary approval confers upon an applicant all rights provided for under N.J.S.A. 40:55D-49.

PRELIMINARY FLOOR PLANS AND ELEVATIONS — Architectural drawings prepared during the early stages of the design of a project, illustrating in a schematic form its scope, scale and pertinent detail along with its relationship to the site and immediate environs.

PRINCIPAL STRUCTURE — A structure arranged, adapted or designed for the predominant or primary use for which a lot is used.**[Amended 9-15-1997 by Ord. No. 97-20]**

PRINCIPAL USE — The predominant or primary use for which a lot is used.**[Amended 9-15-1997 by Ord. No. 97-20]**

PRIVATE ROAD — A paved cartway which provides vehicular access to more than one dwelling unit, principal structure or lot and which is not located in a public right-of-way.

PROFESSIONAL OFFICE — An office where the occupant is limited to a professional use and shall include only the offices of physicians, dentists, optometrists, ministers, architects, land surveyors, engineers, lawyers, accountants, chiropractors, chiropractists, mental health counselors and such similar professional occupations.

PROHIBITED USE — Any use which is not specifically permitted by this chapter.

PUBLIC AREAS — Public parks, playgrounds, trails, paths and other recreational areas and public open spaces, scenic and historic sites and sites for schools and other public buildings and structures.

PUBLIC BUILDING — A building which is owned and used by a governmental agency.⁶⁴

PUBLIC IMPROVEMENT — Any improvement on publicly held property or on private property if said improvement accommodates impacts that originate off-tract or controls external impacts.

PUBLIC OPEN SPACE — An open space area conveyed or otherwise dedicated to a municipality, a municipal agency, Board of Education, a state or county agency or any other public body for recreational or conservation uses. (See "open space.")

64. Editor's Note: The former definition of "public garage," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

PUBLIC AND PRIVATE SCHOOLS — Schools through grade 12 for preschool, primary and secondary education, established and operated primarily for the general education of children of the neighborhood, municipality or region in subjects and classes necessary for compliance with state compulsory education laws.

PUBLIC PURPOSE USE — The use of land or buildings by the Borough of Metuchen or by any other federal, state, county or municipal governmental body, including the Borough of Metuchen Board of Education.

QUARRYING — The mining of stone and the business of conducting a quarry, including the sale and shipping of excavated material of any kind. Quarrying is a prohibited use in all zones.

QUORUM — The majority of the full authorized membership of a Borough board.

REAR LOT LINE — See "lot line, rear."

REAR YARD — See "yards."

RECREATIONAL VEHICLE — Any vehicle, whether self-propelled or otherwise, used or intended for use as a conveyance upon public streets or highways and so designed, constructed or reconstructed or added to by means of accessories in such manner as to permit the occupancy thereof as a dwelling or sleeping place for one or more persons or as living and business quarters combined and having no foundation other than wheels, jacks or skirtings so arranged as to be integral with or portable by such vehicle. Recreational vehicle includes camper, trailer coach, motor home and similar vehicles. **[Amended 9-15-1997 by Ord. No. 97-20]**

RECYCLING PLAN — A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and locations documented on the applicant's site plan (if applicable) that provide for convenient recycling opportunities for all owners, tenants, and occupants. **[Added 12-17-2007 by Ord. No. 2007-11]**

REPAIR GARAGE — See "automobile service station."⁶⁵

RESUBDIVISION —

- A. The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved and recorded according to law; or
- B. The alteration of any streets or the establishment of any new streets within any subdivision previously made and approved and recorded according to law, but not including conveyances so as to combine existing lots by deed or other instrument.

RETAIL SHOP AND STORE — The sale of goods, for use or consumption off of the premises, directly to the customer. "Retail shop and store" shall not include the sale of cats and/or dogs. **[Amended 7-20-2015 by Ord. No. 2015-09; 12-9-2019 by Ord. No. 2019-19]**

RIGHT-OF-WAY — The strip of land within which a road (cartway) is or may be located and which is owned by or dedicated to a public agency.

SCHOOL — An institution designed for instruction or education and, unless otherwise specified in this chapter, limited to public, elementary and secondary schools and private and parochial schools with the equivalent curricula.

SCREEN — A planting of evergreen trees and shrubs and/or a berm and/or fencing to provide an opaque

65. Editor's Note: The former definition of "restaurant," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

visual barrier, provided that such a screen should be 100% visually impervious at all times of the year.

SEASONAL SPORTS DOME STRUCTURES — Temporary structures generally composed of pre-engineered fabric membrane buildings designed to house sport fields and/or courts and erected for no longer than eight months during any year. **[Added 11-17-2008 by Ord. No. 2008-17]**

SERVICE BUSINESS — Any business use that provides services to individuals or businesses, such as barbershops, dry-cleaning establishments, beauty salons, photocopy shops, travel agencies, appliance repair shops and similar type uses. **[Amended 9-15-1997 by Ord. No. 97-20]**

SETBACK LINE — See "building line or building setback line."

SEXUAL ACTIVITIES — Human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy. Fondling or other erotic touching of human genitals, pubic region, buttocks or human breasts. **[Amended 9-15-1997 by Ord. No. 97-20]**

SHOPPING CENTER — A group of commercial establishments built on one tract that is planned and developed as an operating unit. It provides on-site parking in definite relationship to the type and total size of the stores. The commercial establishments may be located in one or several buildings, attached or separated.

SIDE LOT LINES — See "lot line, side."

SIDEWALK — A paved path provided for pedestrian use and usually located at the side of a road within the right-of-way.

SIDE YARD — See "yards."

SIGHT TRIANGLE — See "clear sight triangle."

SIGN — Any device, display, structure, or part thereof that displays letters, numbers, symbols, other characters, logos, or images used to communicate a message. **[Amended 9-9-2024 by Ord. No. 2024-20]**

SIGN, OFF-PREMISES — A sign which advertises a business which is not conducted or a product which is not sold on the lot where the sign is located.

SIGN, TEMPORARY — A sign that is used in connection with a circumstance, situation or event, expected to remain where erected or placed for a short period of time which is not more than 15 days.

SINGLE-FAMILY DETACHED COURTYARD HOMES — A single-family detached home that has one side wall which is situated along one side lot line, rendering the building lot as having only one side yard. **[Added 10-3-1994 by Ord. No. 94-14]**

SINGLE-FAMILY DETACHED DWELLING UNIT — A freestanding residential building which contains one dwelling unit and which has no walls common with any other dwelling unit.⁶⁶

SINGLE OWNERSHIP — Ownership by one person or ownership by two or more persons as joint tenants, as tenants by the entirety or as tenants in common, or a corporation, partnership or association, of a separate lot not adjacent to any other land in which any of the above-mentioned persons has any beneficial interest whatsoever, including, among others, interest by marriage and/or blood.

SITE PLAN — A development plan of one or more lots on which is shown:

- A. The existing and proposed conditions on the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways.

66. Editor's Note: The definition of "Single-Family Attached Dwelling," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

- B. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures, signs and light-screening devices.
- C. Any other information required by this chapter or the Boards to enable the Boards to make an informed decision.

SKETCH PLAT — An informal plat of a major subdivision submitted to the Planning Board for review for the purpose of comments and suggestions prior to the submittal of the preliminary plat and conforming to the requirements of § 110-47. **[Amended 9-15-1997 by Ord. No. 97-20]**

SOCIAL HALL — See "clubhouse."

SOIL EROSION AND SEDIMENTATION CONTROL PLAN — A plan which fully indicates necessary land treatment measures, including a schedule of the timing for their installation, which will effectively minimize soil erosion and sedimentation.

SPORTS AND ATHLETIC FACILITIES — Any facility designed and equipped for the conduct of sports and athletics and related recreational activities, such as soccer, basketball, tennis, lacrosse, field hockey, volleyball and rock-climbing walls, and open to the public for a fee, including organized sports teams and leagues. Such facilities shall be located indoors, within a building, and may also include seasonal sports dome structures and outdoor sports fields or courts. Driving ranges, miniature golf, paintball, firing ranges, skateboard parks, batting ranges, archery ranges, swimming pools, water parks, skating rinks, motorized cart and motorcycle tracks, and motorized model airplane flying facilities shall not be deemed sports and athletic facilities. **[Added 11-17-2008 by Ord. No. 2008-17]**

STORMWATER DETENTION — Any storm drainage technique which retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells or any combination thereof.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

STORY, FIRST — The lowermost story entirely above the grade plane.

STORY, HALF — A partial story under a gable, hip or gambrel roof, the wall plats of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

STORY, MEZZANINE — An intermediate level between the floor and ceiling of any story and covering not more than 33% of the floor area of the room in which it is located.

STORY, SPLIT-LEVEL — A split-level story shall be considered a second story if its floor level is six feet or more above the level of the line of the finished floor next below it, except a cellar.

STREAM ENCROACHMENT PERMIT — A permit issued by the Department of Environmental Protection and Energy under the provisions of N.J.S.A. 58:1-26.

STREET — Any public or private right-of-way commonly used by the public for motor vehicle movement and which is approved for purposes of issuing building permits. For the purpose of this chapter, streets shall be classified as follows:

- A. Arterial streets are those which accommodate high volumes of through traffic.
- B. Collector streets are those which carry traffic from minor streets to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.

- C. Culs-de-sac, or dead-end streets, are minor streets which provide access to adjacent lots with access limited to one point of ingress and egress and having the other end for the reversal of traffic movement.
- D. Minor and/or local streets are those which are used primarily for access to the abutting properties.

STREET LINE — The right-of-way line of a street as indicated by public usage, dedication or deed of record or as shown on an adopted Master Plan or Official Map.

STRIPPING — Any activity which significantly disturbs vegetated or otherwise stabilized soil surfaces, including clearing and grubbing operations.

STRUCTURE — Anything constructed or erected which requires permanent or temporary location on the ground or permanent or temporary attachment to something which is erected on the ground and designed, intended or arranged for the housing, shelter, enclosure and/or structural support of persons, animals or property of any kind, excluding unroofed patios at ground level, parking lots or driveways and fences in compliance with yard requirements. A structure shall include unroofed porches above finished grade, roof overhangs, awnings in the extended position and any other permanent part of the structure. For the same purpose it shall not include structures such as fuel oil tanks, septic tanks and leaching pools which are completely buried below finished grade, drainage systems or utility poles required only for direct customer service.

STRUCTURE, ACCESSORY — See "accessory structure." **[Amended 9-15-1997 by Ord. No. 97-20]**

STRUCTURE, ALTERATION OF⁶⁷ — Any change in the supporting members of a structure, such as bearing walls, columns, beams or girders, or in the utility systems or mechanical equipment of a structure, which change materially alters the usability, strength, capacity or function of the structure.

STRUCTURE, NONCONFORMING — See "nonconforming structure." **[Amended 9-15-1997 by Ord. No. 97-20]**

SUBDIVISION — The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for the purpose, whether immediate or future, of sale or development, except that the following divisions shall not be considered subdivisions if no new streets are created:

- A. Divisions of property by testamentary or intestate provisions.
- B. Divisions of property upon court order, including but not limited to judgments of foreclosure.
- C. Consolidation of existing lands by deed or other recorded instrument.
- D. The conveyance of one or more adjoining lots, tracts or parcels of land which are owned by the same persons and which are found and certified by the Administrative Officer to conform to the requirements of this chapter and which are shown and designated as separate lots, tracts or parcels on the Tax Map.

SUBSTANTIVE CERTIFICATION — A determination by COAH approving a municipality's housing element and fair share plan in accordance with the provisions of the Act and the rules and criteria as set forth herein. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions contained therein. **[Added 6-29-1998 by Ord. No. 98-4]**

SUPERMARKET — A large self-service retail store of 2,000 square feet or more of gross floor area that

67. Editor's Note: The definition of "Structure, Nonconforming," which immediately preceded this definition, was deleted 9-15-1997 by Ord. No. 97-20.

sells food and household goods.

SURVEY — The map of the boundaries, area and dimensions of a property by means of measuring angles and distances; certified by a professional land surveyor. **[Amended 9-15-1997 by Ord. No. 97-20]**

SWIMMING POOL — A pool, having a depth of more than 18 inches and/or a water surface in excess of 100 square feet, whether located above or below the ground, constructed, designed and maintained for swimming and bathing purposes by a private residence for use by household members and guests and located on a lot as an accessory use to a detached dwelling. The term swimming pool shall include all buildings, structures, equipment and appurtenances thereto.

SWIMMING POOL, PUBLIC — Either outdoor or indoor pools which are artificially constructed to provide recreational facilities for swimming, bathing or wading for the use of the public or for the use of the membership of any private club, group or organization.

SWIMMING POOLS, PORTABLE — Those pools which are located above ground level, otherwise not permanently installed, do not require water filtration, circulation and purification, do not exceed a water surface of 100 square feet and do not require braces or supports. Portable pools shall not be subject to the requirements of this chapter.

TATTOO SHOP — An establishment or business which provides the services of applying a tattoo, more specifically described as an indelible mark or figure etched on the surface of the body by the insertion of pigment into the skin.

THEATER — A building designed for the presentation and viewing of live performances and/or motion pictures. For the purposes of this chapter, a theater shall not be considered a retail sales and services establishment.⁶⁸

THROUGH LOT — See "lot, through."⁶⁹

TOWNHOUSE — A townhouse is a building designed for or occupied by no more than one family or household and attached to other similar buildings or structures by party walls extending from the foundation to the roof and providing at least two direct means of access from the outside. For the purposes of this chapter, a townhouse may include a building in fee simple, condominium or cooperative ownership or any combination thereof.

TRACT — An area of land composed of one or more lots adjacent to one another having sufficient dimensions and area to form one parcel of land meeting the requirements of this chapter for the use intended.

TRAILER — A wheel-based vehicle that is designed to be transported by traction and which is used or may be used for the transportation or storage of goods, materials, livestock or any object. **[Amended 9-15-1997 by Ord. No. 97-20]**

TRAILER COACH — See "recreational vehicle." **[Amended 9-15-1997 by Ord. No. 97-20]**

TRANSCRIPT — A typed or printed verbatim record of the proceedings or reproduction thereof.

TRUCK — See "commercial vehicle."

TRUCKING TERMINAL — A building, structure, place or location used by trucks, trailer trucks or trailers for the storage, general parking or repair of trucks or trailers or the transfer of goods, wares

68. Editor's Note: The definition of "Technical Review Committee," which immediately followed this definition, was repealed 2-18-2020 by Ord. No. 2020-05. See now the definition of "Development Review Committee." The definition of "Three-Family Dwellings," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

69. Editor's Note: The definition of "Three-Family Apartments," which immediately followed this definition, was deleted 9-15-1997 by Ord. No. 97-20.

or merchandise from one truck or trailer to another truck or trailer and/or the storage of goods, wares, equipment or merchandise incidental to such transfer operations.

UNIFORM CONSTRUCTION CODE — Regulations pertaining to building, plumbing, electrical, energy, fire prevention, mechanical and manufactured or mobile homes as set forth in N.J.A.C. 5:23, as authorized by N.J.S.A. 52:27D-119 et seq. **[Added 9-15-1997 by Ord. No. 97-20]**

USE — The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

USE, ACCESSORY — See "accessory use."

USED AUTOMOBILE DEALERSHIP⁷⁰ — Any business use that sells automobiles, trucks, motorcycles or such similar motorized vehicles, of which at least 26% of such merchandise is used or previously owned. **[Amended 9-15-1997 by Ord. No. 97-20]**

USE, NONCONFORMING — See "nonconforming use." **[Amended 9-15-1997 by Ord. No. 97-20]**

USE, PERMITTED — See "permitted use." **[Amended 9-15-1997 by Ord. No. 97-20]**

USE, PRINCIPAL — See "principal use." **[Amended 9-15-1997 by Ord. No. 97-20]**

VARIANCE — Permission to depart from the literal requirements of Part III of this chapter, pursuant to the conditions set forth therein.

VENDING MACHINES — All unattended coin-operated machines, licensed or unlicensed, which render a service and/or dispense products or materials.

VETERINARIAN — A use pertaining to the medical diagnosis and treatment of diseases and injuries of domestic animals.

WAIVER — A determination by the Board that certain applications for development submission requirements set forth in Part II of this chapter are not required for said application to be certified as complete or that certain development and design standards as set forth in Part IV of this chapter are not required for said application to be approved.

WALKWAY — A path provided for pedestrian use through a site.

WAREHOUSE — Any building or premises in which the principal use involves the storage of goods, materials, equipment, merchandise or wares. Storage of hazardous materials in a warehouse is specifically prohibited. **[Amended 10-4-1993 by Ord. No. 93-26]**

WATERCOURSE — A natural or man-made conduit in the ground which channels water on a continuous basis, except in times of drought, for which a floodplain or flood hazard area has been delineated on Official Maps of the Borough.

WETLANDS — Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for use in saturated soil conditions.

WIRELESS COMMUNICATION — Any type of personal wireless telecommunication services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar devices utilized by the general public. Direct-to-home satellite services are excluded from this definition. **[Added 6-16-1997 by Ord. No. 97-8]**

WIRELESS COMMUNICATION FACILITIES — Antennas, towers, equipment sheds and other facilities

70. Editor's Note: The definition of "Use, Nonconforming," which immediately preceded this definition, was deleted 9-15-1997 by Ord. No. 97-20.

related to the provision of wireless communication at a site. **[Added 6-16-1997 by Ord. No. 97-8]**

WIRELESS COMMUNICATION TOWERS — A freestanding lattice or monopole structure used to support antennas or other wireless communication devices. **[Added 6-16-1997 by Ord. No. 97-8]**

YARDS —

- A. **FRONT YARD** — That portion of the lot situated between any street right-of-way line and a second line drawn parallel to the same through the portion of the principal building located closest to the street. The front yard shall extend across the entire lot and shall be unoccupied except by a use as specifically permitted.
- B. **SIDE YARD** — That portion of the lot which is not a front yard or a rear yard and which is also not occupied by the principal building(s). The side yard shall be unoccupied except by a use as specifically permitted.
- C. **REAR YARD** — That portion of the lot situated between the rear building line of the principal building and the rear property line, said rear building line being drawn parallel to the front building line and passing through the rearmost portion of the principal building(s). The rear yard shall extend across the entire lot, except that on a corner lot the designated rear yard shall extend only to the intersecting front yard. The rear yard shall be unoccupied except by a use as specifically permitted. **[Amended 9-15-1997 by Ord. No. 97-20]**

ZONING MAP — The land use zone map adopted by the Borough.

ZONING OFFICER — An agent, appointed by the Borough Council, who shall be responsible for the administration and enforcement of the provisions, requirements, regulations and standards contained in this chapter and who shall have such other duties and responsibilities as may be herein specified or assigned by an appropriate body.

ZONING PERMIT — A document issued by the Zoning Officer which acknowledges that the building, structure, sign, fence, occupancy or use complies with all provisions of this chapter or a duly authorized variance.

Part II
Applications For Development

ARTICLE 2
Zoning Permits

§ 110-5. Applicability.

A zoning permit shall be required to be approved by the Zoning Officer prior to the commencement of any of the following:

- A. The use or additional use or expansion of use of any land, structure or building, whether improved or unimproved, for any purpose.
- B. The erection, construction, reconstruction, alteration, conversion or installation of any structure or building, including signs and fences.
- C. The occupancy or use or the change of occupancy or use of any land, structure or building.

§ 110-6. Denial.

If a zoning permit is denied by the Zoning Officer, an applicant may do one of the following:

- A. Modify the proposed use or development so that it complies with all applicable provisions of this chapter, if possible, and reapply for zoning permit approval.
- B. File the appropriate application for development, pursuant to Article 3 of this chapter.'
- C. Take no action towards the commencement of the proposed use or development.

§ 110-7. Exemption from site plan review. [Added 12-16-1996 by Ord. No. 96-18⁷¹; amended 7-20-2015 by Ord. No. 2015-09; 2-8-2021 by Ord. No. 2021-01]

- A. This section is applicable in appropriate cases where minor development is proposed and may be exempt from obtaining site plan approval at the determination of the Zoning Officer. The Zoning Officer may issue a zoning permit after consultation with the Chairperson of the Planning Board and after the application has been reviewed by the Borough Planner and Borough Engineer to verify and confirm that no variances are required and that the site improvements and/or facade changes conform to applicable Borough design standards. Exemption from site plan review may be permitted for development involving any of the following:
 - (1) Minor alterations to the site, inclusive of the addition or removal of parking areas no greater than two parking spaces or 500 square feet.
 - (2) Minor alterations to one or more of the building elevations, structural changes, inclusive of awnings, canopies, and dormers to buildings without adding additional usable floor area for which parking is required under the provisions of § 110-154.
 - (3) The construction of a nonenclosed outdoor dining structure consisting of no greater than 500 square feet in floor area.

71. Editor's Note: Section 8 of this ordinance provided that this chapter shall become effective immediately in the B-1, B-2, B-3 and B-4 Zoning Districts and shall be effective in all other zoning districts two years following adoption and publication.

- (4) The construction of an accessory structure consisting of no greater than 200 square feet in floor area.
- B. An applicant may request an exemption upon application for a zoning permit by submitting four copies of an application for development and a statement setting forth reasons for the exemption and providing sufficient plan information as determined by the Zoning Officer to verify that an exemption may be granted.
- C. Pop-up businesses shall be exempt from obtaining site plan approval.

§ 110-7.1. Exemption from site plan review for signs. [Added 7-16-2018 by Ord. No. 2018-15; amended 2-11-2019 by Ord. No. 2019-01; 9-9-2024 by Ord. No. 2024-20]

- A. Applications which involve deviation from Article 48, Sign Regulations, limited to one or more of the following: 1) adding one additional sign in addition to the maximum number of signs that are permitted; 2) any sign with an area or dimension that is no more than 25% greater than the maximum permitted area, height, width, and/or thickness of sign, and/or height of letters, numbers, symbols, other characters, logos, or images; 3) any blade sign that projects no more than 25% greater than the maximum permitted projection; or, 4) any internally illuminated window sign, may be exempt from obtaining site plan approval at the determination of the Zoning Officer.
- B. The Zoning Officer shall have the power to grant such minor deviation from Article 48, Sign Regulations, as enumerated above, as may be reasonable and within the general purpose and intent of the provisions of Article 48, Sign Regulations, if the literal enforcement of one or more provisions of Article 48, Sign Regulations, is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.
- C. The Zoning Officer may issue a zoning permit after consultation with the Chairperson of the Planning Board, the Executive Director of the Metuchen Downtown Alliance, and the Director of Economic Development, and after the application has been reviewed by the Borough Planner to verify and confirm that no variances are required and that all other aspects of the application conform to applicable Borough development and design standards.
- D. An applicant may request an exemption upon application for a zoning permit by submitting four copies of an application for development and a statement setting forth reasons for the exemption and providing sufficient plan information as determined by the Zoning Officer to verify that an exemption may be granted.
- E. In the case where the exemption is denied, such deviation shall thereafter be subject to site plan review. All other deviations from Article 48, Sign Regulations, shall be subject to site plan review.

ARTICLE 3
Application Filing Procedure

§ 110-8. Submission. [Amended 9-3-2013 by Ord. No. 2013-12]

The applicant shall submit to the appropriate Board Secretary the specified number of copies of the following items:

- A. Eighteen copies of the completed application for development form, development plans and other documents related to the application.
- B. Six copies of the applicable completed application checklist.
- C. Six copies of any requests for waivers.
- D. A check payable to the Borough of Metuchen for the appropriate application fee.

§ 110-9. Administrative review. [Amended 2-18-2020 by Ord. No. 2020-05]

Upon submission of an application for development in compliance with § 110-8, the Secretary shall forward one copy of all submitted items to the Zoning Officer, who shall act as the duly constituted Administrative Officer in reviewing the application for compliance and completeness with respect to the submission requirements set forth in this article. In determining the completeness of an application, the Zoning Officer may refer such application to the Board Attorney, Borough Planner, Borough Engineer, the Development Review Committee or any other Borough official or agency for advice on legal or technical matters relating to any aspect of the application; provided, however, that said referral shall not extend the period of time within which the Zoning Officer is to conclude his or her review of the completeness of the submission. After reviewing the application, the Zoning Officer shall take action as follows:

- A. If the application is found to be complete, the Zoning Officer shall notify the applicant, in writing, within 45 days of the date of submission of such application and shall also assign a tentative hearing date for a Board meeting.
- B. If the application is found to be incomplete, the Zoning Officer shall notify the applicant, in writing, of the deficiencies within 45 days of the date of submission of such application, or it shall be deemed to be properly submitted after such time.
- C. If a request for waivers is submitted by the applicant, the Zoning Officer shall forward the application to the Board, if necessary, pursuant to § 110-24 in order for the Board to make a final determination on completeness within 45 days of the date of submission of such application, or it shall be deemed to be properly submitted after such time. Failure of the Board to make such determination on completeness within the above specified time period shall not preclude the Board from requesting additional information during the course of hearings on the review of the application, including such items for which waivers have been requested by the applicant.

§ 110-10. Direct submission to Zoning Board of Adjustment.

An application for development addressed to the original jurisdiction of the Zoning Board of Adjustment may be submitted directly to the Secretary of the Board without referral to the Zoning Officer for administrative review, pursuant to § 110-9 above. Such application for development shall be in compliance with § 110-8 above and shall be submitted at least 45 days prior to the regularly scheduled monthly meeting of the Board at which the applicant is requesting to be heard. In such cases, the Zoning Board

of Adjustment shall have the powers of administrative review, pursuant to § 110-9 above, including the rights to determine completeness and to set agendas for meetings and hearing dates for regular or special meetings.

§ 110-11. Informal review. [Amended 2-18-2020 by Ord. No. 2020-05]

An applicant is encouraged, but not required, to submit an informal application and/or concept plan to the Development Review Committee for informal review prior to filing a formal application for development.

ARTICLE 4
Application Forms

§ 110-12. Procedure. [Amended 9-15-1997 by Ord. No. 97-20]

Every application for development shall be accompanied by the number of copies of the completed application for development forms required under § 110-8 hereof. Application forms can be obtained from the Borough Planning and Zoning Department during its regular business hours. Such application forms shall be filled out completely with the information specified in § 110-13 below and shall not be considered complete for the purposes of commencing the time for decision unless the entire application form is completed. If an applicant wishes to omit or modify information required in the application form, a request for waivers shall accompany the application for development, pursuant Article 6 of this chapter.

§ 110-13. Contents. [Amended 9-3-2013 by Ord. No. 2013-12]

The application form shall be completed with the following information:

- A. The applicant's name, address and telephone number; the owner's name, address and telephone number; the street address of the tract to be developed and Borough Tax Map block and lot numbers; and site situation.
- B. The type of application for development requested.
- C. Usage information for the tract to be developed, including the nature of the review, present or previous use and proposed use.
- D. The zoning district in which the tract to be developed is located.
- E. Usage data for any nonresidential use or development, including the portion of building, structure and/or tract to be used, developed or occupied (in square feet); the number of employees; the number and location of parking spaces provided; the days and hours of operation; and machinery and equipment used.
- F. Height of buildings or structures located on the tract to be developed, in number of stories and feet.
- G. Building coverage and impervious coverage.
- H. Copies of any easements, covenants or deed restrictions affecting the tract to be developed.
- I. Certification by the Borough Tax Collector that no taxes or assessments for local improvements are due or delinquent on the tract to be developed.
- J. Consent of the property owner of record, if the applicant is not the owner of the tract to be developed, certifying that the owner of record concurs with such application for development.
- K. List of individuals owning 10% of stock or partnership in the same, if the applicant is a corporation, pursuant to N.J.S.A. 40:55D-48.1.
- L. Proof of application to the Middlesex County Planning Board, pursuant to N.J.S.A. 40:27-6.3 for subdivision approval, or N.J.S.A. 40:27-6.6 for site plan approval, in cases where the Middlesex County Planning Board has jurisdiction over such application.
- M. The name, address and telephone number of the applicant's attorney, engineer, architect, landscape architect, planner, land surveyor and other professional consultants who have prepared surveys, maps,

plans, reports or other documents and/or will appear at the hearing on the application.

- N. Signed and dated certification by the applicant that all statements contained in the application for development are true.
- O. The name, address and telephone number of the person(s) to be contacted in regard to all matters pertaining to the application.
- P. A summary that explains the nature of the application, the proposed improvements and a description of any variances or waivers requested and specify the section(s) of code for which it is seeking deviation.
- Q. A tree removal permit if one is required by § 110-181.1. **[Added 12-14-2020 by Ord. No. 2020-19]**

ARTICLE 5
Application and Escrow Fees
[Amended 3-1-1993 by Ord. No. 93-3]

§ 110-14. Fees. [Amended 11-1-1993 by Ord. No. 93-23; 12-16-1996 by Ord. No. 96-18; 6-7-2004 by Ord. No. 2004-7; 12-21-2009 by Ord. No. 2009-18; 2-22-2011 by Ord. No. 2011-1; 9-3-2013 by Ord. No. 2013-12; 7-20-2015 by Ord. No. 2015-09; 6-18-2018 by Ord. No. 2018-13; 7-16-2018 by Ord. No. 2018-15; 2-25-2019 by Ord. No. 2019-04; 2-18-2020 by Ord. No. 2020-05; 9-9-2024 by Ord. No. 2024-20]

Every application for development and informal request for reviews by the Borough Engineer, Board Planner, and Board Attorney as to zone change or other questions regarding the implementation, enforcement or application of this chapter shall not be acted upon unless and until:

- A. Accompanied by cash, check or money order made payable to the Borough of Metuchen for the application and escrow fees prescribed below; and
- B. The party seeking the application for development or informal request executes an agreement to pay for services to be rendered by the Board professionals or the Borough Attorney.

Fee Schedule		
Application for Development	Application Fee	Escrow Fee
Subdivisions		
Minor subdivision	\$200	\$2,000
Preliminary major subdivision	\$300	\$3,000
Final major subdivision	\$200	\$2,000
Informal presentation (1 appearance only) Concept plat for review	\$50	\$500
Minor subdivision	\$50	\$500
Major subdivision	\$100	\$1,000
Upon approval of minor or major final subdivision for amendment of Borough Tax Map	\$500 per new lot created	
Site plans		
Minor site plan	\$50	\$500
Preliminary major site plan	\$300	\$3,000
Final major site plan	\$200	\$2,000
PURD and PUCD	\$750	\$1,500 per acre or part thereof plus \$50 per dwelling unit
Informal presentation (1 appearance only)		
Concept plat for review	\$50	\$500

Fee Schedule		
Application for Development	Application Fee	Escrow Fee
Minor site plan	\$25	\$250
Major site plan	\$50	\$500
Technical assistance, design review and completeness review at Development Review Committee		
Single- and two-family dwellings	\$25	\$250
All other uses	\$50	\$500
Variances		
Appeals (N.J.S.A. 40:55D-70a)	\$75	\$750
Interpretation (N.J.S.A. 40:55D-70b)	\$75	\$750
Bulk (N.J.S.A. 40:55D-70c)		
First variance for principal structures	\$75	\$750
First variance for accessory structures	\$50	\$500
Each additional variance	\$25	\$250
Use (N.J.S.A. 40:55D-70d)		
d(1) or d(2) variances	\$200	\$2,000
d(3) variance	\$150	\$1,500
d(4), d(5) or d(6) variances	\$100	\$1,000
Permits (N.J.S.A. 40:55D-34 and N.J.S.A. 40:55D-35)	\$75	\$750
Miscellaneous requests for reviews, meetings or consultations involving planning, engineer or other professional review, including request for zoning changes	Hourly rates as set forth on an annual basis by the approving authority's retained professional, which are available in the Borough Clerk's office	As required by applicable Board and/or professional
Certified list of property owners	\$0.25 per name or \$10, whichever is greater	None
Copy of minutes/transcripts of decisions	\$1 per page for first copy, plus \$0.25 per page for each additional copy or as required by transcription service	As required by transcription service
Legal reviews		

Fee Schedule		
Application for Development	Application Fee	Escrow Fee
Guaranty review		
Review of performance guaranty by Borough Attorney	\$150 per review	None
Review of maintenance guaranty by Borough Attorney	\$150 per review	None
Preparation of developer's agreement by Borough Attorney	\$400 minimum per agreement, plus \$125 per hour after first 3 hours	As required by Borough Attorney
Miscellaneous reviews: master deed, certificate of incorporation, bylaws, unit deeds, etc.	\$150 per review	None
Appeal of any determination by Borough official to the applicable Board	\$50 per appeal, plus hourly rates as set forth on an annual basis by the approving authority's retained professional, which are available in the Borough Clerk's office	As required by applicable Board and/or professional
Special meeting	\$750 per meeting, plus hourly rates as set forth on an annual basis by the approving authority's retained professional, which are available in the Borough Clerk's office	As required by applicable Board and/or professional
Continuation of hearing	\$250 per appeal, plus hourly rates as set forth on an annual basis by the approving authority's retained professional, which are available in the Borough Clerk's office	As required by applicable Board and/or professional

Fee Schedule		
Zoning Permit Applications	Application Fee	Escrow Fee
Grading and drainage		
Plan review	\$50	\$500*
Inspection		\$250*
Principal structures		
New principal structures	\$250	
Additions and alterations		
Greater than 1,000 square feet	\$100	
Greater than 500, up to 1,000 square feet	\$75	
500 square feet or less	\$50	
Porches, stoops, decks, landings, and steps	\$25	
Accessory structures		
Retaining walls 4 feet or greater in height and in-ground swimming pools		
Plan review	\$50	\$250*
Inspection		\$250*
Detached garages, and any other structure deemed to be accessory structures greater than 100 square feet	\$50	
Retaining walls less than 4 feet in height, parking lots, driveways, sport courts, fences, walls, sheds, patios, private walkways, aboveground swimming pools, rooftop solar panels, A/C condenser units, generators, tanks, and any other structure deemed to be accessory structures 100 square feet or less	\$25	
Construction trailers, construction fences, and any other structure deemed to be temporary structures	\$25	
Home occupation	\$25	
Change of occupancy or use		
Greater than 2,500 square feet	\$100	
Greater than 500, up to 2,500 square feet	\$75	
500 square feet or less	\$25	
Pop-up business	\$25	
Alterations to facade	\$50	
Signs (each sign)	\$25	
Outdoor displays of retail merchandise and sidewalk cafes	\$25	

Fee Schedule		
Zoning Permit Applications	Application Fee	Escrow Fee
Exemption from site plan review	\$400	
Exemption from site plan review for signs	\$100	
Other zoning permits	\$25	

NOTES:

* Escrow accounts for grading and drainage (including when associated with new single- and two-family dwellings), retaining walls four feet or greater in height and in-ground swimming pools are for engineering plan review and inspections only

§ 110-15. Explanation of fees. [Amended 9-3-2013 by Ord. No. 2013-12]

The application charge/fee is a flat fee to cover administrative expenses and is nonrefundable. The escrow account is established to cover the costs of professional services, including engineering, planning, legal, environmental, traffic and other expenses connected with the review of the submitted materials, including any necessary studies regarding off-tract improvements and preparation of any resolutions, agreements, reports or other documents. Sums not utilized in the review process shall be returned to the requester/applicant. If additional sums are deemed necessary, the requester/applicant shall be notified of the required additional amount and shall add such sum to the escrow within 15 days. Should the requester/applicant not add such sum to the escrow within said 15 days, the requester/applicant shall indicate, in writing, prior to any further consideration of the request/application by the approving authority and/or professional, why such sum is not being paid. In the event that such additional amount is not added to the escrow by the requester/applicant, the approving authority and/or professional shall be under no obligation to proceed in reviewing the matter.

§ 110-16. Appeal.

In the event that the requester/applicant objects to any professional request for any funds, the requester/applicant may appeal to the reviewing board for a determination on the correctness of such request by the professional.

§ 110-17. Terms of payment.

Payment of any bill rendered by a professional to the municipality with respect to any service for which the municipality is entitled to reimbursement under this chapter shall in no way be contingent upon receipt of reimbursement by the requester/applicant, nor shall any payment to a professional be delayed pending reimbursement from a requester/applicant.

§ 110-18. Collection and distribution of certain money.

Money in excess of \$5,000 deposited by a requester/applicant for professional services employed by the municipality to review requests/applications for development shall be collected, held and distributed in accordance with N.J.S.A. 40:55D-53.1 and any amendments thereto.

§ 110-19. Fees exclusive of other charges.

The application charge/fees are exclusive of any other charges which may be required by the Borough to cover the cost of the inspection of buildings or improvements in conjunction with the issuance of construction permits or certificates of occupancy.

§ 110-20. Multiple approval requests.

Where an application for development includes several approval requests, the sum of the individual required fees shall be paid, except that when one application includes both a site plan and a minor subdivision, the minor subdivision fee is not required to be paid, and when one application includes both preliminary and final site plan approval, the final site plan fee is not required to be paid.

§ 110-21. Certified court reporter.

If a requester/applicant desires a certified court reporter, the cost of taking testimony and transcribing it and providing a copy of the transcript to the Borough shall be at the expense of the requester/applicant, who shall also arrange for the reporter's attendance.

§ 110-22. Exemptions for charitable organizations.

- A. Exemptions from application fees for the Zoning Board of Adjustment, Planning Board or application fees and inspection fees for construction, rehabilitation and repair of structures and buildings are granted to charitable, philanthropic and eleemosynary organizations in an amount not to exceed \$1,000 per project, provided that said organization satisfies the following conditions:
 - (1) It is a nonprofit corporation, or, if a foreign corporation, it is registered as a nonprofit corporation in its domiciliary state or country.
 - (2) It is qualified as a tax-exempt organization and it is registered with the Internal Revenue Service of the Department of the Treasury as a Section 501(c)(3) organization, and:
 - (a) It receives federal or State of New Jersey funding; or
 - (b) It provides services to the citizens of Metuchen which the government does not currently provide.
- B. Exemptions may be granted to reduce the inspection fees to an amount reasonably estimated by the Construction Code Official to cover the actual and minimum cost to the Borough of the inspections required. **[Added 2-18-1997 by Ord. No. 97-3]**

ARTICLE 6
Waivers of Submission Requirements

§ 110-23. Request for waivers.

Upon written request by the applicant specifically stating the omitted and/or modified information and the reasons for such request, the Board may waive part or all of any of the submission requirements of this Part II and/or the development and design standards of Part IV.

§ 110-24. Procedure.

The applicant shall first submit the request for waivers to the Board Secretary when the application for development is submitted. The Board Secretary shall forward a copy of such request to the Zoning Officer for administrative review, after which the Zoning Officer shall submit a report to the applicant and to the Board regarding such request.

- A. If the Zoning Officer is of the opinion that the application can be appropriately reviewed without the information covered by the request for waivers, such application shall be forwarded to the Board for a final determination on completeness. If the Board, in making such final determination, grants the request for waivers, the Board shall proceed to review and act on the application. However, if the Board, in making its determination, ultimately denies the request for waivers or requests additional information to review the application, the application shall be deemed incomplete until the required information has been submitted.
- B. If the Zoning Officer is of the opinion that the information omitted or modified by the request for waivers is required for an appropriate review of the application by the Board, the applicant may either submit the required information and have the application declared complete or request the Board to make a final determination on the need for such information. If the Board, in making such final determination, grants the request for waivers, the time period for decision by the Board shall begin at the time such request was granted by the Board. However, if the Board, in making such determination, denies the request for waivers, the application shall be deemed incomplete until the necessary information covered by the request for waivers has been submitted.

§ 110-25. Basis for acting on waivers.

Waivers may be granted by the Board in specific cases, at its discretion, and only if it has been determined that all of the following provisions are complied with:

- A. The proposed development, use, construction, alteration, change of occupancy or change of use shall not:
 - (1) Create or affect any adverse impacts, either on the tract to be developed or on adjacent or nearby properties.
 - (2) Otherwise affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, lighting or other considerations of site plan review.
- B. All applicable provisions of this chapter shall be complied with, unless it is determined that the literal enforcement of one or more provisions are impracticable or will exact undue hardships because of peculiar conditions pertaining to the property in question in accordance with N.J.S.A. 40:55D-51. However, no such provision of Part IV of this chapter shall be waived under this subsection.

§ 110-26. Waiver of public hearing.

The Board may waive the requirement for a public hearing in specific cases, in its discretion, on any application for which a public hearing is not mandated by N.J.S.A. 40:55D-1 et seq.

ARTICLE 7
Public Notice

§ 110-27. Applicability.

Public notice of a hearing shall be required for the following types of applications for development:

- A. Minor subdivisions.
- B. Preliminary approval of major subdivisions and major site plans.
- C. Final approval of major subdivisions and major site plans.
- D. Conditional use approvals.
- E. Variances from any requirement of Part III of this chapter.
- F. Requests for issuance of a permit, pursuant to N.J.S.A. 40:55D-34 or 40:55D-35.

§ 110-28. Procedure.

The Zoning Officer shall notify the applicant at least 13 days prior to the meeting at which the public hearing on the application for development shall be conducted so that proper notice can be given by the applicant, pursuant to § 110-29 below.

§ 110-29. Notification.

Whenever public notice is required for a hearing on an application for development, the applicant shall give notice thereof as follows:

- A. Public notice shall be given by publication in an official newspaper of the Borough at least 10 days prior to the date of the hearing. The applicant shall file an affidavit of publication with the Secretary of the Board at least three days prior to the public hearing.
- B. Notice shall be given to the owners of all real property as shown on the current tax duplicates located within 200 feet in all directions of the property which is the subject of such hearing, whether such property is located within the Borough or in the Township of Edison; provided, however, that this requirement shall be deemed satisfied by notice to the condominium association, in the case of any unit owner whose unit has a unit above or below it, or to the horizontal property regime, in the case of any co-owner whose unit has a unit above or below it. Such notice shall be served by either of the following methods:
 - (1) Serving a copy in person on the property owner as shown on the current tax duplicate or the owner's agent in charge of the property and obtaining the signature of such person on a document certifying receipt of such notice.
 - (2) Mailing a copy by certified mail to the property owner at the address shown on the current tax duplicate.
- C. Notice to a partnership owner may be made by service upon any partner. Notice to a corporation owner may be made by service upon its President, vice President, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject

of the hearing, may be made in the same manner as to a corporation without further notice to the unit owners, co-owners or homeowners on account of such common elements or areas.

- D. Notice of all hearings on applications for development involving property located within 200 feet of a municipal boundary with the Township of Edison shall be given by personal service or certified mail to the Township Clerk of the Township of Edison, which shall be in addition to the notice required to be given pursuant to Subsection B above, to the owners of lands in the Township of Edison which are located with 200 feet of the property which is the subject of such hearing.
- E. Notice shall be given by personal service or certified mail to the Middlesex County Planning Board of a hearing for an application for development of property located adjacent to an existing county road or proposed road shown on the County Official Map or on the County Master Plan, adjoining other county land or situated within 200 feet of the municipal boundary with the Township of Edison.
- F. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property located adjacent to Routes 27 or 287.
- G. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of a property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Borough Clerk.
- H. Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this chapter requiring public notice pursuant to N.J.S.A. 40:55D-12(a) shall be given in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality, and which has registered with the municipality in accordance with Section 5 of P.L. 1991, c. 412 (N.J.S.A. 40:55D-12.1), by serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or by mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form. **[Added 9-15-1997 by Ord. No. 97-20]**
- I. Notice pursuant to Subsections C through H above shall not be required unless public notice pursuant to Subsections A and B above is required.
- J. All notices pursuant to Subsections C through H above shall be given at least 10 days prior to the date of the hearing at which the application for development is scheduled. Any notice made by certified mail as hereinabove provided shall be deemed to be complete upon mailing. The applicant shall file an affidavit of proof of service with the Secretary of the Board at least three days prior to the date of the hearing.

§ 110-30. Content of notice.

All notices required to be given pursuant to § 110-29 above shall state the following:

- A. The date, time and place of the hearing.
- B. A description of the type and nature of the application for development and/or matters to be heard.
- C. Identification of the property proposed for development by street address, if any, and by reference to block and lot numbers as shown on the current tax duplicate.
- D. The location and times at which any plans and documents for which approval is sought are available

for review by the public as required by law.

- E. Where a variance is requested, the notice shall specifically stipulate the requirement and/or regulation of this chapter from which relief is sought and the extent of relief requested.

§ 110-31. List of property owners. [Amended 10-2-1995 by Ord. No. 95-21]

- A. The Tax Assessor of the Borough shall, within seven days after receipt of a request therefor and upon receipt of payment of a fee of \$0.25 per name or \$10, whichever is greater, make and certify a list from the current tax duplicate of names and addresses of owners of all property located within the Borough to whom the applicant is required to give notice, pursuant to this article. However, the applicant shall be responsible for ensuring that the list he or she receives is kept recent and up-to-date in the event that there have been any changes in the list between the date the applicant receives the list and the date when he or she uses the list for the purposes of public notice, pursuant to this article.
- B. In addition, the Tax Assessor shall include on the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice pursuant to § 110-29I. **[Added 9-15-1997 by Ord. No. 97-20]**

ARTICLE 8
Review and Decisions

§ 110-32. Time period for decision.

Upon certification by the Zoning Officer of the completeness of an application for development pursuant to § 110-9A, the Board shall grant or deny approval within the number of days from the date of such certification as specified below or within such further time as may be consented to by the applicant. Failure of the Board to act within the time period for decision as prescribed below shall constitute approval of the application for development, and a certificate of the Zoning Officer as to the failure of the Board to act shall be issued on request of the applicant.

- A. Minor subdivisions applications: 45 days.
- B. Preliminary major subdivisions applications involving 10 lots or less: 45 days.
- C. Preliminary major subdivision applications involving more than 10 lots: 95 days.
- D. Final major subdivision applications: 45 days.
- E. Preliminary site plan applications involving 10 acres of land or less and 10 dwelling units or less: 45 days.
- F. Preliminary site plan applications involving more than 10 acres of land or more than 10 dwelling units: 95 days.
- G. Conditional use applications: 95 days.
- H. PURD applications: 95 days.
- I. Applications for variances or requests for issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D-35: 120 days.
- J. Applications involving variances or requests for issuance of a permit, pursuant to N.J.S.A. 40:55D-34 or 40:55D-35, and also involving any type of site plan, subdivision and/or conditional use approval: 120 days. Should the applicant elect to submit a separate application for the variances or requests for issuance of a permit and a subsequent application requesting approval of the site plan, subdivision and/or conditional use, the one-hundred-twenty-day time period for decision shall apply only to the application for the variance or permit, and the time period for decision for the subsequent approval(s) shall be as otherwise provided in this section.

§ 110-33. Review.

In reviewing an application for development, the Board shall consider the development plans, all testimony and the comments and recommendations of Borough officials and agencies. All Borough officials and agencies to whom copies of the application for development were forwarded for review shall submit their comments and recommendations to the Board for consideration in reviewing an application. However, no such review shall extend the time period for decision as set forth in § 110-32 above.

§ 110-34. Decision.

After review and deliberation, the Board shall set forth factual information and conclusions pertaining to the application, reach a decision, set forth the reasons for such decision and, where applicable, set

forth any conditions of approval and shall adopt a resolution of action at such time or adopt a resolution memorializing such action within 45 days of the date of such action.

- A. The Board may grant approval of an application for development, in which case the Board Chairperson (or the acting Chairperson where the Chairperson is absent), Borough Engineer (where required), Borough Clerk (where required) and Board Secretary shall affix their signatures to at least eight copies of the development plan with the date and a notation that it has been approved. The applicant shall furnish such additional copies to the Board for signing as may be necessary. In the case of final approval of major subdivisions, the applicant shall also furnish at least two Mylar copies of the approved final subdivision plat for such signatures.
- B. The Board may grant approval of an application for development subject to specified conditions and/or the receipt of revised plans or additional plans within 90 days from the date of such approval. In addition, if other governmental approvals are required by law, the Board shall condition its approval subject to such other governmental approvals; provided, however, that such shall not alter or revise the development plan as approved by the Board.
- C. The Board may deny approval; if it determines that the development plan may create, impose, aggravate or constitute an adverse impact upon either the property to be developed or adjacent or nearby properties or the community at large, or that such plan is otherwise incomplete or not in compliance with any provision of this chapter, or that substantial revisions are required, it may deny approval of such application. Failure of an action by the Board to receive the number of votes required for approval of an application shall be deemed a denial of such application.

§ 110-35. Distribution of resolution.

Copies of the resolution shall be distributed within 10 days of the date of the resolution of action or the resolution memorializing an action to the parties listed below and to any other persons who requested a copy of the same and paid any necessary fees for such. If the application for development is approved, copies of the signed development plans, where applicable, shall be distributed within 10 days after all required signatures are affixed thereto. Copies of resolutions and signed development plans above shall be distributed as follows:

- A. Applicant: one copy.
- B. Applicant's attorney: one copy.
- C. Borough Engineer: one copy.
- D. Zoning Officer: one copy.
- E. Tax Assessor: one copy.
- F. Borough Planner: one copy.
- G. File: two copies.

§ 110-36. Publication of decision.

Within 10 days of the date of the resolution of action or the resolution memorializing an action, the Board Secretary shall publish a notice of the decision in abbreviated form in an official newspaper of the Borough and thereafter mail a certified copy of the proof of publication to the applicant or his or her attorney. Failure to do so within the time prescribed herein shall in no way invalidate the decision of the Board. The date of

the publication of such notice shall be the date used to commence the time period for any type of appeal on such decision.

ARTICLE 9
Effect and Expiration of Approvals

§ 110-37. Minor subdivisions.

Approval of a minor subdivision shall expire 190 days from the date of approval, unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law, P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.) or a deed clearly describing the approved minor subdivision shall be filed by the applicant with the Middlesex County Recording Officer, the Borough Engineer and the Borough Tax Assessor. Any deed accepted for such filing shall have been signed by the Board Chairman and Secretary. In reviewing an application for a minor subdivision, the Board may be permitted to accept a plat not in conformity with the Map Filing Act, P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.), provided that if the applicant chooses to file the minor subdivision as provided herein by plat rather than deed, such plat shall conform with the provisions of said act. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted shall not be changed for a period of two years after the date of minor subdivision approval, provided that the approved minor subdivision shall have been duly recorded as provided in this section.

§ 110-38. Major subdivision or site plan.

Approval of a major subdivision or site plan application shall be based upon whether such approval is preliminary or final, as specified below. Any application for final approval shall first have received preliminary approval which must still be valid at time of final approval. If an application for development is approved as a combined preliminary and final approval, then the provisions for final approval only shall apply. Any minor site plan approval shall be deemed to be a combined preliminary and final approval.

- A. Preliminary approval of a major subdivision or site plan application shall confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:
- (1) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and, in the case of a site plan, any site improvements; except that nothing herein shall be construed to prevent the Borough from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.
 - (2) That the applicant may submit for final approval, on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary development plan.
 - (3) That the applicant may apply for and the Board may grant extensions of such preliminary approval for additional periods of at least one year, but not to exceed a total extension of two years, provided that if the provisions of Part IV of this chapter have been revised, such revised provisions may govern.
- B. Final approval of a major subdivision or site plan application shall confer upon the applicant all zoning requirements and other rights applicable to the preliminary approval, whether conditionally or otherwise, for a period of two years from the date of final approval, provided that in the case of a major subdivision, the rights conferred by this subsection shall expire if the plat has not been duly recorded with the Middlesex County Recording Officer within 95 days from the date of signing of the plats. However, the Board may, for good cause shown, extend the period of recording for an additional time period not to exceed 190 days from the date of signing of the plats. If the applicant

has followed the standards prescribed for final approval and, in the case of a major subdivision, has duly recorded the plat as required in this subsection, the Board may extend such period of protection for extensions of one year, but not to exceed three such extensions. Notwithstanding any other provisions of this act, the granting of final approval terminates the time period of preliminary approval pursuant to Subsection A above.

§ 110-39. Conditional use.

Approval of a conditional use application shall confer upon the applicant all of the rights of site plan approval, as prescribed in § 110-38 above.

§ 110-40. Planned unit residential development.

Approval of a planned unit residential development application shall confer upon the applicant all of the rights of site plan approval, as prescribed in § 110-38 above.

§ 110-41. Variance.

Approval of any variance application shall expire one year from the date of approval. However, the Board may extend the time period of such approval for one period of one year. In the case of an application where a subdivision or site plan approval is also involved, the rights conferred to the applicant by the approval of the subdivision or site plan application shall govern the variance approval.

§ 110-42. Request for issuance of permit.

Approval of a request for a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D-35 shall expire one year from the date of approval.

§ 110-43. Tolling of running of time period.

In the event that, during the time period of approval for an application for development, the applicant is barred or prevented, directly or indirectly, from proceeding with the development otherwise permitted under such approval by a legal action instituted by any state agency, political subdivision or other party to protect the public health and welfare or by a directive or order issued by any state agency, political subdivision or court of competent jurisdiction to protect the public health or welfare and the applicant is otherwise ready, willing and able to proceed with said development, the running of the time period of approval under this article shall be suspended for the period of time said legal action is pending or such directive order is in effect.

ARTICLE 10
Minor Subdivision Applications

§ 110-44. Applicability. [Amended 9-3-2013 by Ord. No. 2013-12]

This article shall apply to all applications for development involving a subdivision of land for the creation of not more than two lots, provided that such subdivision does not involve a planned development, any new street or the extension of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42.

§ 110-45. Submission requirements.

The development plans for a minor subdivision shall be designed in accordance with the zoning requirements of Part III of this chapter, development and design standards of Part IV of this chapter and provisions of Part VI of this chapter, as applicable. Such plans shall also be prepared in accordance with the following, which shall constitute a checklist for minor subdivision application completeness, pursuant to N.J.S.A. 40:55D-10.3:

- A. The size of sheets for all plans shall be 24 inches by 36 inches, unless an alternate size is approved by the Borough Engineer, and shall be folded prior to submission by the applicant to a size not to exceed nine inches by 12 inches.
- B. Title block including the following information.
 - (1) The name of the development.
 - (2) The type of application (minor subdivision).
 - (3) The location of the tract to be developed, including existing block and lot number(s) as they appear on the Borough Tax Map, street address (if such exists), municipality (Borough of Metuchen), county (Middlesex County), state (New Jersey).
 - (4) The name and address of the applicant, the name and address of the owner(s) of record and authorized agent, if any.
 - (5) Written scale.
 - (6) The date of preparation, and revision box with the date of each revision.
 - (7) The name, address, signature, license number and seal of person(s) who prepared the plans.
- C. Signature box containing the following:

Approved by the Planning Board

 Chairman

 Date

 Secretary

 Date

- D. Key map showing and identifying the location of the tract to be developed superimposed on a map of a section of the Borough showing all streets within 1/2 mile of the same and drawn at a scale not

larger than one inch equals 2,000 feet.

- E. Zoning schedule comparison showing both the requirements of §§ 110-63 and 110-154B and what is proposed for each lot on the tract to be developed, including notations for any proposed variances.
- F. Location map showing and identifying the existing location of the following information:
 - (1) All properties, public rights-of-way, railroad rights-of-way, municipal boundaries with Edison Township and zoning district boundaries within 500 feet of the tract to be developed.
 - (2) A line delineating a two-hundred-foot radius from the extreme limits of the tract to be developed.
 - (3) The block and lot numbers, as they appear on the Borough Tax Map, of all properties located within 200 feet of the tract to be developed.
 - (4) All buildings on the tract to be developed and all adjacent properties, and an indication as to the current use of each.
 - (5) Any historic sites on the tract to be developed and all properties within 200 feet thereof, as shown on the Borough's Historic Sites Inventory.
 - (6) Graphic scale.
 - (7) North arrow.
 - (8) The above is to be drawn at a scale not larger than one inch equals 100 feet.
- G. List of the names, addresses and block and lot numbers of all property owners located within 200 feet of the tract to be developed, as shown on the most recent Borough tax duplicates.
- H. Subdivision plat showing and identifying the location of the following information:
 - (1) Existing and proposed property lines and reference corners, including lengths of course to 1/100 of a foot, bearings to 30 seconds in the New Jersey Plane Coordinate System, with an error of closure not to exceed 1 to 10,000.
 - (2) Existing structures on the tract to be developed and within 75 feet of all adjacent properties, including setback distances from all property lines, and an indication as to whether such is to be retained or removed.
 - (3) Other existing man-made features, such as culverts, drain pipes, fences and retaining walls.
 - (4) Building envelopes for all lots to be developed, including setback distances to all lot lines.
 - (5) Lot area, in square feet to the nearest 1/100 of a foot, for all lots to be developed.
 - (6) Existing and proposed improvements to that portion of the public right-of-way adjacent to the tract, including sidewalks, curbs, driveway aprons, street paving, catch basins, utility poles, hydrants and shade trees.
 - (7) Existing and proposed utilities, including details for the type and/or width of all lateral connections or easements for water, sanitary sewer, gas, electricity, telephone and cable television.
 - (8) Existing or proposed easements or rights-of-way, whether public or private, the extent, limits

and purpose of such easement rights being definitely stated on the plan.

- (9) Existing and proposed elevations or contours sufficient to determine general slope, high and low points of the tract, natural drainage and proposed drainage, including connections to existing storm sewer lines, if proposed.
 - (10) Existing unique land forms, natural features, watercourses or bodies of water.
 - (11) Existing vegetation, including all lawn, shrubs, wooded areas and individual trees over four inches DBH, with an indication as to whether such is to be retained or removed, and details for the methods of vegetation protection during the period of development.
 - (12) Existing wetlands and areas of special flood hazard, if such conditions exist. Proof of the nonexistence of such conditions shall be provided by the applicant.
 - (13) Existing or proposed buffer areas or screens, if any.
 - (14) Clear sight triangle easements for tracts involving a corner lot.
 - (15) Graphic scale.
 - (16) North arrow.
 - (17) The above is to be drawn at one of the following scales: one inch equals 10 feet, one inch equals 20 feet or one inch equals 30 feet. The scale chosen shall be sufficient to enable the entire tract to be shown on a single sheet.
- I. Soil erosion and sediment control plan, pursuant to the requirements of the Freehold Soil Conservation District, if soil disturbance proposed by the development exceeds 5,000 square feet.
 - J. If the applicant intends to file the plat as record of the approved subdivision with the Middlesex County Recording Officer, the plat shall be prepared in compliance with the Map Filing Act, P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq).
 - K. Any proposed easements, deed restrictions or covenants affecting any portion of the tract to be developed.
 - L. Any information relating to any applicable provision of Part VI of this chapter.
 - M. Any additional information the Board finds is reasonably necessary to make an informed decision on any aspect of the application may be required.

ARTICLE 11
Major Subdivision Applications

§ 110-46. Applicability.

This article shall apply to all applications for development involving a subdivision of land not classified as a minor subdivision, pursuant to § 110-44.

§ 110-47. Submission requirements. [Amended 12-17-2007 by Ord. No. 2007-11; 9-3-2013 by Ord. No. 2013-12]

The development plans for a major subdivision shall be prepared in accordance with the zoning requirements of Part III of this chapter, development and design standards of Part IV of this chapter and provisions of Part VI of this chapter, as applicable. Such plans shall also be prepared in accordance with the following, which shall constitute a checklist for major subdivision application completeness, pursuant to N.J.S.A. 40:55D-10.3:

- A. The size of sheets for all plans shall be one of the following: 8 1/2 inches by 13 inches, 15 inches by 21 inches, 24 inches by 36 inches or 30 inches by 42 inches. All plans shall be folded prior to submission by the applicant to a size not to exceed nine inches by 12 inches.
- B. All plans shall be drawn at one of the following scales, unless specified otherwise herein: one inch equals 10 feet or one inch equals 20 feet for a tract up to five acres in size and one inch equals 30 feet, one inch equals 40 feet or one inch equals 50 feet for a tract over five acres in size. The scale chosen shall be sufficient to enable the entire tract to be shown on a single sheet.
- C. The plans shall be submitted in bound sets, organized by pages as follows:
 - (1) Title sheet, key map, zoning schedule comparison and signature box.
 - (2) Location map, list of property owners within 200 feet and property survey.
 - (3) Environmental analysis map(s).
 - (4) Subdivision plat.
 - (5) Clearing, grading, drainage and vegetation protection plan.
 - (6) Soil erosion and sediment control plan.
 - (7) Utilities plan.
 - (8) Construction details.
 - (9) Phasing plan (only if phasing is proposed).
- D. Title block for each page, including the following information:
 - (1) The name of the development.
 - (2) The type of application (preliminary and/or final major subdivision).
 - (3) The location of the tract to be developed, including existing block and lot numbers as they appear on the Borough Tax Map, street address (if such exists), municipality (Borough of Metuchen), county (Middlesex) and state (New Jersey).

- (4) Written scale.
 - (5) The date of preparation, and revision box with the date of each revision.
 - (6) The name, address, signature, license number and seal of the person(s) who prepared the plans.
- E. Title sheet, including the following information:
- (1) The name of the proposed development.
 - (2) The type of application (preliminary and/or final major subdivision).
 - (3) The location of the tract to be developed, including existing block and lot numbers as they appear on the Borough Tax Map, street address (if such exists), municipality (Borough of Metuchen), county (Middlesex) and state (New Jersey).
 - (4) The name and address of the applicant, the name and address of the property owner(s) of record and authorized agent, if any.
- F. Key map showing and identifying the location of the tract to be developed superimposed on a map of a section of the Borough, showing all streets within 1/2 mile of the same and drawn at a scale not larger than one inch equals 1,000 feet.
- G. Zoning schedule comparison showing both the requirements of §§ 110-63 and 110-154B and what is proposed for each lot on the tract to be developed, including notations for any proposed variances.
- H. Signature box containing the following:

**Approved by the Planning Board/Zoning Board of Adjustment (only include applicable Board)
Preliminary/Final (include one or both as appropriate)**

_____ Chairman	_____ Date
_____ Secretary	_____ Date
_____ Engineer	_____ Date
_____ Borough Clerk	_____ Date

- I. Location map showing and identifying the existing location of the following information:
- (1) All properties, public rights-of-way, railroad rights-of-way, municipal boundaries with Edison Township and zoning district boundaries within 500 feet of the tract to be developed.
 - (2) A line delineating a two-hundred-foot radius from the extreme limits of the tract to be developed.
 - (3) The block and lot numbers, as they appear on the Borough Tax Map, of all properties located within 200 feet of the tract to be developed.

- (4) All buildings on the tract to be developed and all adjacent properties and an indication as to the current use of each.
 - (5) Any historic sites on the tract to be developed and all properties within 200 feet thereof, as shown on the Borough's Historic Sites Inventory.
 - (6) Graphic scale.
 - (7) North arrow.
 - (8) The above is to be drawn at a scale not larger than one inch equals 100 feet.
- J. A list of the names, addresses and block and lot numbers of all property owners within 200 feet of the tract to be developed, as shown on the most-recent Borough tax duplicates.
- K. A property survey of the tract to be developed and all adjacent properties within 75 feet of the same, showing and identifying the existing location of the following information:
- (1) Property lines and reference corners.
 - (2) Structures, both on the tract to be developed and all adjacent properties, including setback distances from all property lines.
 - (3) Other man-made features, such as culverts, drainpipes, fences and retaining walls.
 - (4) Unique landforms, natural features, watercourses or bodies of water.
 - (5) Vegetation, including all lawn, shrubs, wooded areas and individual trees over four inches in caliper.
 - (6) The public right-of-way adjacent to the tract, including improvements such as sidewalks, curbs, driveway aprons, street paving, utility poles, hydrants and shade trees.
 - (7) Utilities, including the type and/or width of all lateral connections or easements for water, sanitary sewer, electricity, telephone and cable television.
 - (8) Easements or rights-of-way affecting the tract to be developed, whether public or private, including an attached written statement of the extent, limits and purpose of the easement rights.
 - (9) Graphic scale.
 - (10) North arrow.
 - (11) The above is to be drawn at a scale not larger than one inch equals 50 feet.
- L. Environmental analysis map(s) of the tract to be developed showing and identifying the existing location of the following information:
- (1) Elevations or contours at one-foot intervals in order to determine general slope, natural drainage, high and low points of the tract and areas of steep slopes. Such shall be referred to U.S.C. & G.S. datum and indicated by a dashed line.
 - (2) Unique landforms or natural features, such as hills, berms, knolls, mounds, swales, bowls, depressions, rock outcroppings or scenic views.
 - (3) The type of bedrock and its associated environmental characteristics affecting the tract to be

developed.

- (4) The type of soils and their associated environmental characteristics, such as depth to seasonal high-water table, depth to bedrock, erodibility and permeability.
- (5) Watercourses or bodies of water.
- (6) Floodplains, flood hazard areas, wetlands or other hydrologic conditions affecting the tract. (Proof of the nonexistence of such conditions shall be provided by the applicant.)
- (7) Any other environmentally sensitive features.

M. Subdivision plat showing and identifying the location of the following information:

- (1) All information regarding existing conditions as taken from the property survey, as specified in Subsection K above.
- (2) Any pertinent information regarding existing environmental conditions as taken from the environmental analysis map(s), as specified in Subsection L above.
- (3) Existing and proposed lot lines and reference corners shall be clearly delineated, including lengths of course to 1/100 of a foot, bearings to 30 seconds in the New Jersey Plane Coordinate System, with an error of closure not to exceed one to 10,000.
- (4) Lot area, in square feet to the nearest 1/100 of a foot and in acreage to the nearest 1/100 of an acre, for all lots to be developed.
- (5) Building envelopes for all lots to be developed, including setback distances to all lot lines.
- (6) Reference as to whether each existing structure on the tract to be developed is to be retained or removed.
- (7) Proposed improvements to that portion of the public right-of-way adjacent to the tract, including sidewalks, curbs, driveway aprons, street paving, utility poles, hydrants and shade trees.
- (8) Vehicular ingress and egress to and from the tract to be developed, showing the dimensions and curb radii of intersections, clear sight triangle easements for corner lots and all driveways, acceleration and deceleration lanes, traffic signs and signals and any other vehicular circulation improvements.
- (9) Areas proposed to be dedicated to the public accurately delineated with the extent, limits and purpose of such dedication being definitely stated on the plan.
- (10) Areas proposed to be reserved by covenant in deed(s), for the common use of all property owners or otherwise for whom the property is reserved, accurately delineated with the extent, limits and purpose of such areas being definitely stated on the plan.
- (11) Proposed easements or rights-of-way, whether public or private, accurately delineated with the extent, limits and purpose of such easements or rights-of-way being definitely stated on the plan.
- (12) Existing vegetation to be retained and proposed buffer areas or screens, if any.
- (13) A conceptual plan of the proposed layout or disposition of all remaining land within the tract to be developed in the future, if any.

- (14) Any additional information that may be required by the Map Filing Law.⁷²
- (15) For application of 50 or more units, a recycling plan.
- N. Clearing, grading, drainage and vegetation protection plan showing and identifying the location of the following information:
- (1) All areas of the tract to be cleared and all areas of soil disturbance and topsoil stockpiling during the period of development shall be clearly delineated.
 - (2) All existing vegetation to be retained, including details for the methods of vegetation protection during the period of development.
 - (3) Existing elevations or contours shall be shown as dashed lines and proposed grading at one-foot contour intervals shown as solid lines and referred to U.S.G.S. datum.
 - (4) Proposed finished elevations at all property corners and proposed first-floor elevations of all buildings.
 - (5) Existing and proposed storm drainage systems, including the following specific information:
 - (a) The size, profile and direction of flow of all existing and proposed storm sewer lines within or adjacent to the tract and the location of each catch basin, inlet, manhole, culvert and headwall, including the invert elevations of each.
 - (b) Detailed plans and construction specifications for all drainage facilities, including drywells, groundwater recharge basins, detention basins or retention basins.
 - (6) Developments of land in excess of one acre shall submit detailed storm drainage computations.
 - (7) When any natural or man-made watercourse is to be altered, improved or relocated, the method of stabilizing slopes and measures to control erosion and siltation, as well as detailed typical ditch sections and profiles, shall be shown.
- O. Soil erosion and sediment control plan, pursuant to the requirements of the Freehold Soil Conservation District.
- P. Utilities plan showing and identifying the location of the following:
- (1) Existing and proposed utilities, including lateral connections and/or easements for water, sanitary sewer, gas, electricity, telephone and cable television, including the sizes.
 - (2) Detailed plans, specifications and cross sections for all proposed utility improvements, layouts and fixtures, whether located on, adjacent to or off tract.
- Q. Construction details shall be shown for all improvements to the tract or public right-of-way or to any public utility system, whether located on, adjacent to or off tract. Such shall include detailed plans, typical cross sections and construction specifications for improvements, such as sidewalks, curbs, driveway aprons and shade trees. Additional information for all street improvements, including center-line profiles and tentative grades at selected points, shall be provided.
- R. Phasing plan showing and identifying the location of and the sequence of each phase of development and the projected time frame to complete each such phase, if a phased development is proposed,

72. Editor's Note: See N.J.S.A. 46:23-9.9 et seq.

including any details related to phasing.

- S. Organization documents, if applicable, for informational review by the Board only. This requirement is not intended to imply the Board has any right of approval or acceptance of such documents, which shall be the full responsibility of the State of New Jersey. However, final approval may be conditioned upon submission of the following documents, which may be necessary to ensure proper guaranty for the maintenance of common elements:
- (1) Articles of Incorporation for any homeowners' association, condominium association or other organization to maintain common open space or other common facilities.
 - (2) Bylaws and membership rules and regulations of any such organization, defining its rights, duties and responsibilities.
 - (3) A copy of the master deed detailing the rights and privileges of individual owners of common property.
 - (4) A copy of all materials submitted to the New Jersey Department of Community Affairs, as required by the New Jersey Planned Real Estate Development Full Disclosure Act.⁷³
 - (5) Covenants or easements restricting the use of the common open space or elements.
 - (6) Covenants or agreements requiring homeowners or residents to pay the organization for the maintenance of the common open space and/or community facilities. This shall include a proposed schedule of membership fees for at least the first three years of operation.
- T. Any proposed easements, deed restrictions or covenants affecting any portion of the tract.
- U. Any information relating to any applicable provision of Part VI of this chapter.
- V. Any additional information the Board finds is reasonably necessary to make an informed decision on any aspect of the application may be required.

73. Editor's Note: See N.J.S.A. 45:22A-21 et seq.

ARTICLE 12

Minor Site Plan Applications**[Amended 6-15-1992 by Ord. No. 92-14; 11-1-1993 by Ord. No. 93-23]**

§ 110-48. Applicability. [Amended 12-16-1996 by Ord. No. 96-18; 9-3-2013 by Ord. No. 2013-12; 7-20-2015 by Ord. No. 2015-09; 2-11-2019 by Ord. No. 2019-01; 2-8-2021 by Ord. No. 2021-01; 10-12-2021 by Ord. No. 2021-20]

This article is applicable in appropriate cases where minor development is proposed that does not qualify for an exemption from site plan requirements in accordance with Article 2 of this chapter, as determined by the Zoning Officer. Applications for minor site plan approval shall be reviewed in accordance with § 110-217K. Approvals, if granted, shall be granted by resolution of the Planning Board. Minor site plan approval shall be required for development involving any of the following:

- A. Substantial alterations to one or more of the building elevations.
- B. A change of use of a structure, building or land to a nursery school, day-care center, eating or drinking establishment with greater than 50 seats, and any light industrial use.
- C. A change of occupancy or use of a structure, building or land that requires more parking than was required for the previous use pursuant to § 110-154 of this chapter and which parking is not provided on the site. Uses shall be exempt from obtaining site plan approval if they obtain up to two parking spaces from a municipal or public parking operator, for residential or employee use only, in order to meet the parking requirement, provided that such uses are located within 1/4 mile of a municipal or public parking facility.
- D. The construction of a ground-floor addition to a principal structure, consisting of no greater than 2.5% of the lot area, not to exceed 500 square feet in floor area.
- E. The construction of an upper-story addition to a principal structure, consisting of no greater than 2,500 square feet in floor area, provided that such addition is located entirely within the building footprint of the existing principal structure.
- F. The construction of a nonenclosed outdoor dining structure consisting of greater than 500 square feet in area and no greater than 1,000 square feet in floor area.
- G. The construction of an accessory structure, exclusive of A/C condenser units, generators and tanks, consisting of greater than 200 square feet in area and no greater than 500 square feet in floor area.
- H. The use of land for a driveway or parking lot, involving the creation of greater than two parking spaces or 500 square feet in area and no greater than four parking spaces or 1,000 square feet in area.
- I. Any application requiring an exception from any requirement of Part IV of this chapter.
- J. Minor amendments to an existing site plan or minor subdivision plat that do not result in a substantial alteration of any aspect of the existing approval.

§ 110-49. (Reserved)⁷⁴

§ 110-50. Submission requirements. [Amended 9-3-2013 by Ord. No. 2013-12]

74. Editor's Note: Former § 110-49, Exemptions, amended 12-16-1996 by Ord. No. 96-18, was repealed 2-11-2019 by Ord. No. 2019-01.

- A. The development plans for a minor site plan shall be prepared in accordance with the applicable zoning requirements of Part III of this chapter, development and design standards of Part IV of this chapter and provisions of Part VI of this chapter, as applicable.
- B. The submission requirements for a minor site plan are detailed on the checklist appended at the end of this section. This checklist shall be used for determining completeness pursuant to N.J.S.A. 40:44D-10.3.
- C. The Planning Board may waive the submission of portions of the technical data required by this article if it is determined by the Board that said data is not necessary to arrive at an informed decision.
- D. Checklist.

Checklist Details Required for Minor Site Plans

- _____ Application form(s) and checklist(s) (six copies)
- _____ Plats or plans (16 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with title block revealed
- _____ Protective covenants, easements and/or deed restrictions (six copies)
- _____ Scale of not less than one inch equals 50 feet on one of four of the following standard sheet sizes (8 1/2 inches by 13 inches; 15 inches by 21 inches; 24 inches by 36 inches; or 30 inches by 42 inches)
- _____ Key map at not more than one foot equals 1,000 feet
- _____ Title Block:
 - _____ Name of development, Borough of Metuchen, Middlesex County, with each sheet specifically titled with appropriately descriptive words
 - _____ Name, title, address and telephone number of subdivider or developer
 - _____ Name, title, address and license number of the professional(s) who prepared the plot or plan
 - _____ Name, title and address of the owner(s) of record
 - _____ North arrow
 - _____ Scale (written and graphic)
- _____ Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet
- _____ Names and addresses of partners or stockholders as required by ordinance
- _____ Acreage fixtures (both with and without areas within public rights-of-way)
- _____ Approval signature lines
- _____ Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Borough Tax Map and proposed block and lot numbers as provided by the Borough Tax Assessor upon written request
- _____ Tract boundary line (heavy solid line)

Checklist Details Required for Minor Site Plans

- _____ The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drainpipes, and any natural features such as wetlands and treed areas, both within the tract and within 100 feet of its boundary
- _____ The location and width of all existing and proposed utility easements, the use(s) for which they are intended to be limited and the manner in which the easements will be controlled
- _____ Zoning schedule for districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development
- _____ Proposed buffer and landscaped areas
- _____ Delineation of floodplains, including both floodway and flood fringe areas
- _____ Contours as shown on the U.S.G.S. topographic sheets
- _____ Marshes, ponds and land subject to flooding within the tract and within 100 feet thereof
- _____ The names of all adjacent property owners as they appear on the most-recent tax list prepared by the Clerk of the Planning Board, Clerk of the Zoning Board of Adjustment or Engineer, as the case may be
- _____ Proposals for soil erosion and sediment control as required by N.J.S.A. 4:24-39 et seq.

Signature of
Person who
Prepared
Checklist

Date

ARTICLE 13
Major Site Plan Applications

§ 110-51. Applicability. [Amended 11-1-1993 by Ord. No. 93-23; 12-16-1996 by Ord. No. 96-18; 2-11-2019 by Ord. No. 2019-01]

This article shall apply to all applications for development involving any of the following:

- A. The construction of a new principal structure.
- B. An addition to an existing principal structure, except an addition which meets the requirements of Article 12 of this chapter.
- C. The construction of an accessory structure, exclusive of A/C condenser units, generators and tanks, except an accessory structure which meets the requirements of Articles 2 and 12 of this chapter.
- D. The use of land for a driveway or parking lot involving the creation of five or more parking spaces or 1,000 or more square feet in area.
- E. Any application for a conditional use approval pursuant to N.J.S.A. 40:55D-67. **[Added 4-24-2023 by Ord. No. 2023-04⁷⁵]**
- F. Any application requiring a variance pursuant to N.J.S.A. 40:55D-70(d).

§ 110-52. Exemptions. [Amended 2-11-2019 by Ord. No. 2019-01]

Lots used exclusively as detached single- and two-family dwellings are hereby exempted from site plan review, pursuant to N.J.S.A. 40:55D-37a.

§ 110-53. Submission requirements. [Amended 12-17-2007 by Ord. No. 2007-11; 9-3-2013 by Ord. No. 2013-12]

The development plans for a site plan shall be prepared in accordance with the applicable zoning requirements of Part III of this chapter, development and design standards of Part IV of this chapter and provisions of Part VI of this chapter, as applicable. Such plans shall also be prepared in accordance with the following, which shall constitute a checklist for site plan application completeness, pursuant to N.J.S.A. 40:55D-10.3:

- A. The size of sheets for all plans shall be either 24 inches by 36 inches or 30 inches by 42 inches. All plans shall be folded prior to submission by the applicant to a size not to exceed nine inches by 12 inches.
- B. All plans shall be drawn at one of the following scales, unless specified otherwise herein: one inch equals 10 feet or one inch equals 20 feet for a tract up to five acres in size and one inch equals 30 feet, one inch equals 40 feet or one inch equals 50 feet for a tract over five acres in size. The scale chosen shall be sufficient to enable the entire tract to be shown on a single sheet.
- C. The plans shall be submitted in bound sets, organized by pages as follows:
 - (1) Title sheet, key map, zoning schedule comparison and signature box.
 - (2) Location map, list of property owners within 200 feet and property survey.

75. Editor's Note: This ordinance also renumbered former Subsection E as Subsection F.

- (3) Environmental analysis map(s).
 - (4) Site plan.
 - (5) Clearing, grading, drainage and vegetation protection plan.
 - (6) Landscaping, lighting and signage plan.
 - (7) Soil erosion and sediment control plan.
 - (8) Utilities plan.
 - (9) Construction details.
 - (10) Phasing plan (only if phasing is proposed).
 - (11) Urban design and architectural design elements inventory (may be submitted separately).
 - (12) Architectural plans (may be bound separately).
- D. Title block for each page, including the following information:
- (1) The name of the development.
 - (2) The type of application (preliminary and/or final site plan).
 - (3) The location of the tract to be developed, including existing block and lot numbers as they appear on the Borough Tax Map, street address (if such exists), municipality (Borough of Metuchen), county (Middlesex) and state (New Jersey).
 - (4) Written scale.
 - (5) The date of preparation, and revision box with the date of each revision.
 - (6) The name, address, signature, license number and seal of the person(s) who prepared the plans.
- E. Title sheet, including the following information:
- (1) The name of the proposed development.
 - (2) The type of application (preliminary and/or final site plan).
 - (3) The location of the tract to be developed, including existing block and lot numbers as they appear on the Borough Tax Map, street address (if such exists), municipality (Borough of Metuchen), county (Middlesex) and state (New Jersey).
 - (4) The name and address of the applicant, name and address of property owner(s) of record and authorized agent, if any.
- F. Key map showing and identifying the location of the tract to be developed superimposed on a map of a section of the Borough showing all streets within 1/2 mile of the same and drawn at a scale not larger than one inch equals 1,000 feet.
- G. Zoning schedule comparison showing both the requirements of §§ 110-63 and 110-154B and what is proposed for the tract to be developed, including notations for any proposed variances.
- H. Signature box containing the following:

**Approved by the Planning Board or Zoning Board of Adjustment
(only include applicable Board)
Preliminary/Final (include one or both as appropriate)**

_____ Engineer	_____ Date
_____ Chairman	_____ Date
_____ Secretary	_____ Date

- I. Location map showing and identifying the existing location of the following information:
- (1) All properties, public rights-of-way, railroad rights-of-way, municipal boundaries with Edison Township and zoning district boundaries within 500 feet of the tract to be developed.
 - (2) A line delineating a two-hundred-foot radius from the extreme limits of the tract to be developed.
 - (3) The block and lot numbers, as they appear on the Borough Tax Map, of all properties located within 200 feet of the tract to be developed.
 - (4) All buildings on the tract to be developed and all adjacent properties and an indication as to the current use of each.
 - (5) Any historic sites on the tract to be developed and all properties within 200 feet thereof, as shown on the Borough's Historic Sites Inventory.
 - (6) Graphic scale.
 - (7) North arrow.
 - (8) The above is to be drawn at a scale not larger than one inch equals 100 feet.
- J. A list of the names, addresses and block and lot numbers of all property owners within 200 feet of the tract to be developed, as shown on the most-recent Borough tax duplicate.
- K. Property survey of the tract to be developed and all adjacent properties within 75 feet of the same, showing and identifying the existing location of the following information:
- (1) Property lines and reference corners.
 - (2) Structures, both on the tract to be developed and all adjacent properties, including setback distances from all property lines.
 - (3) Other man-made features, such as culverts, drainpipes, fences and retaining walls.
 - (4) Unique landforms, natural features, watercourses or bodies of water.
 - (5) Vegetation, including all lawn, shrubs, wooded areas and individual trees over four inches in caliper.

- L. Environmental analysis map(s) of the tract to be developed showing and identifying the existing location of the following information:
- (1) Elevations or contours at one-foot intervals in order to determine general slope, natural drainage, high and low points of the tract and areas of steep slopes. Such shall be referred to U.S.C. & G.S. datum and indicated by a dashed line.
 - (2) Unique land forms or natural features, such as hills, berms, knolls, mounds, swales, bowls, depressions, rock outcroppings or scenic views.
 - (3) Types of bedrock and its associated environmental characteristics affecting the tract to be developed.
 - (4) Types of soils and their associated environmental characteristics, such as depth to seasonal high-water table, depth to bedrock, erodibility and permeability.
 - (5) Watercourses or bodies of water.
 - (6) Floodplains, flood hazard areas, wetlands or other hydrologic conditions affecting the tract. (Proof of the nonexistence of such conditions shall be provided by the applicant.)
 - (7) Any other environmentally sensitive features.
- M. Site plan showing and identifying the location of the following information:
- (1) All information regarding existing conditions as taken from the property survey, as specified in Subsection K above.
 - (2) Any pertinent information regarding existing environmental conditions as taken from the environmental analysis map(s), as specified in Subsection L above.
 - (3) Existing and proposed lot lines and reference corners shall be clearly delineated, including lengths of course to 1/100 of a foot, bearings to 30 seconds in the New Jersey Plane Coordinate System, with an error of closure not to exceed 1 to 10,000.
 - (4) Lot area, in square feet to the nearest 1/100 of a foot and in acreage to the nearest 1/100 of an acre, for all lots to be developed.
 - (5) Building envelope, including setback distances to all lot lines.
 - (6) Proposed buildings, structures, parking lots with spaces and aisles delineated, loading areas with berths delineated, driveways, curbs, walkways and other paved surfaces, including all necessary dimensions and reference as to whether each existing structure on the tract to be developed is to be retained or removed.
 - (7) Proposed improvements to that portion of the public right-of-way adjacent to the tract, including sidewalks, curbs, driveway aprons, utility poles, hydrants and street paving.
 - (8) Vehicular ingress and egress to and from the tract to be developed showing circulation directions, the dimensions and curb radii of intersections, clear sight triangle easements for corner lots and all driveways, acceleration and deceleration lanes, traffic signs and signals and any other vehicular circulation improvements.
 - (9) Areas proposed to be dedicated to the public accurately delineated with the extent, limits and purpose of such dedication being definitely stated on the plan.

- (10) Areas proposed to be reserved by covenant in deed(s), for the common use of all property owners or otherwise for whom the property is reserved, accurately delineated with the extent, limits and purpose being definitely stated on the plan.
 - (11) Proposed easements or rights-of-way, whether public or private, the extent, limits and purpose of such easement or rights-of-way being definitely stated on the plan.
 - (12) A conceptual plan of the proposed layout or disposition of all remaining land within the tract to be developed in the future, if any.
 - (13) A recycling plan. **[Added 12-17-2007 by Ord. No. 2007-11]**
- N. Clearing, grading, drainage and vegetation protection plan showing and identifying the location of the following information:
- (1) All areas of the tract to be cleared and all areas of soil disturbance and topsoil stockpiling during the period of development shall be clearly delineated.
 - (2) All existing vegetation to be retained, including details for the methods of vegetation protection during the period of development.
 - (3) Existing elevations or contours shall be shown as dashed lines and proposed grading at one-foot contour intervals shown as solid lines and referred to U.S.C. & G.S. datum.
 - (4) Proposed finished elevations at all property corners and proposed first floor elevations of all buildings.
 - (5) Existing and proposed storm drainage systems, including the following:
 - (a) The size, profile and direction of flow of all existing and proposed storm sewer lines within or adjacent to the tract and the location of each catch basin, inlet, manhole, culvert and headwall, including the invert elevations of each.
 - (b) Detailed plans and construction specifications for all drainage facilities, including drywells, groundwater recharge basins, detention basins or retention basins.
 - (6) Developments of lands in excess of one acre shall submit detailed storm drainage computations.
 - (7) When any natural or man-made watercourse is to be altered, improved or relocated, the method of stabilizing slopes and measures to control erosion and siltation, as well as detailed typical ditch sections and profiles, shall be shown.
- O. Soil erosion and sediment control plan, pursuant to the requirements of the Freehold Soil Conservation District.
- P. Utilities plan showing and identifying the location of the following:
- (1) Existing and proposed utilities, including lateral connections and/or easements for water, sanitary sewer, gas, electricity, telephone and cable television.
 - (2) Detailed plans, specifications and cross-sections for all proposed utility improvements, layouts and fixtures, whether located on-, adjacent to or off-tract.
- Q. Construction details shall be shown for all improvements to the public right-of-way or to any public utility system, whether located on-, adjacent to or off-tract. Such shall include detailed plans, typical

cross sections and construction specifications for sidewalks, curbs, driveway aprons, shade trees and center line profiles, tentative grades and details for all street improvements.

R. Landscaping, lighting and signage plan (with proposed landscaping prepared by a certified landscape architect) showing and identifying the location of the following information:

- (1) All pertinent information regarding the general site layout, existing man-made and natural features on the tract, proposed grading, existing vegetation to be retained and other conditions affecting proposed landscaping as taken from the property survey, site plan, environmental analysis map(s) and clearing grading, drainage and vegetation protection plan, as specified in Subsections K through N above.
- (2) Proposed plantings, including shade trees, designated by symbols appropriately scaled to represent the sizes of such at the time of planting. Planting beds shall be shown by a clearly delineated border outline. Identification of all proposed plantings shall be numerically quantified and keyed to the planting schedule by the first letters of each plant's botanical name.
- (3) Planting schedule shall be provided for all proposed plantings, including both botanical and common plant names, identification key, total quantity, size (height, width and caliper) at time of planting based on American Association of Nurserymen increments and minimum size of maintenance after a three-year growth period.
- (4) Details and specifications for all proposed plantings, topsoiling, seeding and mulching, including notes regarding special maintenance requirements temporarily during the period of establishment or permanently and the limits of any such special maintenance areas.
- (5) Proposed buffering, screening, walls and fences, including construction details, cross sections, elevations, manufacturer's specifications materials and colors for the same.
- (6) Proposed courtyards, plazas, alleys, walkways, paths, common open space and recreation areas and facilities, street or site furniture, ponds, fountains, trellises, pergolas, gazebos, accessory structures, art and sculpture, common mailboxes, solid waste and recycling storage facilities and HVAC equipment and utility service boxes, to be located at or above grade. Construction details, cross sections, elevations, manufacturer's specifications, materials and colors for all of the above items.
- (7) Proposed lighting fixtures, whether freestanding or affixed to buildings, including the delineation of isolux lighting lines at increments of 0.2, 0.4 and 0.9 footcandles for each fixture, as applicable, and construction details, manufacturer's specifications, elevations, materials and colors for each type of fixture proposed.
- (8) Proposed signage, including construction details, elevations, signage message or content, materials and colors for each type of sign proposed.
- (9) For a site plan involving multifamily residential development, detailed plans for the proposed treatment of each type of patio and private or semiprivate yard area, including screening, landscaping, ground material treatment, lighting and access.

S. Phasing plan showing and identifying the location of the sequence of each phase of development and the projected time frame to complete each such phase, if a phased development is proposed, including any details related to phasing.

T. Urban design and architectural design elements inventory for the streetscape, neighborhood, district

or community, as applicable. Such inventory shall include the design elements as specified in § 110-134B. Photographs may be utilized as part of such inventory.

U. Architectural plans, showing the following information:

- (1) Elevations of the exterior sides of all existing and proposed buildings and structures exposed to view, showing the proposed building treatment in terms of architectural style, materials, colors and details, to be drawn at a scale not larger than one inch equals eight feet.
- (2) Floor plans of all proposed buildings and structures, to be drawn at a scale not larger than one inch equals eight feet.
- (3) A minimum of two perspective drawings showing the proposed development in its surrounding context, including a minimum of one view from the public right-of-way showing adjacent and nearby buildings and properties as such exist.
- (4) A minimum of one axonometric or isometric projection showing the proposed development in its surrounding context, including adjacent buildings and properties as such exist, to be drawn at the same scale as the site plan.
- (5) For site plans involving properties located in the B-1 Central Business District or the D-1 Downtown Development District, accurately colored architectural renderings of all buildings, structures and signs.

V. Organization documents, if applicable, for informational review by the Board only. This requirement is not intended to imply the Board has any right of approval or acceptance of such documents, which shall be the full responsibility of the State of New Jersey. However, final approval may be conditioned upon submission of the following documents, which may be necessary to ensure proper guaranty for the maintenance of common elements:

- (1) Articles of Incorporation for any homeowners' association, condominium association or other organization to maintain common open space or other common facilities.
- (2) Bylaws and membership rules and regulations of any such organization, defining its rights, duties and responsibilities.
- (3) A copy of the master deed detailing the rights and privileges of individual owners of common property.
- (4) A copy of all materials submitted to the New Jersey Department of Community Affairs, as required by the New Jersey Planned Real Estate Development Full Disclosure Act.⁷⁶ Regulations and evidence of the status of acceptance of and/or approval by the Department of Community Affairs.
- (5) Covenants or easements restricting the use of the common open space or elements.
- (6) Covenants or agreements requiring homeowners or residents to pay the organization for the maintenance of the common open space and/or community facilities. This shall include a proposed schedule of membership fees for at least the first three years of operation.

W. Any proposed easements, deed restrictions or covenants affecting any portion of the tract to be developed.

76. Editor's Note: See N.J.S.A. 45:22A-21 et seq.

- X. Any information relating to any applicable provision of Part VI of this chapter.
- Y. ⁷⁷Recycling plan. **[Amended 12-17-2007 by Ord. No. 2007-11]**
- Z. Any additional information. **[Added 12-17-2007 by Ord. No. 2007-11]**

77. Editor's Note: Former Subsection Y was redesignated Subsection Z 12-17-2007 by Ord. No. 2007-11.

ARTICLE 14

Other Types of Applications

§ 110-54. Applicability.

This article shall apply to all applications for development for variances or requests for issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D-35, where such application does not involve any type of site plan, subdivision, conditional use or PURD approval.

§ 110-55. Submission requirements.

The development plans for such applications shall include any information the Zoning Board of Adjustment finds is reasonably necessary to make an informed review of such application.

ARTICLE 14A

Green Development Checklist⁷⁸**[Added 9-12-2022 by Ord. No. 2022-17]****§ 110-55.1. Applicability. [Added 9-12-2022 by Ord. No. 2022-17]**

This article shall apply to all applications for development.

§ 110-55.2. Submission requirements. [Added 9-12-2022 by Ord. No. 2022-17]

The development plans for such applications shall complete and submit the following Green Development Checklist and shall constitute a checklist for application completeness, pursuant to N.J.S.A. 40:55D-10.3.

The checklist is generally based on the LEED system standards for building and neighborhood development as well as Sustainable Jersey's Model Green Development Checklist, but is not intended to be exclusive. The information provided in the checklist is intended to guide and inform the dialogue between the applicant and the Borough regarding possible options and opportunities to use resources more efficiently, promote smart economic development, improve the environment, and generally improve the quality of life in the Borough.

The checklist is organized by scale from regional context, to individual site, to the structures on the site, as follows: first, it addresses the site within its regional and local context, looking at its physical location, development status, connectivity to infrastructure (transportation, community, green space) and beneficial and detrimental impacts within the regional or local context; second, it addresses the site itself, looking at the beneficial or detrimental impacts of the development on site; and, third, it address the structures on the site, again looking at beneficial or detrimental impacts.

The applicant shall complete the checklist indicating whether or not they are meeting and addressing each of the items in the checklist, and shall provide in narrative form its responses to each of the items requested in the checklist.

Green Development Checklist.**A. Context.**

- (1) Site selection. Is the site a redevelopment, brownfield or infill location? Is the site located in an area with existing infrastructure? How does the development integrate with the existing streetscape, neighborhood and the overall community?
- (2) Proximity to public transportation. Is the site served by public transit, pedestrian and bicycle networks? Is there train service within 1/2 mile or bus service within 1/4 mile?
- (3) Streetscape design. Are the roads along the frontage of the site and within the development designed as "Complete Streets?" How does the development enhance the streetscape such that it is designed and operated with the safety, mobility, and accessibility needs of users of all ages and abilities in mind?
- (4) Historic context. Does the site's location, scale or use support any historic building conditions off site within its context?

78. Editor's Note: Former Article 14A, Residential Development Fees, was repealed in entirety by Ordinance No. 2016-28 which enacted Article 14B, Development Fees. History includes Ord. No. 98-4; 11-7-2016 by Ord. No. 2016-28.

- (5) Land use and housing diversity. Does the development provide or increase a mix of land use types? Please list. Are land use densities greater than current zoning or surrounding context? Does the development provide or increase housing diversity by type and income (beyond affordable housing requirements)?
- (6) Civic and public spaces. Does the development provide or increase civic and public spaces (or have proximity to them)? Does the development provide or increase recreation facilities and green space/parks (or have proximity to them) and is it part of an integrated ecological network? Where not provided onsite and/or proximate to them, how does the development provide or enhance connectivity to them?
- (7) Parking capacity and alternative parking designs. Does the development utilize alternative parking designs such as reduced parking ratios, a percentage of compact stalls, banked parking, shared parking, priority parking for low emission vehicles and provisions for bicycle storage?
- (8) Local food production. Does the development provide or increase local food production, access to off-site facilities or opportunities for Community Supported Agriculture (CSA) or farmers' markets?
- (9) Open space and natural features. Does the development provide or increase open space? Does the development provide or increase natural features? Does the development include a plan for promoting and educating people on green features? Where not provided onsite and/or proximate to them, how does the development provide or enhance connectivity to them?
- (10) Regional stormwater management. Does the site feature or is the site adjacent to any floodplains, wetlands, or riparian corridors? Does the site drain to any streams or bodies of water? Does the development provide or increase regional stormwater management? Is the site part of a district energy or water infrastructure?

B. Site development.

- (1) Site disturbance. Does the development minimize site disturbance during construction?
- (2) Construction activity. Does the development increase erosion and sedimentation control (beyond county or municipal requirements)? Does the planned construction activity prevent airborne dust generation? Does the planned construction activity reduce or eliminate construction noise or vibration?
- (3) Soil compaction. Does the development include soil remediation measures to ensure full vegetative growth and rainwater infiltration after construction?
- (4) Pest management. Does the development consider landscape and stormwater maintenance specifications that employ Integrated Pest Management techniques, such as alternatives to standard pesticides, herbicides and synthetic fertilizers that kill organisms in the soil, post-bond to assure implementation for five years after occupancy?
- (5) Low Impact Design. Does the development include Low Impact Design features such as bio-swales, rain gardens, green roofs, green walls, and pervious pavements?
- (6) Tree retention and planting. Does the development maximize retention of large trees and wood areas, and provides or enhances the overall community tree canopy, including shade trees and street trees?

- (7) Native and indigenous species. Does the development incorporate native and indigenous species (non-invasive species, low maintenance landscaping)?
- (8) Onsite management of vegetative waste. Does the development incorporate onsite management of vegetative waste?
- (9) Water efficient design. Does the development reduce or eliminate use of potable water or other water resources by using water efficient landscaping, efficient irrigation systems, using captured rainwater with devices such as rain barrels, rain cisterns and downspout planters, or using recycled wastewater.
- (10) Regenerative Design. Does the development incorporate Regenerative Design? How the does development address habitat, wetlands or water body conservation or conservation management strategies? How does the development address habitat, wetlands or water body restoration? How does the development address long-term conservation management of these resources?
- (11) Alternative parking design onsite. Does the development provide alternatives to single occupancy vehicles such as van spaces, and also encourage use of alternative transportation, including provisions for bike parking/storage and, where appropriate to the use, changing facilities, and provisions for alternative energy vehicle or EV parking?
- (12) Heat island effect. Does the development minimize heat island effects through reduced paving, landscaping or other methods?
- (13) Site lighting. Does the development include Light Pollution Reduction and energy efficient site lighting and controls?
- (14) Historic preservation. Does the development include historic preservation or adaptive reuse of existing features or facilities?
- (15) Public art. Does the development include public art and opportunities for civic events? Does the site implement indigenously inspired art in the landscape? (i.e. sculpture; garden; mural/relief; artistic site furnishing, etc.)

C. Green building.

- (1) Green building certification. Does the building meet the criteria for a Certified Green Building? Will the project apply for LEED certification or other green building or development certification? A Green Building is also known as a sustainable or high-performance building, and is the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life cycle from siting to design, construction, operation, maintenance, renovation and deconstruction. These practices have the potential to reduce or eliminate the negative impacts of development on the environment and on human health.
- (2) Building orientation. Is the building oriented to maximize benefits of daylighting, viewsheds and energy and to minimize detrimental impacts on surrounding sites?
- (3) Building scale. Does the building respect the scale of the context through its design?
- (4) Water efficiency. Does the building provide a 20% or greater reduction of water use beyond the minimum water efficiency standards set by the EPA or local government, whichever is greater? Will the project use the EPA WaterSense Water Budget tool or similar analysis?

- (5) Water conservation. Does the building employ water conservation features - including low-flow fixtures, waterless urinals, and/or sensor-controlled faucets?
- (6) Wastewater reuse. Does the building incorporate rainwater, gray water + stormwater capture and re-use? Is wastewater treated on site and recharged to the ground?
- (7) Energy efficiency. Does the building reduce energy usage through efficient heating and cooling, geothermal technology, enhanced daylighting, efficient lighting, occupant controls and an efficient building envelope?
- (8) ENERGY STAR®. Does the building incorporate ENERGY STAR® - labeled building products, such as appliances, light fixtures and windows?
- (9) Energy efficient roof design. Does the building utilize roof coloring, materials and design techniques that minimize heat island effects? Will the project meet ENERGY STAR® Cool Roof requirements or similar analysis?
- (10) Renewable energy. Does the project include onsite energy generation? What percentage of the project's electricity will come from renewable sources? Does the project include solar photovoltaic (PV) readiness and sufficient space in order to accommodate future installation of battery storage infrastructure?
- (11) Energy efficiency impacts. Will the project meet or exceed the requirement of ASRAE 90.1-2007? Will the project be benchmarking building efficiency savings with ENERGY STAR®'s Portfolio Manager or similar analysis? What are the anticipated energy savings? What are the anticipated carbon emission reductions?
- (12) Refrigerant management. Does the building utilize refrigerants and heating, ventilation, air conditioning and refrigeration equipment that will minimize or eliminate the emission of compounds that contribute to ozone depletion and climate change?
- (13) Indoor air quality. Is natural ventilation and efficient use of outdoor air during heating and cooling periods utilized? Are other measures being used to improve indoor air quality? Please describe. Will the project utilize South Coast Air Quality Management (SCAQM), Green Seal's GS-11, the Carpet and Rug Institute's Green Label Plus Program, and FloorScore requirements as standards for Volatile Organic Compound (VOC) limits?
- (14) Air tightness verification. Will the project utilize air tightness verification by American Society for Testing and Materials (ASTM) standards, as opposed to visual inspection?
- (15) Air filter equipment. Will the project utilize MERV 8+ air filters during construction and MERV 13+ air filters for occupancy?
- (16) HVAC equipment and ductwork. Will the project protect HVAC equipment and ductwork during construction, and flush HVAC equipment and ductwork prior to occupancy?
- (17) Indoor combustion devices. Will the project be all-electric, or not utilize indoor combustion devices such as stoves, cooktops, clothes dryers, water heaters, furnaces, spas, and fireplaces that are supplied by a fuel source?
- (18) Construction waste management. Are there construction waste management plans in place? What percentage of construction waste will be diverted from landfills?

- (19) Solid waste management. Are there solid waste management plans in place? How will the project facilitate the storage and collection of recyclables and composting organic materials? Is there a plan to facilitate donation of unused food or food waste or otherwise recycle unused food or food waste?
- (20) Building reuse. Is an existing building being reused? What portions of the existing building such as walls, floors, roof or interior non-structural items are being reused?
- (21) Materials reuse. Are building materials reused? What materials are being salvaged, refurbished or reused?
- (22) Recycled content. Do building materials contain recycled content? What percentage?
- (23) Local/regional materials specification. Are building materials sourced within the region (within a 500-mile radius)? What percentage?
- (24) Rapidly renewable materials. Are building materials rapidly renewable having a harvest cycle of 10 years or less, such as bamboo, cotton, wool, cork, agrifiber, wheatboard, strawboard, and linoleum? What percentage?
- (25) Certified wood. Are wood-based materials and products certified in accordance with the Forest Stewardship Council (FSC) Principles and Criteria? What percentage?
- (26) Non-toxic materials. Does the project avoid Red List materials?

D. Innovation and design process.

- (1) Accredited professionals. Does the applicant's project team include those who are LEED accredited professionals or have other comparable certification?
- (2) Innovation in design. Does the project include any additional sustainable project design or construction features?

§ 110-55.3. through § 110-55.7. (Reserved)

ARTICLE 14B
Development Fees
[Adopted 11-7-2016 by Ord. No. 2016-28]

§ 110-55.8. Purpose.

- A. In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- B. Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or Court of competent jurisdiction and have an approved spending plan may retain fees collected from nonresidential development.
- C. This article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's prior round rules on development fees, codified at N.J.A.C. 5:93-8 and P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (C. 40:55D-8.1 through 8.7).

§ 110-55.9. Basic requirements.

- A. This article shall not be effective until approved by the Court.
- B. The Borough of Metuchen shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-5.1(c).

§ 110-55.10. Definitions.

- A. **AFFORDABLE HOUSING DEVELOPMENT** — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
- B. **COAH or the COUNCIL** — The New Jersey Council on Affordable Housing established under the Fair Housing Act.
- C. **DEVELOPMENT FEE** — Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.
- D. **DEVELOPER** — The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- E. **EQUALIZED ASSESSED VALUE** — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5 and 6 of P.L. 1973, c. 123 (C. 54:1-35a through C. 54:1-35c).

- F. **GREEN BUILDING STRATEGIES** — Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§ 110-55.11. Residential development fees.

A. Imposed fees.

- (1) Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half percent of the equalized assessed value for residential development provided no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development.

- (1) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (3) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved or replaced structure as compared to the previous structure.
- (4) Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

§ 110-55.12. Nonresidential development fees.

A. Imposed fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to two and one-half percent of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (2) Nonresidential developers, except for developers of the types of development specifically

exempted below, shall also pay a fee equal to two and one-half percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.

- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.

- (1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half percent development fee, unless otherwise exempted below.
- (2) The two and one-half percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (5) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of Metuchen as a lien against the real property of the owner.

§ 110-55.13. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a building permit shall notify the local Tax

Assessor of the issuance of the first building permit for a development which is subject to a development fee.

- D. Within 90 days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should Metuchen fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b of section 37 of P.L. 2008, c. 46 (C. 40:55D-8.6).
- H. Except as provided in § 110-55.12A(3), above, 50 percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- I. Appeal of development fees.
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Metuchen. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Metuchen. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 110-55.14. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Metuchen for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- (1) Payments in lieu of on-site construction of affordable units;
 - (2) Developer contributed funds to make 10 percent of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with Metuchen's affordable housing program.
- C. Within seven days from the opening of the Trust Fund account, the Borough of Metuchen shall provide the State of New Jersey, Department of Community Affairs, Division of Local Government Services with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and NJDCA-LGS to permit NJDCA-LGS to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8.15, 8.18 and 8.19. This requirement shall be deemed to have been satisfied by a previously executed three-party escrow agreement with COAH, provided the bank remains the same as in the original agreement.
- D. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by the Court.

§ 110-55.15. Use of funds.

- A. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the Housing Trust Fund may be used for any activity approved by the Department to address the Borough of Metuchen's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or State standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan.
- B. Funds shall not be expended to reimburse the Borough of Metuchen for past housing activities.
- C. At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.

- (2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Borough of Metuchen may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance.
- E. No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the reporting and monitoring requirements that have been approved by the Court. Legal or other fees related to litigation opposing affordable housing sites or objecting to or appealing Court's approval of Metuchen's Housing Element and Fair Share Plan are not eligible uses of the Affordable Housing Trust Fund.

§ 110-55.16. Monitoring.

On an annual basis commencing with the first anniversary of the entry of the Order granting a Final Judgment of Compliance and Repose to Metuchen, the Borough of Metuchen shall report all activity in connection with its Affordable Housing Trust Fund to the New Jersey Department of Community Affairs (either the Division of Local Government Services or the Council on Affordable Housing (COAH), whichever entity is designated by the State of New Jersey), with a copy provided to Fair Share Housing Center and to the Intervenor/Defendants in *In the Matter of the Application of the Borough of Metuchen*, Docket No.: MID-L-4012-15, and with a posting of same on the municipal website, using forms previously developed for this purpose by COAH. The reporting shall include all sources and amounts collected/earned and the amounts and purposes for which funds have been expended.

§ 110-55.17. Ongoing collection of fees.

- A. The ability for the Borough of Metuchen to impose, collect and expend development fees shall expire with its Judgment of Compliance and Repose unless the Borough of Metuchen has filed an adopted Housing Element and Fair Share Plan with the Court or with COAH or its successor agency designated by the State of New Jersey, has petitioned for a Judgment of Compliance and Repose or substantive certification, and has received the Court's or COAH's approval of its development fee ordinance. If the Borough of Metuchen fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its Municipal Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c. 222 (C. 52:27D-320). The Borough of Metuchen shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall the Borough of Metuchen retroactively impose a development fee on such a development. The Borough of Metuchen shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

**Part III
Zoning**

**ARTICLE 15
Applicability and General Provisions**

§ 110-56. Applicability.

Each section and provision of this Part III of this chapter shall apply to all districts unless otherwise stated.

§ 110-57. Effect of zoning. [Amended 9-3-2013 by Ord. No. 2013-12]

No land may be used and no structure or building may be erected, raised, moved, extended, enlarged or altered or used for any purpose other than a use specifically permitted in this Part III of this chapter for the district in which it is located. All development shall be in conformance with the regulations provided for the district in which such development is located and in conformance with an approved development plan and/or zoning permit.

§ 110-58. Use of buildings and land.

The control and regulation of the nature and extent of the use of buildings and/or structures, as specified in Part III of this chapter, shall apply equally to the nature and extent of use of land.

§ 110-59. Interpretation.

In their interpretation and application, the provisions of Part III of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals and general welfare, consistent with the purposes set forth in N.J.S.A. 40:55D-2.

§ 110-60. Deviations.

Any deviation from the provisions of Part III of this chapter shall require a variance pursuant to N.J.S.A. 40:55D-70c or 40:55D-70d or N.J.S.A. 40:55D-60a.

§ 110-61. Off-tract roadway improvements. [Added 10-4-1993 by Ord. No. 93-26]

Developers shall contribute to the cost of off-tract roadway improvements in an amount deemed necessary to mitigate traffic impacts created by traffic generated by their proposed facility. The improvement and associated costs deemed necessary are to be determined by the New Jersey Department of Transportation, County of Middlesex and the Borough of Metuchen.

ARTICLE 16

Zoning Districts; Zoning Map; Zoning Schedule**§ 110-62. Zoning districts.**

The following zoning districts are hereby established in the Borough:

R-1	Residential District
R-1A	Residential District [Added 2-20-1990 by Ord. No. 90-3]
R-2	Residential District
R-2A	Residential District
R-3	Residential District
R-4	Residential District
R-5	Overlay Residential District [Amended 1-4-1993 by Ord. No. 93-26]
R-6	Overlay Residential District [Amended 1-4-1993 by Ord. No. 93-26]
R-7	Lawler Affordable Housing District [Added 6-15-1992 by Ord. No. 92-18]
R-8	Overlay Residential District [Added 11-7-2016 by Ord. No. 2016-27]
R-9	Overlay Residential District [Added 11-7-2016 by Ord. No. 2016-27]
B-1	Central Business District
B-2	Neighborhood Business District
B-3	Office Business District
B-4	Restricted Business District
B-5	Restricted Business District [Added 10-3-1994 by Ord. No. 94-14]
D-1	Downtown Development District
F-1	Franklin Development District
G-1	Gateway Development District
G-2	Gateway Development District-Northeast [Added 7-21-1997 by Ord. No. 97-14]
LI	Light Industrial District

§ 110-63. Zoning Map.

The location and boundaries of the zoning districts are hereby established on the Zoning Map of the Borough of Metuchen, dated October 17, 1988, and any subsequent revisions thereto. The Zoning Map is hereby made a part of this chapter.⁷⁹

§ 110-64. Density, bulk and coverage controls.

The density, bulk and coverage controls by zoning district are hereby established on the attached schedule.⁸⁰

79. Editor's Note: The Zoning Map is included in the pocket at the end of this Code or on file in the Borough offices.

§ 110-65. Official Map established. [Added 9-15-1997 by Ord. No. 97-20]

There is hereby established as the Official Map of the Borough a map entitled "Official Map of the Borough of Metuchen, dated January 1970, W. Franklin Buchanan, Borough Engineer." The aforementioned Official Map is being adopted pursuant to N.J.S.A. 40:55-1.32.

ARTICLE 17
Permitted Uses

§ 110-66. R-1 Residential District.

Principal, accessory and conditional uses shall be permitted and regulated in the R-1 Residential District as follows:

A. Permitted principal uses: **[Amended 9-15-1997 by Ord. No. 97-20]**

- (1) Single-family detached dwellings.
- (2) Borough-operated public facilities.
- (3) A community residence for the developmentally disabled or victims of domestic violence.

B. Permitted accessory uses:

- (1) Driveways, parking lots, carports containing not more than two motor vehicles and garages containing not more than three motor vehicles.
- (2) Storage and maintenance sheds.
- (3) Gardens and landscaped areas, including fountains, ponds and other water features.
- (4) Greenhouses and other structures used for horticultural purposes.
- (5) Patios, freestanding decks, gazebos, cabanas and other recreational or ornamental buildings or structures.
- (6) Swimming pools, tennis courts and racquetball courts, pursuant to § 110-192.
- (7) Other uses deemed to be permitted accessory uses.

C. Permitted conditional uses: **[Added 3-4-1991 by Ord. No. 91-3]**

- (1) Churches and other places of worship, including buildings used in connection with religious activities, pursuant to § 110-87A. Any existing church or any place of worship, including buildings used in connection with religious activities, shall be hereby excepted and deemed to continue as a permitted use whereby any addition or expansion of the use shall require site plan approval only, without the necessity of a conditional use application.
- (2) Religious or nonprofit nursery schools, day-care centers and nursing and convalescent homes, pursuant to § 110-87A.
- (3) Public, nonprofit private and parochial school buildings and convents, pursuant to § 110-87A.⁸¹
- (4) Senior citizen shared living residences pursuant to § 110-87V.

§ 110-67. R-1A Residential District. [Amended 2-20-1990 by Ord. No. 90-3]

Principal, accessory and conditional uses shall be permitted and regulated in the R-1A Residential District

81. Editor's Note: Former Subsection d, pertaining to residences for the developmentally disabled or victims of domestic violence, which immediately followed this subsection, was deleted 9-15-1997 by Ord. No. 97-20.

as follows:

- A. Permitted principal uses: any principal use permitted in an R-1 residential zone.
- B. Permitted accessory uses: any accessory uses permitted in an R-1 Residential District.
- C. Permitted conditional uses: any conditional use permitted in an R-1 Residential zone.

§ 110-68. R-2 Residential District.

Principal, accessory and conditional uses shall be permitted and regulated in the R-2 Residential District as follows:

- A. Permitted principal uses: any principal use permitted in an R-1 Residential District.
- B. Permitted accessory uses: any accessory use permitted in an R-1 Residential District.
- C. Permitted conditional uses:
 - (1) Any conditional use permitted in an R-1 Residential District.
 - (2) Offices and apartments, provided that such are located on a lot fronting on Main Street between the Lehigh Valley Railroad line to the north and the B-2 Neighborhood Business District to the south, pursuant to § 110-87U.
 - (3) (Reserved) [Added 8-15-2016 by Ord. No. 2016-19; repealed 11-7-2016 by Ord. No. 2016-27]

§ 110-69. R-2A Residential District.

Principal, accessory and conditional uses shall be permitted and regulated in the R-2A Residential District as follows:

- A. Permitted principal uses:
 - (1) Any principal use permitted in an R-1 Residential District.
 - (2) Townhouses.
- B. Permitted accessory uses:
 - (1) Any accessory use permitted in an R-1 Residential District for single-family detached dwellings.
 - (2) Garages containing not more than three motor vehicles for each townhouse unit.
 - (3) Common open space, social and recreational facilities for townhouses.
- C. Permitted conditional uses: any conditional use permitted in an R-1 Residential District.

§ 110-70. R-3 Residential District.

Principal, accessory and conditional uses shall be permitted and regulated in the R-3 Residential District as follows:

- A. Permitted principal uses:

- (1) Any principal use permitted in an R-1 Residential District.
- (2) Two-family detached dwellings.
- B. Permitted accessory uses: any accessory use permitted in an R-1 Residential District.
- C. Permitted conditional uses: any conditional use permitted in an R-1 Residential District.

§ 110-71. R-4 Residential District.

Principal, accessory and conditional uses shall be permitted and regulated in the R-4 Residential District as follows:

- A. Permitted principal uses:
 - (1) Any principal use permitted in an R-3 Residential District.
 - (2) Townhouses.
 - (3) Garden apartments.
 - (4) Three- and four-family apartments.
 - (5) Affordable senior housing. [Amended 12-19-2005 by Ord. No. 2005-24]
- B. Permitted accessory uses:
 - (1) Any accessory use permitted in an R-1 Residential District for single-family and two-family dwellings.
 - (2) Garages containing not more than three motor vehicles for each townhouse and apartment unit.
 - (3) Common open space, social and recreational facilities.
- C. Permitted conditional uses: any conditional use permitted in an R-1 Residential District.

§ 110-72. (Reserved) ⁸²

Intentionally omitted.

§ 110-73. R-6 Overlay Residential District. [Amended 1-4-1993 by Ord. No. 93-26]

Principal, accessory and conditional uses shall be permitted and regulated in the R-6 Overlay Residential District as follows:

- A. Permitted principal uses:
 - (1) Planned unit residential development, pursuant to § 110-91.
 - (2) Borough-operated public facility. [Added 12-7-1992 by Ord. No. 92-37]
- B. Permitted accessory uses: any accessory use permitted pursuant to § 110-91.
- C. Permitted conditional uses: none.

82. Editor's Note: Former § 110-72, R-5 Overlay Residential District, as amended, was repealed 8-1-2005 by Ord. No. 2005-11.

§ 110-74. R-7 Lawler Affordable Housing District [Added 6-15-1992 by Ord. No. 92-18; amended 10-3-1994 by Ord. No. 94-21]

- A. Purpose. This district has been created in order to comply with substantive certification granted to the Borough of Metuchen by the Council on Affordable Housing on May 5, 1992. Permitted uses, densities, affordable housing set-aside requirements and other development standards have been developed in accordance with said grant of substantive certification and that certain agreement between the Borough of Metuchen and Homestead at Metuchen, Inc., which agreement is dated December 31, 1991.
- B. Location. An R-7 Lawler Affordable Housing District shall be included which will encompass the six-and-fifty-eight-hundredths-acre tract commonly known as "the Lawler Tract," which is designated as Block 49, Lots 11 and 57 on the Tax Map of the Borough and located with fifty-foot frontage on Central Avenue, northwest of its intersection with Durham Avenue.
- C. Permitted uses.
- (1) Permitted principal uses:
 - (a) Townhouses.
 - (b) Apartments.
 - (c) Multifamily attached housing.
 - (2) Permitted accessory uses:
 - (a) Driveways, parking lots and detached garages.
 - (b) Common open space, social and recreational facilities and detention and retention basins.
 - (c) Other uses customarily incidental to the permitted principal uses.
- D. Maximum permitted density. Maximum permitted density shall be 12 units per acre, which shall be a gross density for the entire site, irrespective of whether or not any portion of the site is designated or dedicated for use as private or public streets. However, no development of the Lawler Tract shall contain more than 77 residential units.
- E. Affordable housing component. Developers shall be obligated to construct, in accordance with Paragraph 9.2 of the Amended Agreement, a twenty-five-unit affordable housing component; provided, however, that the funding contingencies stated within the Amended Agreement are satisfied.
- F. Parking requirements.
- (1) The total number of parking spaces required for all uses or combination of uses shall be as follows:

Residential Type and Size		Required Spaces Per Dwelling Unit
Apartments		
	One-bedroom	1.5
	Two-bedroom	2.0

Residential Type and Size		Required Spaces Per Dwelling Unit
	Three-bedroom	2.25
Townhouses		
	One-bedroom	1.75
	Two-bedroom and three-bedroom	2.25

- (2) A maximum of 25% of the required number of parking spaces may be located on-street, provided that the minimum paved width of that street is 30 feet.

G. Site plan development standards.

- (1) Concept plan compatibility. The Lawler Tract should be developed in a manner that is consistent with an overall design and general configuration shown in the Schematic Design Blueprints drawn by Clarke and Caton, dated August 29, 1994, and submitted to and approved in concept by the Borough Council on September 7, 1994. This Concept Plan provides for the specific location for primary access from Central Avenue, the generally O-shaped street layout, the general locations of the proposed dwelling units, the general location of a recreational area and the detention basin.
- (2) Vehicular access. No paved portion of any public or private street or driveway shall be located within eight feet of an existing adjacent residential property line, except in such cases where the Board determines that it shall be necessary for an existing or future roadway connection, nor within five feet of an existing adjacent nonresidential property line.
- (3) Building location. A building shall be located to front towards and to relate to a street or other logically organized space. Spatial relationships among buildings shall be geometrically logical and architecturally formal. Buildings may also be oriented to front toward a parking area.
- (4) Parking lot location. Parking lots may be located in any or all of the yard areas surrounding the buildings.
- (5) Building setbacks. The minimum distance between buildings and vehicular driveways, parking areas and streets within the site shall be 25 feet, which distance shall be measured from building to curbline. Yard setback requirements shall be encompassed within the building setback minimum distance and shall not be in addition thereto.
- (6) Spacing of buildings.
 - (a) Separation of buildings in a multiple-building development shall be not less than the following minimum spacing standards:

Building Wall Relationship	Minimum Spacing (feet)
Front wall to front wall	45
Front wall to side wall	45
Rear wall to rear wall	55
Side wall to side wall	35

- (b) Notwithstanding the foregoing, the separation between two buildings located perpendicular to each other shall be a minimum of 25 feet in a maximum of two instances, in the entire tract development.

H. Multifamily residential development standards.

- (1) Building type mix. There shall be no requirement as to any minimum mix among apartments, townhouses or other multifamily attached housing on the tract.
- (2) Dwelling unit mix. For affordable units, the dwelling unit mix shall be in accordance with the then-applicable Council on Affordable Housing (COAH) requirements. With respect to market rate dwelling units, no more than 1/3 of the total units on-site shall be three bedrooms, and no more than 1/3 of the total units constructed on the site shall be one-bedroom.
- (3) Number of dwelling units. No building shall contain more than 18 attached units.
- (4) Dwelling unit size and location.
 - (a) Minimum dwelling unit floor area shall be as follows:

Apartment Type	Minimum Floor Area (square feet)
Studio/efficiency	500
One-bedroom	600
Two-bedroom	950
Three-bedroom	1,100

- (b) No dwelling unit shall be entirely located on a level partially below existing or finished grade level.
- (5) Storage space. Other than normal closet space, there shall be no dwelling unit storage space requirement.
- (6) Private open space. Each dwelling unit shall be provided with a private outdoor patio or balcony area consisting of a minimum of 64 square feet. The minimum length of any individual dimension of such area shall not be less than six feet. A minimum of one light fixture shall be provided to light such area.
- (7) Enclosure of yard areas. No enclosure of the front, side or rear yards of any dwelling unit or building shall be required by way of evergreen hedge, brick wall, wrought iron fence or other demarcated or fixed structure or landscaping.
- (8) Pedestrian walkway materials. Formal walkways shall be constructed of brick, slate, cobblestone, concrete, bluestone or some combination of the above or similar materials that are architecturally compatible with the style, materials, colors and details of the buildings.

I. Architectural design standards.

- (1) Massing. A building shall not be permitted to have a total measurement greater than 230 feet in length along any wall, roof or footprint plane. Building wall offsets, including both projections

and recesses, shall be provided along any building wall measuring greater than 50 feet in length in order to provide architectural interest. The maximum spacing between such offsets shall be 45 feet. The minimum projection or depth of any individual offset shall not be less than two feet.

- (2) Continuity of treatment. The architectural treatment of a facade shall be compatible in terms of style, materials, colors or details around all sides of a building. Different sides of a building may face or relate to different conditions. For example, the front may relate to a street, while the rear may relate to a quiet garden space.
- (3) Roof. The minimum permitted roof pitch shall be five on 12. Individual gables on a building may vary in pitch.

§ 110-74.1. R-8 Overlay Residential District. [Added 11-7-2016 by Ord. No. 2016-27]

Principal and accessory uses shall be permitted and regulated in the R-8 Overlay Residential District as follows, on the following lots only: Block 132, Lots 10-27, 42-46, 49-51 & 52.

- A. Permitted principal uses: Townhouses.
- B. Permitted accessory uses: Any accessory use permitted in the R-2 Residential District.
- C. Bulk regulations for townhouses:
 - (1) Minimum tract area shall be 20,000 square feet. For the purposes of calculating tract area, lots separated by street rights-of-way may be considered part of the same tract.
 - (2) Minimum frontage on Safety Place: two hundred fifty (250) feet.
 - (3) The design of the townhouse structures shall be oriented to front toward Safety Place and back toward the Northeast Corridor Railroad right-of-way.
 - (4) Townhouse structures shall have a minimum setback of 25 feet from any adjacent lot occupied by a single-family home.
 - (5) Parking for the townhouses may be located both on Safety Place and on portions of the tract located across Safety Place from the townhouse structures.
- D. All such uses shall comply with the affordable housing requirements of Article 21 (Affordable Housing) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen.

§ 110-75. B-1 Central Business District. [Amended 12-7-1992 by Ord. No. 92-37; 6-7-1999 by Ord. No. 99-10; 3-17-2003 by Ord. No. 2003-4; 9-3-2013 by Ord. No. 2013-12; 8-12-2019 by Ord. No. 2019-12; 10-24-2022 by Ord. No. 2022-19]

Principal, accessory and conditional uses shall be permitted and regulated in the B-1 Central Business District as follows:

- A. Permitted principal uses: **[Amended 9-11-2023 by Ord. No. 2023-27]**
 - (1) Retail shops and stores.
 - (2) Personal service businesses.

- (3) Physical fitness studios.
- (4) Indoor amusement businesses, including arcades, virtual reality, escape rooms, and other similar uses.
- (5) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants, provided that such shall not have an outdoor dining area within 50 feet of residentially zoned land.
- (6) Brew pubs, distilleries and wineries.
- (7) Banks and other financial institutions, except drive-in banks.
- (8) Offices, except located on the ground floor of a building fronting on Main Street.
- (9) Flex space, including demonstration kitchens, event rental space, party rental space, and other similar uses.
- (10) Nursery schools and day-care centers.
- (11) Apartments, except located on the ground floor of a building.
- (12) Borough-operated public facilities.
- (13) Massage and somatic therapy establishments.

B. Permitted accessory uses:

- (1) Driveways, parking lots, loading areas and multilevel parking facilities, except where such is located to have ingress and/or egress on Route 27 (Middlesex Avenue) and the same can be provided from another street or municipal parking lot abutting the site.
- (2) Plazas, courtyards, alleys and other similar type public and semipublic spaces.
- (3) Other uses deemed to be permitted accessory uses.

C. Permitted conditional uses:

- (1) Dry-cleaning establishments, pursuant to § 110-87B.
- (2) Inns and hotels, pursuant to § 110-87C.
- (3) Religious affiliated office or counseling center, pursuant to § 110-87D.
- (4) Two-family detached dwellings, pursuant to § 110-87E.
- (5) Class 5 Cannabis Retailers, provided that they are located on a lot fronting on Middlesex Avenue and comply with the requirements of Chapter 75, Article I, § 75-5C of the Code of the Borough of Metuchen. [Added 10-24-2022 by Ord. No. 2022-19]

§ 110-76. B-2 Neighborhood Business District. [Amended 12-7-1992 by Ord. No. 92-37; 3-17-1997 by Ord. No. 97-4; 6-7-1999 by Ord. No. 99-10; 9-17-2001 by Ord. No. 2001-14; 3-17-2003 by Ord. No. 2003-4; 11-21-2005 by Ord. No. 2005-23; 9-3-2013 by Ord. No. 2013-12; 8-15-2016 by Ord. No. 2016-19; 11-7-2016 by Ord. No. 2016-27; 8-12-2019 by Ord. No. 2019-12; 10-24-2022 by Ord. No.

2022-19]

Principal, accessory and conditional uses shall be permitted and regulated in the B-2 Neighborhood Business District as follows:

A. Permitted principal uses:

- (1) Retail shops and stores, provided that such shall not generate objectionable noise, odors, smoke or glare or require extensive loading areas within proximity of residential uses on adjacent lots.
- (2) Personal service businesses.
- (3) Physical fitness studios.
- (4) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants, provided that such shall not have an outdoor dining area within 50 feet of residentially zoned land or require extensive loading areas within proximity of residential uses on adjacent lots.
- (5) Banks and other financial institutions, except drive-in banks.
- (6) Offices.
- (7) Nursery schools and day-care centers.
- (8) Apartments, except located on the ground floor of a building.
- (9) Borough-operated public facilities.
- (10) Massage and somatic therapy establishments.
- (11) Affordable senior housing.

B. Permitted accessory uses:

- (1) Driveways and parking lots.
- (2) Other uses deemed to be permitted accessory uses.

C. Permitted conditional uses:

- (1) Dry-cleaning establishments, pursuant to § 110-87B.
- (2) Two-family detached dwellings, pursuant to § 110-87E.
- (3) Class 5 Cannabis Retailers, provided that they are located on a lot fronting on Central Avenue or Jersey Avenue or Amboy Avenue and comply with the requirements of Chapter 72, Article I, § 72-5C of the Code of the Borough of Metuchen **[Added 10-24-2022 by Ord. No. 2022-19]**

§ 110-76.1. R-9 Overlay Residential District. [Added 11-7-2016 by Ord. No. 2016-27]

Principal and accessory uses shall be permitted and regulated in the R-9 Overlay Residential District as follows, on the following lot only: Block 158, Lot 2

A. Permitted principal uses: Courtyard Apartments.

B. Permitted accessory uses: Any accessory use permitted in the B-2 Neighborhood Business District.

C. Bulk regulations: Courtyard Apartments shall meet the following specific conditions:

- (1) Minimum tract area shall be 20,000 square feet.
- (2) Minimum frontage: one hundred twenty-five (125) feet on Main Street and frontage on any other street shall not be permitted.
- (3) The design of the courtyard apartment structure shall be oriented to front internally on the site and frame a courtyard space oriented away from any adjacent lot occupied by a single-family home.
- (4) Courtyard apartment structures shall have a minimum setback of 25 feet from any adjacent lot occupied by a single-family home.

D. All such uses shall comply with the affordable housing requirements of Article 21 (Affordable Housing) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen.

§ 110-77. B-3 Office Business District. [Amended 12-7-1992 by Ord. No. 92-37; 9-17-2001 by Ord. No. 2001-14; 12-2-2002 by Ord. No. 2002-18; 3-17-2003 by Ord. No. 2003-4; 6-16-2003 by Ord. No. 2003-8; 11-21-2005 by Ord. No. 2005-23; 9-3-2013 by Ord. No. 2013-12; 8-18-2014 by Ord. No. 2014-12; 8-12-2019 by Ord. No. 2019-12; 10-24-2022 by Ord. No. 2022-19]

Principal, accessory and conditional uses shall be permitted and regulated in the B-3 Office Business District as follows:

A. Permitted principal uses: **[Amended 9-11-2023 by Ord. No. 2023-27]**

- (1) Retail shops and stores, provided that they are located fronting on Main Street.
- (2) Personal service businesses.
- (3) Physical fitness studios.
- (4) Indoor amusement businesses, including arcades, virtual reality, escape rooms, and other similar uses, provided that they are located on a lot fronting on Middlesex Avenue east of Factory Street, Amboy Avenue or Lake Avenue.
- (5) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants, provided that such shall not have an outdoor dining area within 50 feet of residentially zoned land.
- (6) Brew pubs, distilleries and wineries, provided that they are located on a lot fronting on Middlesex Avenue east of Factory Street, Amboy Avenue or Lake Avenue.
- (7) Banks and other financial institutions, except drive-in banks.
- (8) Offices.
- (9) Flex space, including demonstration kitchens, event rental space, party rental space, and other similar uses.
- (10) Funeral homes and mortuaries.
- (11) Nursery schools and day-care centers.

- (12) Social halls, clubs, lodges and places of public assembly.
- (13) Apartments, if located on upper floors above another permitted use at the ground level.
- (14) Affordable senior housing.
- (15) Borough-operated public facilities.

B. Permitted accessory uses:

- (1) Driveways, parking lots and loading areas.
- (2) Other uses deemed to be permitted accessory uses.

C. Permitted conditional uses.

- (1) Any conditional uses permitted in the B-2 Zone.
- (2) Drive-in banking facilities pursuant to § 110-87J, on the condition that the property fronts on Central Avenue, Middlesex Avenue between Central Avenue and the Lehigh Valley Railroad right-of-way (abandoned) or the westerly side of Lake Avenue.
- (3) Downtown Gateway Overlay District, pursuant to § 110-87AA.
- (4) Class 5 Cannabis Retailers, provided that they are located on a lot fronting on Middlesex Avenue, Lake Avenue, or Amboy Avenue, and east of Factory Street and comply with the requirements of Chapter 72, Article I, § 72-5C of the Code of the Borough of Metuchen. **[Added 10-24-2022 by Ord. No. 2022-19]**

§ 110-78. B-4 Restricted Business District. [Amended 2-22-1994 by ; 9-15-1997 by Ord. No. 97-20; 9-17-2001 by Ord. No. 2001-14; 12-2-2002 by Ord. No. 2002-18; 3-17-2003 by Ord. No. 2003-4; 11-21-2005 by Ord. No. 2005-23; 9-3-2013 by Ord. No. 2013-12; 8-18-2014 by Ord. No. 2014-12; 8-12-2019 by Ord. No. 2019-12; 10-24-2022 by Ord. No. 2022-19]

Principal, accessory and conditional uses shall be permitted and regulated in the B-4 Restricted Business District as follows:

A. Permitted principal uses:

- (1) Personal service businesses.
- (2) Offices.
- (3) Banks and other financial institutions.
- (4) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants, provided that such shall not have an outdoor dining area within 50 feet of residentially zoned land.
- (5) Health clubs, gyms, fitness centers and spas.
- (6) Borough-operated public facilities.
- (7) Affordable senior housing.

B. Permitted accessory uses:

- (1) Driveways, parking lots and loading areas.
- (2) Other uses deemed to be permitted accessory uses.
- (3) Plazas, courtyards, alleys and other similar type public and semipublic open spaces.

C. Permitted conditional uses:

- (1) (Reserved)
- (2) Inns and hotels on parcels of land with a minimum lot frontage of 300 feet on a minor arterial street as designated in the Borough of Metuchen Master Plan, provided that no parking lot shall be located within 25 feet of a lot line on which there is a residential use.
- (3) New automobile dealerships, provided that they are located on parcels of land with a minimum lot frontage of 300 feet on a minor arterial street as designated in the Borough of Metuchen Master Plan and provided that they were in existence as of August 1993.
- (4) (Reserved)
- (5) Automobile washing establishments, pursuant to § 110-87H.
- (6) Automobile repair establishments, pursuant to § 110-87I.
- (7) Drive-in bank facilities, pursuant to § 110-87J.
- (8) Downtown Gateway Overlay District, pursuant to § 110-87AA.
- (9) Class 5 Cannabis Retailers, provided that they are located on a lot fronting on Essex Avenue, west of the Bonhamtown Railroad eastern spur and comply with the requirements of Chapter 72, Article I, § 72-5C of the Code of the Borough of Metuchen. [Added 10-24-2022 by Ord. No. 2022-19]

§ 110-79. B-5 Restricted Business District. [Added 10-3-1994 by Ord. No. 94-14; amended 3-17-2003 by Ord. No. 2003-4; 11-21-2005 by Ord. No. 2005-23; 9-3-2013 by Ord. No. 2013-12; 8-12-2019 by Ord. No. 2019-12]

Principal, accessory and conditional uses shall be permitted and regulated in the B-5 Restricted Business District as follows:

A. Permitted principal uses:

- (1) Personal service businesses.
- (2) Offices.
- (3) Banks and other financial institutions.
- (4) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants, provided that such shall not have an outdoor dining area within 50 feet of residentially zoned land.
- (5) Health clubs, gyms, fitness centers and spas.
- (6) Planned unit residential development use, in accordance with the uses specified and the bulk

standards described in § 110-91E of this chapter and which shall be permitted on a tract with a minimum lot size of five acres.

(7) Affordable senior housing.

B. Permitted accessory uses:

(1) Driveways, parking lots and loading areas.

(2) Other uses deemed to be permitted accessory uses.

(3) Plazas, courtyards, alleys and other similar type public and semipublic open spaces.

C. Permitted conditional uses:

(1) Inns and hotels on parcels of land with a minimum lot frontage of 300 feet on a minor arterial street as designated in the Borough of Metuchen Master Plan, provided that no parking lot shall be located within 25 feet of a lot line on which there is a residential use.

(2) New automobile dealerships, provided that they are located on parcels of land with a minimum lot frontage of 300 feet on a minor arterial street as designated in the Borough of Metuchen Master Plan and provided that they were in existence as of August 1993.

(3) Townhouses, pursuant to § 110-87G.

§ 110-80. D-1 Downtown Development District. [Amended 12-7-1992 by Ord. No. 92-37; 3-17-2003 by Ord. No. 2003-4; 11-21-2005 by Ord. No. 2005-23; 7-16-2007 by Ord. No. 2007-4; 11-1-2010 by Ord. No. 2010-17; 12-2-2013 by Ord. No. 2013-7; 8-18-2014 by Ord. No. 2014-12; 6-20-2016 by Ord. No. 2016-15; 8-12-2019 by Ord. No. 2019-12; 10-24-2022 by Ord. No. 2022-19]

Principal, accessory and conditional uses shall be permitted and regulated in the D-1 Downtown Development District as follows:

A. Permitted principal uses: **[Amended 9-11-2023 by Ord. No. 2023-27]**

(1) Retail shops and stores, provided that they are located fronting on New Street or Pearl Street.

(2) Personal service businesses.

(3) Physical fitness studios.

(4) Indoor amusement businesses, including arcades, virtual reality, escape rooms, and other similar uses.

(5) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants.

(6) Brew pubs, distilleries and wineries.

(7) Banks and other financial institutions, except drive-in banks.

(8) Offices.

(9) Flex space, including demonstration kitchens, event rental space, party rental space, and other similar uses.

(10) Nursery schools and day-care centers.

- (11) Apartments, except located fronting on Middlesex Avenue unless substantial buffering is provided.
- (12) Affordable senior housing.
- (13) Borough-operated public facilities.
- (14) Massage and somatic therapy establishments.

B. Permitted accessory uses:

- (1) Driveways, parking lots, loading areas and multilevel parking facilities, except where such is located to have ingress and/or egress on Route 27 (Middlesex or Lake Avenues) and the same can be provided from another street or municipal parking lot abutting the site.
- (2) Other uses deemed to be permitted accessory uses.
- (3) Plazas, courtyards, alleys and other similar type public and semipublic open spaces.

C. Permitted conditional uses:

- (1) Planned unit residential development, pursuant to Article 19 of this chapter.
- (2) Dry-cleaning establishments, pursuant to § 110-87B.
- (3) Inns and hotels, pursuant to § 110-87C.
- (4) Mixed-use neighborhoods, pursuant to § 110-87Y.
- (5) Planned unit commercial development, pursuant to Article 19 of this chapter.
- (6) Downtown Gateway Overlay District, pursuant to § 110-87AA.
- (7) Class 5 Cannabis Retailers, except within Block 115 and comply with the requirements of Chapter 72, Article I, § 72-5C of the Code of the Borough of Metuchen. **[Added 10-24-2022 by Ord. No. 2022-19]**

§ 110-81. F-1 Franklin Development District.

Principal, accessory and conditional uses shall be permitted and regulated in the F-1 Franklin Development District as follows:

A. Permitted principal uses:

- (1) Planned unit residential development, pursuant to § 110-91.
- (2) Borough-operated public facilities. **[Added 12-7-1992 by Ord. No. 92-37]**

B. Permitted accessory uses: any accessory use permitted pursuant to § 110-91.

C. Permitted conditional uses. **[Amended 12-2-2002 by Ord. No. 2002-18]**

- (1) Two-family detached dwelling, pursuant to the following specific conditions:
 - (a) Such use shall have vehicular access using consolidated or shared driveways to minimize impacts on the streetscape.

- (b) No garages shall face the street.
- (c) Such dwellings shall comply with the setback requirements of § 110-91C for PURDs in the F-1 Franklin Development District.
- (2) Three- to four-family detached dwelling, provided that the lot that fronts on Central Avenue is a minimum of 10,000 square feet in area.
- (3) Accessory dwelling units designed as carriage houses are permitted in the F-1 Zone as a bonus under one of the following conditions:
 - (a) A portion of the lot is subdivided or dedicated by easement to provide additional parking for an adjacent planned unit residential development.
 - (b) Driveways between the permitted use and the accessory dwelling unit shall be shared to reduce the number of curb cuts on public streets.

§ 110-82. G-1 Gateway Development District.

Principal, accessory and conditional uses shall be permitted and regulated in the G-1 Gateway Development District as follows:

A. Permitted principal uses:

- (1) Offices.
- (2) Banks and other financial institutions, except drive-in banks.
- (3) Motels and hotels.
- (4) New automobile dealerships.
- (5) Borough-operated public facilities. **[Added 12-7-1992 by Ord. No. 92-37]**

B. Permitted accessory uses: driveways, parking lots, loading areas, multilevel parking facilities and other uses deemed to be permitted accessory uses.

C. Permitted conditional uses:

- (1) Drive-in banks, pursuant to § 110-87J.
- (2) Light industrial uses, pursuant to § 110-87K.
- (3) Warehouses, pursuant to § 110-87W. **[Amended 11-1-1993 by Ord. No. 93-26; 3-17-1997 by Ord. No. 97-4]**
- (4) Gasoline service stations, pursuant to § 110-87F. **[Added 3-17-1997 by Ord. No. 97-4]**
- (5) Wireless communications facilities pursuant to § 110-87X. **[Added 6-16-1997 by Ord. No. 97-8]**
- (6) Sports and athletic facilities. **[Added 11-17-2008 by Ord. No. 2008-17]**

§ 110-82.1. G-2 Gateway Development District - Northeast. [Added 7-21-1997 by Ord. No. 97-14]

A. Permitted principal uses:

- (1) Offices.
 - (2) Banks and other financial institutions, except drive-in banks.
 - (3) Funeral homes and mortuaries.
 - (4) Nursery schools and day-care centers.
 - (5) Assisted-living facilities. **[Added 2-22-1999 by Ord. No. 99-2]**
 - (6) Clubhouses. **[Added 2-22-1999 by Ord. No. 99-2]**
- B. Permitted accessory uses:
- (1) Driveways, parking lots, loading areas and other uses deemed to be permitted accessory uses.
- C. Permitted conditional uses:
- (1) Drive-in banks, pursuant to § 110-87J of this chapter.

§ 110-83. LI Light Industrial District. [Amended 1-4-1993 by Ord. No. 93-26; 10-24-2022 by Ord. No. 2022-19]

- A. Purpose. It is the purpose of the Light Industrial District to provide sufficient space in appropriate locations for attractive office, light industrial and related uses which do not create any hazards or noise, vibrations, smoke, dust, odors, heat, glare and other objectionable influences, which would be offensive to adjoining lands.
- B. Permitted principal uses:
- (1) Offices for executive, administrative, professional and business purposes.
 - (2) Properly certified scientific, research or testing laboratories, provided that all activities and equipment are housed within the principal structure(s) and that no hazardous, noxious or offensive conditions or noise are generated outside the principal structure(s).
 - (3) Distribution centers involving the handling and distribution of wholesale goods to purveyors but not for resale to the general public or individual members of "wholesale clubs."
 - (4) Light Industrial plants of a type which have no nuisance problems and which carry on processes within completely enclosed buildings, including the assembly of articles of merchandise from the following previously prepared or refined materials: canvas, cellophane, cloth, cork film, felt, glass, tanned leather, paper, plastics, metals or sheet metal, textiles, wax, wire, wood and yarns.
 - (5) Included are the following permitted industrial uses:
 - (a) Assembly of toys, novelties, rubber or metal stamps and other molded rubber or plastic products.
 - (b) Assembly of electrical appliances, electronic instruments and devices.
 - (c) Establishments which produce clothing and fabricated products by cutting and sewing purchased woven or textile fabrics and related materials, such as tanned leather, rubberized fabrics and plastics.

- (d) Establishments engaged in assembly of finished articles made entirely or mainly of wood or wood substitutes.
 - (e) Assembly of furniture and fixtures.
 - (f) Establishments which engage in the fabrication of paper and paperboard into converted products, such as boxes and envelopes.
 - (g) Establishments engaged in printing and publishing and those establishments which perform services for the printing trade, such as bookbinding, typesetting and engraving.
 - (h) Establishments engaged in the fabrication of metal products.
 - (i) Establishments engaged in the assembly of instruments for measuring, testing, analyzing and controlling and their associated sensors and accessories; photographic, medical and optical goods; watches and clocks.
 - (j) Establishments engaged in the assembly of musical instruments.
 - (k) Establishments engaged in the assembly of toys and amusements, sporting and athletic goods.
 - (l) Establishments engaged in the assembly of pens, pencils and other office and artists' materials.
 - (m) Establishments engaged in the assembly of jewelry, novelties and buttons.
 - (n) Establishments engaged in the assembly of cash registers, typewriters, calculators and other office machines.
 - (6) Planned unit residential development in the R-5 Overlay Zone at a maximum permitted density of six dwelling units per gross acre in accordance with § 110-91A, PURD in R-5 Overlay Residential District.
 - (7) ⁸³Affordable senior housing. **[Added 11-21-2005 by Ord. No. 2005-23]**
 - (8) Borough-operated public facilities. **[Amended 9-15-1997 by Ord. No. 97-20]**
- C. Permitted accessory uses:
- (1) Accessory storage within a wholly enclosed permanent building of goods and materials intended for processing on the premises.
 - (2) Driveways, parking lots and loading areas.
 - (3) Other uses deemed to be accessory uses that are normally ancillary to the permitted principal uses, except that factory-outlet-type retail stores and sales shall not be considered an accessory use.
- D. Permitted conditional uses: **[Amended 6-16-1997 by Ord. No. 97-8; 4-19-1999 by Ord. No. 99-4; 12-2-2002 by Ord. No. 2002-18; 12-15-2008 by Ord. No. 2008-21; 9-11-2023 by Ord. No. 2023-27]**

83. Editor's Note: Former Subsection B(7), Planned unit residential development in the R-6 Overlay Zone, was repealed 12-6-1999 by Ord. No. 99-20.

- (1) Warehouse and mini-storage warehouses with individualized compartments pursuant to § 110-87W.
- (2) Automotive repair establishments inclusive of detailing and customizing but not including body repair or painting, pursuant to § 110-87I.
- (3) Machine shops pursuant to § 110-87M.
- (4) (Reserved)
- (5) Dance halls and discotheques, pursuant to § 110-87Q.
- (6) Go-go dancing establishments and cabarets, pursuant to § 110-87R.
- (7) Artist's body painting studios, tattoo shops, modeling studios and massage parlors, pursuant to § 110-87S.
- (8) Adult bookstores, adult gift shops and adult motion-picture theaters, pursuant to § 110-87T.
- (9) Wireless communications facilities pursuant to § 110-87X.
- (10) Off-track betting parlor.
- (11) For properties having required frontage on Middlesex Avenue, drive-in bank facilities, pursuant to § 110-87J.
- (12) For properties not abutting a residential district, contractor's establishments.
- (13) Class 3 Cannabis Wholesalers, provided that they are located on a lot fronting on Liberty Street, Aylin Street, Leonard Street or Norcross Avenue and comply with the requirements of Chapter 72, Article I, § 72-5C, of the Code of the Borough of Metuchen.

E. Prohibited uses:

- (1) Residences of any type except as permitted in the R-5 and R-6 Residential Overlay Districts.
- (2) Retail businesses of any type.
- (3) Religious institutions and schools.
- (4) Any process or storage use that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, gas fumes, noise, vibration or similar substances or conditions is specifically prohibited.
- (5) Refining, processing, distribution, transmission and storage of crude oil or refined petroleum products or the manufacture of bottled fuel gas or any of the principal products or by-products of the petrochemical industry.
- (6) Billboards and painted exterior wall signs.
- (7) Trucking depots or terminals or truck maintenance facilities.
- (8) Bus depots or terminals or bus maintenance facilities.
- (9) (Reserved)⁸⁴

- (10) Processing, bottling, canning or manufacture of any food product.
- (11) Storage tanks are specifically prohibited except when the material stored or storage of material is not the principal use of the site but only provides for an ancillary or utility function and not a process function to the principal use.
- (12) The manufacture of chemicals.
- (13) The manufacture of cellulose products, resins, dye stuff, glue, vegetable, animal or mineral fats or oils, explosives, combustible gases, soap and other surfactants, fertilizer, asphalt and tar products.
- (14) The manufacture of cardboard, paper, paper pulp or paper products.
- (15) The manufacture or production of metals and alloys in ingot form.
- (16) The slaughtering, tanning and/or processing of animals or fowl.
- (17) The processing, sale, storage, auctioning or reclamation of junk of any kind, including automobile wrecking and/or storing; recyclable materials storage, processing or incineration.
- (18) The manufacturing or refining of asphalt; blast furnaces, boiler works and forge shops; the manufacture or processing of cork, linoleum or oil cloth and glue or gelatin; the tanning of hides and skins; slaughterhouses; the manufacture of paint, oils, lacquer or varnish.
- (19) The manufacture or bulk storage of fireworks and explosives, illuminating gas or poisonous gases.
- (20) Any use involving the storage or manufacture of radioactive materials.
- (21) Metal fabrication of trailers, truck bodies or other transportation equipment.
- (22) Manufacture or processing of concrete or concrete products.

84. Editor's Note: Former Subsection E(9) regarding contractor's storage yards or equipment maintenance facilities, was repealed 12-15-2008 by Ord. No. 2008-21.

ARTICLE 18
Conditional Uses

§ 110-84. Purpose.

The purpose of this article is to set forth requirements and procedures applicable to conditional uses in accordance with N.J.S.A. 40:55D-67. A conditional use shall not be approved on any site unless said use is specifically permitted as a conditional use for the district in which it is located and unless all of the applicable conditions pursuant to this article are complied with.

§ 110-85. Procedure.

An application for development under the provisions set forth herein for a conditional use shall be reviewed by the Board for compliance with both the general and specific conditions as set forth in §§ 110-86 and 110-87 below. If an application for a conditional use is determined by the Board to meet the requirements in §§ 110-86 and 110-87 below, the Board shall then be required to review and grant site plan approval, prior to granting approval as a conditional use. Where any provision of this article shall appear in conflict with any other provision of another section of this chapter, the provision of this article shall apply in place of, supplement and, where in conflict, supersede the provision set forth elsewhere.

§ 110-86. General conditions.

In considering any conditional use application, the Board shall first be required to find that the following general conditions have been adequately addressed in the development plan, prior to granting conditional use approval:

- A. The adequacy of preservation of existing natural resources on the site.
- B. The provision of safe and efficient vehicular circulation, parking and loading.
- C. The impact of vehicular traffic generated by the proposed use on the streets in the neighborhood and the Borough generally.
- D. The provision of safe, efficient and accessible pedestrian circulation and accessibility in and to the proposed development.
- E. The impact of pedestrian traffic generated by the proposed use on the sidewalks in the neighborhood.
- F. The relationship of the physical, visual and spatial character of the proposed development to the same elements of existing development in the neighborhood and the Borough generally.
- G. The effectiveness of buffering and screening in mitigating the potential effects of adverse impacts on adjacent and nearby properties and the public right-of-way.
- H. The adequacy of landscaping, lighting, signage and other proposed site improvements.

§ 110-87. Specific conditions.

Anything in this chapter to the contrary notwithstanding, in considering any conditional use application, the Board shall first be required to determine that the following specific conditions for the proposed use have been complied with prior to granting conditional use approval:

- A. Church or any place of worship, including buildings used in connection with religious activities;

religious or nonprofit nursery schools, day-care centers and nursing and convalescent homes; public nonprofit private and parochial school buildings and convents; and a community residence for the developmentally disabled or victims of domestic violence, housing between seven and 15 persons, excluding resident staff.

- (1) The minimum lot area shall be as follows:
 - (a) Church or other place of worship: 40,000 square feet.
 - (b) Religious or nonprofit nursery schools, day-care centers and nursing and convalescent homes: 30,000 square feet.
 - (c) Public, nonprofit private and parochial school buildings and convents: 60,000 square feet.
 - (d) Community residence for the developmentally disabled or victims of domestic violence, housing more than six persons, excluding resident staff: 20,000 square feet.
 - (2) Maximum building area shall be 0.25 floor area ratio (FAR).
 - (3) Maximum building coverage for primary and accessory buildings shall be 50%.
 - (4) Maximum building height shall be as specified for the district.
 - (5) There shall be no parking in the front yard area nor within 10 feet of any property line.
 - (6) No building shall be located within 25 feet of a street right-of-way line nor within 15 feet of a side or rear property line, unless greater setbacks are specified for the district.
 - (7) No active recreation area associated with the use shall be located within 25 feet of a property line nor within the front yard.
 - (8) All recreation and parking areas shall be buffered and screened from view from all property lines with landscaping in accordance with Article 44 of this chapter.
 - (9) There shall be no outdoor activities after 10:00 p.m.
 - (10) No exterior lighting shall be allowed, except that required for security. Light levels shall be reduced in intensity or turned off after 11:00 p.m.
 - (11) A church or other place of worship may include a residence for clergy or maintenance superintendent on the premises, provided that the minimum required lot area shall be increased by an additional 5,000 square feet to 45,000 square feet.
- B. Dry-cleaning establishments. No establishment that performs dry-cleaning work on-premises shall utilize or store any hazardous or toxic chemicals on the premises such as to pose any risk to public health or the environment. Operating procedures, equipment and facilities shall ensure that hazardous or toxic conditions shall not develop either on or off the premises.
- C. Inns and hotels.
- (1) No property line on any tract used as an inn shall be located closer than the following:
 - (a) Two hundred feet to any residential district.
 - (b) One hundred feet to any railroad right-of-way line.

(2) No property line on any tract used as a hotel shall be located closer than the following:

- (a) Fifty feet to any residential use.
- (b) Five hundred feet to any residential district.
- (c) One hundred feet to any railroad right-of-way.

D. Religious affiliated office or counseling center.

- (1) Such use shall not operate in any capacity between the hours of 11:00 p.m. and 7:00 a.m. any day of the week.
- (2) During conditional use/site plan review, the applicant shall provide evidence as to the number of parking spaces required for the specific use.

E. Two-family detached dwellings.

- (1) Such use shall not be located to front on the following streets: Main Street, Middlesex Avenue, New Street, Pearl Street and Amboy Avenue.
- (2) Such dwelling shall comply with the setback requirements for single-family detached dwellings in the R-2 Residential District.

F. Gasoline service station.

- (1) The lot or parcel of land to be used shall have a minimum lot width at street line of 100 feet and a minimum average lot depth of 100 feet.
- (2) Fuel pumps shall be set back a minimum of 50 feet from all side and rear property lines and a minimum of 25 feet from all street right-of-way lines.
- (3) Corner lots shall have a minimum curb radius of 25 feet and driveway openings shall not be located within 25 feet of curb radius tangent points.
- (4) There shall be no more than two driveway entrances located on each street frontage. Such driveway entrances shall be separated from each other by a minimum distance of 60 feet. A driveway entrance shall be located a minimum distance of 25 feet from any side or rear property line.
- (5) All open space areas shall be extensively and intensively landscaped with trees, shrubs and other suitable plant materials in order to screen fuel pump islands, service areas and parked motor vehicles.
- (6) No motor vehicle repairs shall take place on the premises, either indoors or outdoors.
- (7) There shall be no outdoor storage of motor vehicles, supplies, materials or automotive parts, whether for sale, repair, storage or waste disposal.
- (8) All fuel storage tanks shall be installed below ground level and shall be located a minimum of 50 feet from any property line. Where the possibility of contamination of soil or underground water resources exists, the Board may require ample precautions against leakage and seepage.
- (9) The Board may impose such conditions and safeguards as it deems appropriate with respect to, among other matters, traffic safety and aesthetics, considering the location and configuration of

the lot in question.

- (10) No such use shall be located on a lot having any of its lot lines located within 1,000 feet of a lot containing a school, church, hospital, nursery school, day-care center, nursing or convalescent home, library, public building, residential use or residential district or within 500 feet of a similar type use.

G. Townhouses. [**Amended 1-4-1993 by Ord. No. 93-26**]

- (1) The tract shall be located in the B-4 General Business District and shall have frontage on Essex, Durham, Central or Middlesex Avenues.
- (2) The tract shall have a minimum area of one acre.
- (3) The tract shall have a minimum lot width at the front yard setback line of 125 feet.
- (4) The tract shall be adjacent to a lot containing an existing townhouse and/or apartment use and shall have a minimum of 200 feet of side and/or rear lot lines abutting such existing adjacent use.

H. Automobile washing establishments.

- (1) No lot abutting a residential district or use shall be used for an automobile washing establishment.
- (2) The minimum lot area shall be 25,000 square feet.
- (3) The minimum lot depth shall be 250 feet.
- (4) The minimum lot width at front setback shall be 100 feet.
- (5) The building shall be set back a minimum of 100 feet from all street lines.
- (6) A ten-foot-wide stacking lane shall be provided for each washing bay, and such lane shall have a minimum stacking capacity for 10 vehicles.
- (7) A one-way vehicular circulation system shall be provided on the site.
- (8) Driveways and lanes shall be separated so that vehicles awaiting service or parked at vacuum cleaners shall not block exiting vehicles.
- (9) Water used for car washing shall be cleaned and recirculated for use on the site.
- (10) All open space areas shall be extensively and intensively landscaped with trees, shrubs and other suitable plant materials in order to screen views of vehicles that are stacked in lanes awaiting service, being dried, vacuumed or otherwise serviced.

I. Automotive repair establishments.

- (1) Minimum lot width at front setback shall be 100 feet.
- (2) Minimum lot depth shall be 100 feet.
- (3) Such use shall not abut any residential district or use.
- (4) Corner lots shall have a minimum curb radius of 25 feet, and driveway openings shall not be

located within 25 feet of radius tangent points.

- (5) There shall be no more than two driveway openings located along any street frontage. Driveway openings shall be separated from each other by a minimum distance of 60 feet. No driveway opening shall be located closer than 25 feet to any side property line.
- (6) All open space areas shall be extensively and intensively landscaped with trees, shrubs and other suitable plant materials in order to screen views of vehicles, whether parked or being repaired, and all service areas.
- (7) Repair work, other than occasional incidental minor repairs, shall take place entirely within the building, and all repair or service apparatus or equipment shall be located entirely within the building.
- (8) Floor drains shall not be connected to any sanitary or storm sewer system.
- (9) A maximum of five motor vehicles may be parked overnight on the premises, including service vehicles, exclusive of vehicles parked inside the building.
- (10) There shall be no outdoor storage of automotive supplies, materials or parts, whether for sale, storage or waste disposal.
- (11) The Board may impose such conditions and safeguards as it deems appropriate with respect to, among other matters, traffic safety and aesthetics, considering the location and configuration of the lot in question.
- (12) No such use shall be located on a lot having any of its lot lines located within 500 feet of a lot containing a school, church, Borough-operated public facility or within 150 feet of any residential use or district. **[Amended 1-4-1993 by Ord. No. 93-26]**

J. Drive-in banks. [Amended 12-2-2002 by Ord. No. 2002-18]

- (1) A total of five vehicle-stacking spaces shall be provided for each drive-in window, with a minimum of three such spaces located in a separate ten-foot-wide lane for each individual window.
- (2) All drive-in window-stacking lanes shall have adequate directional signage and striping to ensure safe and efficient operation of the facility.
- (3) Internal circulation shall be arranged such that stacked vehicles for the drive-in window(s) shall not interfere with general vehicular circulation or parking or pedestrian circulation on the site. Additionally, vehicles exiting from the parking lot shall not use any drive-in window lane as a means of egress.
- (4) Principal buildings and pedestrian walkways shall have the primary visual orientation to the street and drive-in facilities shall maintain a secondary visual orientation through location, setbacks, driveway, width and architectural design treatments.
- (5) Where possible, drive-in windows shall exit onto side streets or parking lots in which case setbacks may be reduced if a secondary visual orientation is appropriately achieved for the drive-in facility. If the drive-in facility is obscured from view from the primary street, and exits to the secondary street, all setbacks may be reduced to five feet for properties in the B-3 and B-4 zones.

- (6) The drive-in bank shall be on the same property as the banking building with walk-in service and teller windows having not less than 1,500 square feet.
- (7) The applicant shall demonstrate by competent professional evidence that vehicular ingress and egress and internal traffic circulation shall be designed in accordance with engineering standards to be safe and that no unreasonably adverse impact on adjacent thoroughfares or intersections will result from development of the site as proposed.

K. Light industrial uses.

- (1) No such use shall be permitted to front on Middlesex Avenue.
- (2) No structure housing such use shall be located closer than 100 feet to Middlesex Avenue.
- (3) Any building or lot used for light industrial purposes shall be screened from view from Route 27 (Middlesex and Essex Avenues) and Route I-287 with extensive landscaping consisting of earth berms, evergreen shrubs and evergreen and deciduous trees.
- (4) No such use shall be located closer than 200 feet to any residential district or use.
- (5) Outdoor storage of goods, materials, equipment and supplies shall not be permitted.

L. Outdoor storage (of goods, materials, equipment and supplies or trucks, tractors or buses as an accessory use to a permitted principal use); lumberyards and building material storage yards.

- (1) No such use shall be located closer than 200 feet to any residential district or use.
- (2) Outdoor storage shall be buffered by a screen determined by the Board to be constructed of suitable visually impervious materials and to be of sufficient height so that the stored goods, materials, equipment and supplies are not visible from 100 feet distant from any of the tract boundary lines at the average eye level of a six-foot-tall person.
- (3) Where trucks, tractors, buses and other similar type motor vehicles are stored on property abutting a residential district or adjoining a street which is a boundary between industrial and residential districts, the same screening requirements as set forth in Subsection L(2) above shall apply.
- (4) The screening required in this subsection shall be permanently maintained by the property owner to achieve the screening effect as set forth in this subsection.

M. Machine shops.

- (1) No such use shall be located within 200 feet of a residential district or use.
- (2) Structures housing such uses shall be constructed or renovated with suitable materials to absorb the emission of objectionable noise and vibrations.
- (3) Such use shall be buffered at all property lines by such a screen determined by the Board to be of suitable construction and materials and to be of sufficient height and materials in order to absorb the emission of objectionable noise.

N. Drive-in restaurants and other drive-in and fast service businesses.

- (1) There shall be a minimum of two one-way access driveways. The minimum distance between the center lines of such driveways shall be 125 feet.

- (2) Internal circulation shall be such that stacked vehicles for the drive-in window(s) shall not interfere with general vehicular circulation and parking or pedestrian circulation on the site. Additionally, vehicles exiting from the parking lot shall not be required to use a drive-in window lane as a means of egress.
 - (3) A separate ten-foot-wide lane shall be provided for each drive-in window with a minimum stacking capacity of five vehicles. In combination, all drive-in window stacking lanes shall provide adequate storage of 10 stacked vehicles for each drive-in window. Drive-in window stacking lanes shall not be located in parking aisles, nor shall they, in any manner, interfere with vehicles entering or exiting the site. All drive-in window stacking lanes shall have adequate directional signage and striping to ensure the safe and efficient operation of the facility.
 - (4) No drive-in window shall be located within 50 feet of the street right-of-way line from which vehicles using the drive-in window will enter or exit.
 - (5) The perimeter of the site shall be fenced and/or landscaped in a manner that will prevent litter from being blown across property lines.
 - (6) Trash receptacles of an attractive design shall be provided around outdoor eating areas, along pedestrian walkways and at points of egress from the site.
 - (7) Outdoor eating areas shall be clearly delineated with curbing, shall be attractively landscaped and shall be so located that patrons can walk directly from the building to the eating area without crossing a driveway or parking lot.
- O. Used automobile dealerships; private parking facilities.
- (1) Outdoor parking, display or storage of motor vehicles shall be screened by a buffer of suitable construction and material or by a landscape screen as approved by the Board to be of sufficient height such that motor vehicles are screened from view from all lot lines.
 - (2) Applicants shall be required to plant shade trees in motor vehicle parking, display or storage areas at a ratio of one tree for every five automobiles.
 - (3) Lighting consisting of strings of bare light bulbs is prohibited.⁸⁵
- P. (Reserved)⁸⁶
- Q. Dance halls and discotheques.
- (1) Food may be prepared and/or dispensed as an accessory use to a principal use as a dance hall or discotheque, provided that the area devoted to the storage, preparation, service and consumption shall not exceed 25% of the gross floor area of the establishment and such use complies with all other applicable Borough ordinances.
 - (2) Beverages may be prepared and/or dispensed as an accessory use to a principal use as a dance hall or discotheque, provided that the area devoted to the storage, preparation, service and consumption shall not exceed 75% of the gross floor area of the establishment and such use complies with all other applicable Borough ordinances.

85. Editor's Note: Former Section 16, Supermarkets, which immediately followed this section, was repealed 2-22-1994 by Ord. No. 94-1.

86. Editor's Note: Former Subsection P, Arcades, amusement centers, bowling alleys, billiard parlors, indoor tennis courts, skating rinks, handball courts and batting cages, was repealed 9-11-2023 by Ord. No. 2023-27.

- (3) Building windows shall not be boarded up, shuttered or otherwise covered. Privacy shall instead be provided from the interior of the building.
- (4) Signs shall be limited to one sign, not to exceed three square feet in area. No other signs or advertising shall be permitted on the premises.
- (5) No such use shall be located on a lot having any of its lot lines located within 1,000 feet of a lot containing a school, community or civic use, church, library, public building or use nor within 1,000 feet of any residential use or residential district or within 500 feet of a similar type use.

R. Go-go dancing establishments and cabarets.

- (1) Food may be prepared and/or dispensed as an accessory use to a principal use as a go-go dancing establishment or cabaret, provided that the area devoted to the storage, preparation, service and consumption of such shall not exceed 25% of the gross floor area of the establishment and such use complies with all other applicable Borough ordinances.
- (2) Beverages may be prepared and/or dispensed as an accessory use to a principal use as a go-go dancing establishment or cabaret, provided that the area devoted to the storage, preparation, service and consumption of such shall not exceed 75% of the gross floor area of the establishment and such use complies with all other applicable Borough ordinances.
- (3) Building windows shall not be boarded up, shuttered or otherwise covered. Privacy shall instead be provided from the interior of the building.
- (4) Signs shall be limited to one sign, not to exceed 24 square inches in area, mounted on each customer entrance barring admittance to persons under the age of 18 and one sign, not to exceed three square feet in area, containing either the words "Go-Go Dancing" or "Cabaret." No other signs or advertising shall be permitted on the premises.
- (5) No such use shall be located on a lot having any of its lot lines located within 1,000 feet of a lot containing a school, church, Borough-operated facility, any residential use or district or within 500 feet of a similar type use.

S. Artist's body painting studios, tattoo shops, modeling studios and massage parlors.

- (1) Building windows shall not be boarded up, shuttered or otherwise covered. Privacy shall instead be provided from the interior of the building.
- (2) Signs shall be limited to one sign, not to exceed 24 square inches in area, mounted on each customer entrance barring admittance to persons under the age of 18 and one sign, not to exceed three square feet in area, containing either the words "Artist's Body Painting Studio," "Tattoo Shop," "Modeling Studio" or "Massage Parlor." No other signs or advertising shall be permitted on the premises.
- (3) No such use shall be located on a lot having any of its lot lines located within 1,000 feet of a lot containing a school, church, Borough operated public facility, any residential use or district or within 500 feet of a similar type use.

T. Adult bookstores, adult gift shops and adult motion-picture theaters.

- (1) Building windows shall not be boarded up, shuttered or otherwise covered. Privacy shall instead be provided from the interior of the building.

- (2) Signs shall be limited to one sign, not to exceed two square feet, mounted at each customer entrance barring admittance to persons under the age of 18 and one sign, not to exceed three square feet in area, containing either the words "Adult Books," "Adult Gifts" or "Adult Motion Pictures." No other signs or advertising shall be permitted on the premises.
- (3) No such use shall be located on a lot having any of its lot lines located within 1,000 feet of a lot containing a school, church, Borough-operated public facility, any residential use or district or within 500 feet of a similar type use.

U. Offices and apartments.

- (1) Permitted office uses shall not include medical, dental, veterinary and clinic uses.
- (2) A maximum of two apartments shall be permitted in a principal building.⁸⁷
- (3) All buildings, including renovations or additions thereto, used pursuant to this subsection shall be designed to have the exterior appearance of a single-family detached dwelling, except for permitted signage, pursuant to Article 48 of this chapter. The architectural style, materials, colors and details of existing buildings on adjacent and nearby lots shall be incorporated into the design of any new building or renovation or addition to an existing building. No external stairs or fire escapes shall be permitted where visible from a public street or sidewalk.

V. Senior citizen shared living residences. **[Added 3-4-1991 by Ord. No. 91-3]**

- (1) The tract shall have a minimum lot area of 7,500 square feet. Any addition to an existing structure with nonconforming setbacks shall comply with § 110-108.
- (2) The residential structure to be occupied for this purpose, following any proposed additions, shall consist of a minimum of 2,500 square feet.
- (3) Total occupancy of the structure shall not exceed six residents, each of whom shall be at least 55 years of age, plus one housekeeper (with or without spouse), who shall live within the same structure in a separated dwelling unit, but need not meet any age restrictions. All residents of nonhousekeeping units shall be of low or moderate income as defined by the Fair Housing Act.⁸⁸ The nonprofit sponsor shall annually provide to the Borough and to the Council on Affordable Housing (COAH) a certification that the income of the residents and the amount of monthly rentals paid continue to qualify each of the residents as eligible for Mt. Laurel housing.
- (4) All of the senior citizens shall live together as a single housekeeping unit, sharing meals and social activities, while enjoying the privacy of separate sleeping areas.
- (5) Each structure used or constructed for this purpose shall have a minimum of four and a maximum of six bedrooms (other than the separate housekeeping unit) and shall maintain the appearance of a single-family residence. Each bedroom shall have a single occupant, except that double occupancy shall be allowed for related persons, spouses, sisters or brothers. Off-street parking shall be provided, absent a grant of a waiver, as a quasi-residential use in accordance with § 110-154B.
- (6) To the extent permitted by controlling law, the nonprofit sponsor shall give preference to

87. Editor's Note: Former Subsection U(3), regarding existing principal buildings, which subsection immediately followed this subsection, was repealed 12-2-2002 by Ord. No. 2002-18. This ordinance also renumbered former Subsection U(4) as U(3).

88. Editor's Note: See N.J.S.A. 52:27D-301 et seq.

individuals who either work or reside in the Borough for at least 50% of the affordable housing units contained in the structure. Each senior citizen shared residence shall be operated by a nonprofit entity which shall be eligible to receive governmental and charitable grants designed to allow the nonhousekeeping units to remain affordable to those of low and moderate income as defined by the Fair Housing Act.

- (7) The entity operating the senior citizen shared living residence shall be qualified, prior to occupancy for these purposes, as a tax-exempt entity pursuant to 26 U.S.C. § 501(c)(3) and shall be an entity eligible to enter into an agreement in lieu of taxes with the Borough, subject to the subsequent approval of the Mayor and Council.
- (8) The prescribed conditional use shall require an approved zoning permit issued by the Zoning Officer and a conditional use approval by the Planning Board, prior to the commencement of occupancy, but shall not require a fully detailed site plan submission to the Planning Board, in accordance with N.J.S.A. 40:55D-37(a) and Article 13 of this chapter, unless the Planning Board is unable to make an informed judgment from the plans and submissions that the application will meet the requirements of this subsection.

W. Warehouses.

- (1) No such use shall be located within 100 feet of a residential district or use unless there is an intervening street.
- (2) All storage shall be inside structures.
- (3) Warehouses shall not be used to store hazardous, toxic or corrosive substances as defined by the United States Environmental Protection Agency and/or New Jersey Department of Environmental Protection and Energy. **[Added 6-16-1997 by Ord. No. 97-8; amended 9-11-2023 by Ord. No. 2023-27]**

X. Wireless communications facilities. **[Added 6-16-1997 by Ord. No. 97-8]**

- (1) No such facility shall be located closer than 1,000 feet of an R-1, R-2 or Residential District or within 500 feet of any other residential district. This provision shall not apply to properties upon which an existing wireless communication facility is situated. This provision shall not apply to the portion of the LI Light Industrial District located at the west of the Lehigh Valley Railroad and to the north of the R-5 Overlay Residential District.
- (2) A property containing an existing wireless communication facility may be further adapted to accommodate wireless communication facilities by utilizing the existing wireless communication tower or removing and replacing the existing tower with a new tower.
- (3) The maximum height of such wireless communication towers shall be 90 feet, except if more than one provider is collocated on the tower, such tower may extend to a height of 125 feet in height.
- (4) Such facility shall provide adequate access and parking for all equipment sheds, towers and other structures related to such facility. All such structures shall comply with setback requirements of § 110-64 for permitted principal uses for the district in which it is located.

Y. Mixed-use neighborhoods. **[Added 7-16-2007 by Ord. No. 2007-4]**

- (1) A mixed-use neighborhood shall be a permitted conditional use. The permitted uses within a

mixed-use neighborhood shall be:

- (a) Retail shops and stores.
 - (b) Service businesses.
 - (c) Grocery stores with a gross floor area not less than 10,000 square feet but not exceeding 40,000 square feet.
 - (d) Offices.
 - (e) Financial institutions, including drive-in banks.
 - (f) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants.
 - (g) Apartments, except if located on the ground floor of buildings fronting Middlesex Avenue, Lake Avenue or New Street or directly abutting an active railroad right-of-way.
 - (h) Nursery schools and day-care centers.
 - (i) Dry-cleaning establishment where no dry cleaning occurs on the premises. If dry cleaning occurs on the premises, it shall be subject to § 110-87B.
 - (j) Borough-operated public facilities.
- (2) Permitted accessory uses within a mixed-use neighborhood shall include:
- (a) Driveways, parking lots, loading areas and multilevel parking facilities.
 - (b) Outdoor display and sales areas associated with permitted retail shops and stores and grocery stores.
 - (c) Outdoor cafes and restaurants, including those with appropriate licenses that serve alcoholic beverages outdoors.
 - (d) Plazas, courtyards, kiosks, outdoor art exhibit space, water features, permanent or temporary installations of public art, walkways and alleys and other similar type of public and semipublic open spaces.
 - (e) Trash enclosures, compactors and dumpsters.
 - (f) Walls, fences, hedges and other landscape elements.
 - (g) Utility boxes.
 - (h) Other uses deemed to be permitted accessory uses.
- (3) Prohibited uses within a mixed-use neighborhood shall include:
- (a) Pharmacies and drugstores, including retail uses or grocery stores incorporating a pharmacy within such use.
- (4) Conditions. A mixed-use neighborhood shall meet the following conditions:
- (a) A minimum of 75% of gross square feet of ground floor space shall be dedicated to commercial uses. Structured parking shall not count towards these area calculations.

- (b) Minimum tract area shall be five acres. For the purposes of calculating tract area, lots separated by street rights-of-way may be considered part of the same tract, including the area of the right-of-way separating such lots.
- (c) Minimum frontage on Middlesex Avenue, Lake Avenue or New Street: 400 feet.
- (d) Maximum building coverage: 70% of the tract.
- (e) For mixed-use neighborhoods west of Lake Avenue, a grocery store shall be a required use.

Z. Sports and athletic facilities. **[Added 11-17-2008 by Ord. No. 2008-17]**

- (1) Vehicular access shall be provided from Route 27 unless such access is precluded by dedication or acquisition of rights-of-way for interchange improvements at the intersection of Route 27 and Route 287.

AA. Downtown Gateway Overlay District. **[Added 8-18-2014 by Ord. No. 2014-12; amended 6-20-2016 by Ord. No. 2016-15; 8-12-2019 by Ord. No. 2019-12; 10-24-2022 by Ord. No. 2022-19]**

- (1) A Downtown Gateway Overlay District shall be a permitted conditional use. The permitted uses within a Downtown Gateway Overlay District shall be: **[Amended 9-11-2023 by Ord. No. 2023-27]**
 - (a) Supermarkets, not exceeding 50,000 square feet in gross floor area and which may include eating, drinking and an outdoor cafe on premises.
 - (b) Retail shops and stores.
 - (c) Personal service businesses.
 - (d) Physical fitness studios.
 - (e) Indoor amusement businesses, including arcades, virtual reality, escape rooms, and other similar uses.
 - (f) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants.
 - (g) Brew pubs, distilleries and wineries.
 - (h) Banks and other financial institutions, excluding drive-in banks.
 - (i) Offices.
 - (j) Flex space, including demonstration kitchens, event rental space, party rental space, and other similar uses.
 - (k) Nursery schools and day-care centers.
 - (l) Social halls, clubs, lodges and places of public assembly.
 - (m) Apartments, only if located on the north side of Middlesex Avenue and not including any apartments located on the ground floor of a building fronting on Middlesex Avenue or Central Avenue.

- (n) Inns and hotels.
 - (o) Borough-operated public facilities.
 - (p) Massage and somatic therapy establishments.
 - (q) Dry-cleaning establishment where no dry cleaning occurs on the premises. If dry cleaning occurs on the premises, it shall be subject to § 110-87B.
- (2) Permitted accessory uses within a Downtown Gateway Overlay District shall include:
- (a) Driveways, parking lots, loading areas and multilevel parking facilities.
 - (b) Outdoor display and sales areas associated with permitted retail shops and stores and supermarkets.
 - (c) Outdoor cafes and restaurants, including those with appropriate licenses that serve alcoholic beverages outdoors.
 - (d) Plazas, courtyards, kiosks, outdoor art exhibit spaces, water features, permanent or temporary installations of public art, walkways and alleys and other similar types of public and semipublic open spaces.
 - (e) Trash enclosures, compactors and dumpsters.
 - (f) Walls, fences, hedges and other landscape elements.
 - (g) Utility boxes.
 - (h) Other uses deemed to be permitted accessory uses.
- (3) Permitted Conditional Use within a Downtown Gateway Overlay District shall include: **[Added 10-24-2022 by Ord. No. 2022-19]**
- (a) Class 5 Cannabis Retailers which comply with the requirements of Chapter 72, Article I, § 72-5C of the Code of the Borough of Metuchen. **[Added 10-3-2022 by Ord. No. 2022-20]**
- (4) Conditions. A Downtown Gateway Overlay District shall meet the following conditions:
- (a) Minimum tract area shall be five acres. For the purposes of calculating tract area, lots separated by street rights-of-way may be considered part of the same tract, including the area of the right-of-way separating such lots.
 - (b) Minimum frontage on Middlesex Avenue: 250 feet located along both sides of the street facing one another.
 - (c) A supermarket shall be a required use.
 - (d) If development of the tract is proposed in multiple phases, a phasing plan shall be provided. The phasing plan shall identify the portions of the tract proposed for preliminary and final site plan approval as well as any phases reserved for future development. The required supermarket use shall be developed in the first phase. A concept plan for the entire tract, depicting both proposed first-phase development and illustrating one or more scenarios for potential future phases, shall be provided.

BB. (Reserved) **[Added 8-15-2016 by Ord. No. 2016-19; repealed 11-7-2016 by Ord. No. 2016-27]**

CC. (Reserved) **[Added 8-15-2016 by Ord. No. 2016-19; repealed 11-7-2016 by Ord. No. 2016-27]**

ARTICLE 19

Planned Unit Residential Developments (PURDs)**§ 110-88. Purpose.**

Planned unit residential developments (PURDs) have been established in order to promote the following specific purposes:

- A. The goals and objectives of the Borough's Master Plan.
- B. The coordinated redevelopment of sizable underutilized and vacant tracts of land in the Borough.
- C. The purposes of N.J.S.A. 40:55D-2, especially those purposes that can be more readily promoted by PURDs.

§ 110-89. Procedure.

An application for development under the provisions set forth herein for a PURD shall be reviewed by the Board to meet both the general and specific requirements as set forth in §§ 110-90 and 110-91 below. If an application for a PURD is reviewed by the Board to meet the requirements in §§ 110-90 and 110-91 below, the Board shall then be required to review and, if appropriate, grant site plan approval, prior to granting approval as a PURD. Where any provision of this article shall appear in conflict with any requirement of Part IV of this chapter, the provision of this article shall apply in place of, supplement and, where in conflict, supersede the provision set forth in Part IV of this chapter.

§ 110-90. General requirements.

No PURD shall be approved on any site unless the site lies within a district, as designated on the Zoning Map and specified in Part III of this chapter, permitting such development. In considering any PURD application, the Board shall first be required to find that the following general conditions have been adequately addressed in the development plan, prior to granting PURD approval:

- A. The adequate preservation of existing natural resources on the site.
- B. The provision of safe and efficient vehicular circulation, parking and loading.
- C. The impact of vehicular traffic generated by the proposed use on the streets in the neighborhood and the Borough generally.
- D. The provision of safe, efficient and accessible pedestrian circulation and accessibility in and to the proposed development.
- E. The impact of pedestrian traffic generated by the proposed use shall not have an adverse impact on the sidewalks in the neighborhood.
- F. The relationship of the physical, visual and spatial character of the proposed development to the same elements of existing development in the neighborhood and the Borough generally.
- G. The effectiveness of buffering and screening in mitigating the effects of potential adverse impacts on adjacent and nearby properties and the public right-of-way.
- H. The adequacy of landscaping, lighting, signage and other proposed site improvements.
- I. The departures from zoning regulations otherwise applicable to the subject property conform to the

zoning ordinance standards pursuant to Part III of this chapter.

- J. The proposals for maintenance and conservation of the common open space are reliable and the amount, location and purpose of the common open space are adequate.
- K. The provision for public services, control over vehicular and pedestrian traffic and the amenities of light and air, recreation and visual enjoyment are adequate.
- L. The proposed development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.
- M. In the case of a proposed development which contemplates construction over a period of years, that the proposed timing schedule and the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.
- N. The stormwater management plan setting forth the method of controlling and managing stormwater on the site is adequate and the proposed development will not have an adverse impact on the public storm sewer system.
- O. The sanitary sewer plan is proposed and that the proposed development shall not have an adverse impact on the public sanitary sewer system.
- P. The goals and objectives of the Borough's Master Plan are generally advanced by the proposed development.
- Q. The provisions of Article 21, Affordable Housing, are complied with.

§ 110-91. Specific requirements.

Anything in this chapter to the contrary notwithstanding, the Board shall not approve an application for a PURD unless the requirements for the applicable PURD district as set forth below shall have been complied with. However, variances from the provisions set forth below may be granted in extreme cases upon the showing of special reasons.

- A. Intentionally omitted.⁸⁹
- B. (Reserved)⁹⁰
- C. PURD in F-1 Franklin Development District. **[Amended 10-7-1997 by Ord. No. 97-21]**
 - (1) Permitted principal uses.
 - (a) Multifamily attached housing.
 - (b) Apartments (and similar type residential dwelling units, whether attached to one another horizontally, vertically or by some combination of the two).
 - (c) Townhouses and/or apartments.

89. Editor's Note: Former Subsection A, PURD in R-5 Overlay Residential District, as amended, was repealed 8-1-2005 by Ord. No. 2005-11.

90. Editor's Note: Former Subsection B, PURD in R-6 Overlay Residential District, as amended 11-4-1993 by Ord. No. 93-26, was repealed 12-6-1999 by Ord. No. 99-20.

- (2) Permitted accessory uses.
 - (a) Driveways, parking lots and garages.
 - (b) Common open space, social and recreational facilities, stormwater management facilities.
 - (c) Storage and maintenance sheds.
 - (d) Other uses customarily incidental to the permitted principal uses.
- (3) Maximum permitted density.
 - (a) Maximum permitted density shall be 18 dwelling units per acre, which shall be a gross density for the entire site, irrespective of whether or not any portion of the site is designated or dedicated for use as public or private streets, or any form of publicly used space. The total number of dwelling units permitted on the Franklin School tract shall be the product of 18 units per acre times the tract acreage of 5.833 acres, rounded upward to the next whole number.
 - (b) Existing lots, other than the Franklin School tract, within the F-1 Franklin Development District, if developed integrally with the Franklin School tract, shall be subject to the 18 unit per acre density times the lot acreage rounded upward to the next whole number, plus a density bonus of one additional dwelling unit per existing lot.
- (4) Minimum tract area shall be five acres.
- (5) Affordable housing component.
 - (a) The developer of the Franklin School tract shall be obligated to construct 10 units of affordable housing, of which five units shall be low-income units and five units shall be moderate-income units; provided, however, that if certain additional funding is made available to the developer, in accordance with an agreement known as "Agreement Between Borough of Metuchen and Homestead at Metuchen, Inc., dated 12/31/91, (as amended by Amendment dated 5/3/93 and Second Amendment, dated 9/2/97)," the developer will construct a total of 15 affordable units, of which five shall be moderate and 10 shall be low.
 - (b) Affordable housing units shall be dispersed throughout the development.
 - (c) There shall be no requirement to provide affordable housing units as a percentage of the development density for existing" lots, other than the Franklin School tract, in the F-1 Franklin Development District, and which are currently used as single-family or valid nonconforming residential uses, provided said existing lots are developed integrally with the Franklin School tract.
- (6) Parking requirements.
 - (a) Parking shall be provided in the ratio of 1.85 parking spaces for each dwelling unit. The required parking spaces may be provided both off-street and on-street and/or in parking facilities operated by the Metuchen Parking Authority. Of the total parking requirement, a minimum of 1.5 parking spaces per dwelling unit shall be provided either off-street or on new streets internal to the development. The remaining required parking shall be provided either on-street along the perimeter frontage of the development tract or in parking facilities operated by the Metuchen Parking Authority.

- (b) Tandem parking (two parking spaces, one situated behind the other and used by the same resident) shall receive credit for each space.
 - (c) The minimum paved width for streets with parallel, on-street parking spaces shall be 30 feet.
 - (d) Off-street parking areas fronting along Central or Middlesex Avenues or along Center Street shall be screened by accessory buildings, such as garages whose doors face perpendicular to the street or by screen walls of a material and character compatible with the materials of the principal buildings.
 - (e) The minimum setback between any paved area of a parking lot from a side or rear property line shall be five feet.
 - (f) Dense buffer planting of massed evergreens, not less than six feet in height, shall be installed adjacent to any property line where parking, drives or new internal streets are located less than 15 feet away.
- (7) Bulk standards. Building setbacks shall be as follows:
- (a) Principal buildings.
 - [1] Front yard along Middlesex and Central Avenues: 20 feet.
 - [2] Front yard along Center Street: 15 feet.
 - [3] Front yard along internal streets: 10 feet.
 - [4] Along tract boundaries, other than streets: 10 feet.
 - (b) Accessory buildings.
 - [1] Front yard along Middlesex and Central Avenues: 10 feet.
 - [2] Front yard along Center Street and internal streets: 10 feet.
 - [3] Along tract boundaries, other than streets: five feet.
- (8) Primary points of ingress and egress for vehicular circulation shall be to and from Central Avenue and Center Street. Vehicular access along Middlesex Avenue shall be limited to right turn ingress and right turn egress.
- (9) Site development criteria.
- (a) The Franklin School tract should be developed in a manner that is consistent with the overall design and general configuration of the concept plan, labeled "Franklin School Redevelopment Project, Site Plan," dated July 18, 1997, and associated renderings, which were submitted to and approved in concept by the Borough Council on July 21, 1997. The concept plan provides for the general location of the proposed dwelling units, internal and external circulation, open space and the traditional neighborhood character of the design. The provisions of Parts III and IV of this chapter (including §§ 110-125 through 110-183) are specifically superseded by the design criteria embodied in the concept plan and the provisions of § 110-91C(9) on site development criteria.
 - (b) The site should be developed in a manner whereby buildings shall front toward existing

and proposed streets, providing for common open areas away from streets and generally to the rear of buildings. Access to and orientation of parking lots and garages shall be such as to generally screen the same from the streets on which buildings front. Driveways may traverse front yards to provide access to parking facilities; however, parking shall not be permitted in front yards, nor shall garages located within close proximity of front yards have their doors facing the street.

- (c) No paved portion of any public or private street shall be located within 10 feet of an existing adjacent side or rear residential property line.
- (d) The front entry of all dwelling units shall be provided with a covered entrance porch. Nonenclosed front porches may project into the front yard setback pursuant to § 110-110. In addition, nonenclosed porches may encroach into a setback (other than front yard setback) up to four feet, pursuant to § 110-110.
- (e) Windows shall be vertically proportioned rather than horizontally. The first floor of all dwelling units which front onto Middlesex or Central Avenue or Center Street shall have a floor-to-ceiling height of not less than nine feet and the windows in these first floor units shall be correspondingly taller in proportion than the windows in the second floor units above.
- (f) The development of the Franklin School tract shall incorporate the provision of an open space of a public character to be located at the intersection of Middlesex Avenue and Center Street, as illustrated in the concept plan. This space should be formally landscaped and be characterized by a strong sense of enclosure created by new buildings fronting toward the space on two sides. This space shall incorporate the following elements in its design: provision for the preservation of the existing mature trees in this area as features of this space, pedestrian walkways, the World War I monument and the Elmo Spoerl Memorial (relocated and refurbished, as appropriate), a flagpole, bricks from the base of the Franklin School which are engraved with the years of the graduating classes, benches and trash receptacles, landscaping (including lawn, trees and shrubs), and lighting which creates a warm and inviting evening ambiance (including Main Street style street lamps).
- (g) The primary building cladding material for both principal and accessory buildings which front toward a street shall be brick, of a traditional red color compatible in hue with the Borough Hall, the library and the post office; the same criteria of material and color shall apply to screening walls located within front yard areas. In no event shall any of the following be oriented to face onto any street frontage: vinyl sided portions of any buildings, the obvious rear of a building, rear decks or patios, wooden fences enclosing rear yards, nonscreened refuse or recycling containers or nonscreened HVAC equipment.
- (h) The architectural treatment of building elevations along street frontages shall be characterized by the use of traditional and classical materials, proportions and details.
- (i) The site shall also include a children's play area located where it can be easily accessed and observed by residents of the site. The children's play area should include some basic play equipment, a sand box, lawn areas, seating and some type of overhead cover to provide shade for parents and adults.
- (j) All contiguous street frontages, whether newly constructed or reconstructed, shall contain a planting strip between the curb and the sidewalk, which shall be not less than eight feet wide along Central and Middlesex Avenues and not less than four feet wide along Center

Street and along proposed internal streets and which shall be planted with shade trees to be spaced not less than 130 feet on center. Along Central and Middlesex Avenues, additional street trees shall be planted between the sidewalk and the building (the same distance away from the sidewalk as the trees are on the curb side), to create a double row of street trees. Sidewalks along Central and Middlesex Avenues shall be not less than six feet wide and not less than four feet wide elsewhere. A minimum of 15 Main Street style street lamps shall be provided along the Middlesex Avenue frontage, wrapping the corners and in the public open space. Benches and trash receptacles shall also be installed in appropriate locations.

- (k) The elevation of first floor units shall be not less than 30 inches higher than that of the nearest sidewalk grade.

- (10) Consistency. To the extent that Ordinance No. 89-1 or any other prior land development ordinance or provisions thereof is inconsistent with the standards and provisions contained herein, the standards and provisions of this subsection supersede and control with respect to development within the F-I Franklin Development District.

D. PURD in D-1 Downtown Development District.

- (1) Permitted principal uses:

- (a) Townhouses and/or apartments.
- (b) Retail shops and stores, provided that they are located fronting on New or Pearl Streets.
- (c) Offices.
- (d) Parking lots and multilevel parking facilities.

- (2) Permitted accessory uses.

- (a) Driveways, parking lots and multilevel parking facilities.
- (b) Common open space, social and recreational facilities.
- (c) Other uses customarily incidental to the principal permitted use.

- (3) Maximum permitted residential density shall be 18 dwelling units per acre for that portion of the tract devoted to residential use. The maximum permitted business use density shall be 0.15 FAR for the entire tract.

- (4) Minimum tract area shall be five acres.

- (5) A minimum of 80% of the tract area shall be devoted to residential use, and a maximum of 20% of the tract area shall be devoted to business use.

- (6) A maximum of 85% of the residentially developed portion of the tract shall be covered with buildings and other structures, roadways, driveways and parking lots.

- (7) Parking for residential uses shall be as follows:

- (a) One-bedroom dwelling units: 1.5 spaces.
- (b) Two-bedroom dwelling units: 2.0 spaces.

- (c) Three- or more bedroom dwelling units: 2.25 spaces.
 - (8) Business use development of the tract shall be integrated with Main Street and other existing commercial areas within B-1 and D-1 Districts. Integration of business use development of the tract shall be accomplished by proximity of location, site orientation, architectural style, color, materials and details, pedestrian circulation linkages, vehicular circulation and parking, lighting, landscaping and street furniture. Off-tract improvements may be required of the developer of the tract area as part of an overall development integration plan, including vehicular and pedestrian circulation elements and linkages with off-tract commuter parking areas.
 - (9) Any commuter parking areas on the tract shall be situated so that commuter pedestrian linkage to the train station shall be integrated into the business use development of the tract and with the existing Main Street retail core by the use of an alternate pedestrian route, if possible.
 - (10) Residential development on the tract shall not be permitted to abut the railroad line.
 - (11) Sidewalks and walkways that link residential dwelling units with one another and with business areas within the tract and with Main Street and other commercial areas shall be integrated into the development plan. Open space areas shall be provided consisting of courtyards, alleys, squares, plazas or similar type improvements utilizing pedestrian amenities, such as gathering/sitting areas, benches, landscaping, lighting and other street furniture.
 - (12) Height of principal buildings shall not exceed 40 feet and four stories. However, architectural elements designed as focal points in the development and containing nonhabitable floor area, such as clocktowers and cupolas, shall be permitted to exceed 40 feet in height.
- E. PURD-I in B-5 Restricted Business District. **[Added 10-3-1994 by Ord. No. 94-14]**
- (1) Permitted principal uses shall be as follows:
 - (a) Single-family detached homes.
 - (b) Single-family detached courtyard homes.
 - (c) Two-family detached dwellings.
 - (d) Townhouses.
 - (e) Apartments.
 - (2) Permitted accessory uses shall be as follows:
 - (a) Driveways, parking lots and detached garages.
 - (b) Common open space, social and recreational facilities.
 - (3) Maximum permitted density shall be 12 units per acre. This shall be a gross density for the entire site. Any portion of the site that is designated or dedicated for private or public streets may be included in the site area for the purposes of calculating the gross density.
 - (4) Any site should be developed in a manner that is consistent with the intent and purpose of a traditional neighborhood development concept plan, such as that shown in the attached drawing labeled "Concept Plan for Block 82, Lots 1.2, 2.2, 16.2, 30, 32, 34, 36 & 38," which could apply to an existing five-acre tract commonly known as the EFCO site. This concept plan provides for general locations for access from Central Avenue, street layout, block and lot configuration,

alleyways and the location of a common open space and a neighborhood green.

- (5) The site shall be developed in a manner whereby individual lots and buildings shall front towards existing and proposed streets, whether public or private, which streets shall have a minimum cartway width of 30 feet. Lots, buildings and streets shall be developed to create and enclose a small neighborhood green. Access to driveways, parking spaces and garages for occupants of individual lots and buildings shall only be provided via alleyways, which shall have a minimum cartway width of 16 feet.
- (6) The site may be developed with any mix of permitted principal uses, provided that the following are complied with:
 - (a) A minimum of 50% of the Central Avenue frontage is comprised of lots containing single-family dwellings.
 - (b) All lots and buildings shall have access from an alleyway for off-street parking for occupants of individual lots and buildings. No lot or building shall have front yard driveway or parking directly accessible from a street.
- (7) Minimum lot area per dwelling unit (in square feet) shall be as follows:
 - (a) Single-family dwelling homes: 3,500.
 - (b) Single-family detached courtyard homes: 2,700.
 - (c) Two-family detached dwellings: 4,500 for both dwelling units.
 - (d) Townhouses: 2,000.
- (8) Minimum lot width at the front setback line (in feet) shall be as follows:
 - (a) Single-family detached homes: 35.
 - (b) Single-family detached courtyard homes: 30.
 - (c) Two-family detached dwellings: 45.
 - (d) Townhouses: 18.
 - (e) Apartments: 75.
- (9) Minimum lot width for single-family detached homes or courtyard homes at the front setback line (in feet) for all corner lots shall be as specified in Subsection E(8) above, plus an additional 10 feet.
- (10) Setbacks shall be as follows:
 - (a) Minimum front yard setback along Central Avenue or Durham Avenue: 25 feet.
 - (b) Minimum front yard setback on all other streets: 10 feet.
 - (c) A minimum of 75% of all buildings on the same side of the street within the same block shall maintain a consistent front yard setback.
 - (d) Minimum side yard setbacks wherever a building or lot abuts a boundary line of the tract: 10 feet, including any applicable buffer.

- (e) Minimum side yard setback for single-family detached dwellings and two-family detached dwellings: five feet on one side; 15 feet on both.
 - (f) Minimum side yard setback for single-family detached courtyard dwellings: eight on one side; zero feet on the other.
 - (g) Minimum rear yard setback: 10 feet from the rear property line.
 - (h) Minimum setback from the nearest edge of pavement of an alley: five feet.
- (11) Lot coverage for individual building lots shall be as follows:
- (a) Maximum for primary and accessory buildings: 50%.
 - (b) Minimum for open space: 15%. For the purposes of the above schedule, open space shall mean ground areas that are planted with vegetative material.
- (12) Buildings and lots shall be oriented away from existing business uses located on adjacent tracts. Portions of the tract which are adjacent to lots containing existing business uses shall be buffered by an area with a minimum width of 10 feet. A portion of such buffer areas may be incorporated in a side or rear yard setback, an alley or parking area, provided that vertical screening is provided to a height of six feet in accordance with Article 44 of this chapter.
- (13) Pedestrian walkways on the tract, including sidewalks along streets, shall be located to promote pedestrian usage by residents of the tract accessing open space areas located on the tract, nearby business uses or the downtown area.
- (14) Single-family detached courtyard homes shall maintain an open side yard on the southernmost side of each lot to promote the maximum available natural light.
- (15) Common open space and/or public parks shall be provided as follows:
- (a) A minimum of 5% of the gross tract area shall be reserved for common open space and/or public parks.
 - (b) A minimum of 2% of the tract area shall be reserved for a "neighborhood green," which is a common open space or public park. The area of the neighborhood green shall be included in the total area reserved for common open space and/or public parks as specified above.
 - (c) Common open space may be used to link the site to the proposed Metuchen "greenbelt" to be located along the abandoned Lehigh Valley Railroad abutting the site to the west.
 - (d) The designation of open space as either common open space, owned and maintained by a homeowners' association, or as public parks, owned and maintained by the Borough, shall be approved by the appropriate municipal agency.
 - (e) The applicant shall be required to provide a method of maintenance and conservation of any open space in a form acceptable to the Attorney for the Borough.
- (16) Parking requirements for all dwellings in a PURD-I shall meet the requirements set forth in § 110-154.
- (17) The maximum height restriction for all structures shall not exceed 35 feet or three stories.
- (18) Nonenclosed front porches may project into the front yard setback pursuant to § 110-110,

provided that no such porch projecting into the front yard setback is located closer than five feet to the sidewalk in the adjacent right-of-way.

- (19) All newly created streets internal to the tract shall contain a planting strip located between the curb and sidewalk which shall be a minimum of five feet in width and planted with shade trees pursuant to Article 46 of this chapter. The planting strip shall also contain decorative-style street lamps, pursuant to the approval of the Borough Engineer.
 - (20) The layout of all lots and the design of all buildings shall comply with Part IV of this chapter, with the exception of Article 28 of this chapter.
 - (21) The PURD shall comply with the provisions of Article 21 of this chapter, but each PURD shall contain a minimum of six affordable units.
- F. Planned unit commercial development (PUCD) in D-1 District. **[Added 11-1-2010 by Ord. No. 2010-17; amended 12-2-2013 by Ord. No. 2013-7; 6-9-2014 by Ord. No. 2014-8; 6-20-2016 by Ord. No. 2016-15; 8-12-2019 by Ord. No. 2019-12]**
- (1) Findings. In accordance with the New Jersey Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-45, the following facts and conclusions shall be determined by the Planning Board before any PUCD is approved:
 - (a) That the proposed development conforms to the standards set forth herein to the extent they apply, or to the regulations governing development in the D1 Zone generally. The Planning Board shall be guided by the standards set forth in N.J.S.A. 40:55D-65(c). The regulations set forth herein are departures from the regulations otherwise applicable to the subject property and other properties in the D1 Zone.
 - (b) That any proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space shall be adequate.
 - (c) That provision through the physical design of any proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment shall be adequate.
 - (d) That any proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.
 - (e) In the case of any proposed development which contemplates construction over a period of years, the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development shall be adequate.
 - (2) The following are the conditional use standards:
 - (a) The minimum tract area shall be four acres, including any new street.
 - (b) The tract shall have frontage on New Street and Pearl Street.
 - (c) The tract shall be within 200 yards of the Metuchen Train Station building (northbound side).
 - (d) A common open space or public open space in the form of a public plaza shall be provided

in the approximate location as shown on the Regulating Plan.⁹¹

(3) The following are permitted uses within any PUCD:

(a) Permitted principal uses within a PUCD: **[Amended 9-11-2023 by Ord. No. 2023-27]**

- [1] Common open space or public open space in the form of a public plaza.
- [2] Retail shops and stores.
- [3] Business and personal service businesses.
- [4] Physical fitness studios.
- [5] Indoor amusement businesses, including arcades, virtual reality, escape rooms, and other similar uses.
- [6] Eating and drinking establishments, except fast-food restaurants and drive-in restaurants.
- [7] Banks and other financial institutions, except drive-in banks.
- [8] Offices.
- [9] Flex space, including demonstration kitchens, event rental space, party rental space, and other similar uses.
- [10] Nursery schools and day-care centers.
- [11] Apartments.
- [12] Townhouses.
- [13] Work-live units.
- [14] Hotels.
- [15] Borough-operated public facilities.
- [16] Parking structures.
- [17] Grocery stores with a gross floor area not exceeding 15,000 square feet.
- [18] Massage and somatic therapy establishments.
- [19] Dry-cleaning establishment where no dry cleaning occurs on the premises. If dry cleaning occurs on the premises, it shall be subject to § 110-87B.

(b) Permitted accessory uses within a PUCD:

- [1] Driveways, parking lots, loading areas and multilevel parking facilities.
- [2] Outdoor display and sales area associated with permitted retail shops and stores.
- [3] Outdoor dining areas in cafes and restaurants, including those with appropriate

91. Editor's Note: The Regulating Plan is on file in the Borough offices.

licenses that serve alcoholic beverages outdoors.

[4] Plazas, courtyards, kiosks, outdoor art exhibit space, water features, permanent or temporary installations of public art, walkways and alleys and other similar types of public and semipublic open spaces.

[5] Trash enclosures, compactors and dumpsters.

[6] Walls, fences, hedges and other landscape elements.

[7] Utility boxes.

[8] Other uses deemed to be permitted accessory uses.

(4) Prohibited uses within a PUCD shall include:

(a) Pharmacies and drugstores.

(b) Class 5 Cannabis Retailers. **[Added 10-24-2022 by Ord. No. 2022-19]**

(5) The following are design standards for any PUCD:

(a) The minimum size of the required common open space or public open space in the form of a public plaza shall be 0.5 acre (21,780 square feet). For the purposes of this section, the calculation for the area of the public plaza shall be based upon measuring the perimeter curbline of the block on which such is located. Public sidewalks may count toward the calculation of the area of the public plaza.

(b) Maximum building coverage for primary and accessory structures, including parking structures, shall not exceed 70% of the tract. For the purposes of this section, the calculation of tract area shall include all lots, the public plaza and any new streets.

(c) Buildings shall not contain a dwelling unit or hotel room in that portion of the ground floor fronting the public plaza. Common spaces within buildings, such as lobbies, may occupy that portion of the ground floor fronting upon New Street and/or the public plaza.

(d) Parking for nonresidential uses shall be one space per 1,000 square feet of area, excluding storage areas. There shall be no customer parking requirement for all business uses, except for hotel uses which will be subject to § 110-154. Parking for residential uses shall be subject to the Residential Site Improvement Standards, N.J.A.C. 5:21. The Planning Board shall entertain reductions in the required number of both nonresidential and residential parking spaces if the applicant can demonstrate through expert testimony and technical documents that the proposed application would so warrant, as a result of its mixed-use nature, parking demands of specific users, proximity to transit options, specific housing demographics, a parking management plan or other similar reasons.

(e) Business and service uses included within a mixed-use neighborhood shall be designed to be integrated with and/or complement Main Street and other existing commercial areas within the B-1 and D-1 Districts. Integration of business and service uses shall be accomplished by proximity of location, site orientation, scale and massing along the streetscape, architectural style, color, materials and details, pedestrian circulation linkages, vehicular circulation and parking, lighting, landscaping and street furniture.

(f) Off-tract improvements may be required of the developer as part of an overall

development integration plan, including but not limited to vehicular and pedestrian circulation elements and linkages and stormwater management systems.

- (g) Sidewalks and walkways that link all uses with one another and with business areas within the tract and with Main Street and other commercial areas shall be integrated into the development plan.
- (h) In addition to the public plaza, open space areas may include courtyards, alleys, plazas, or similar type improvements. Such open spaces may be public, semipublic, or private if entirely enclosed within a building.
- (i) The public plaza, sidewalks, walkways and open space areas shall incorporate pedestrian amenities, such as gathering/sitting areas, benches, shade trees, landscaping, accent lighting and other street furniture.
- (j) Frontages along Lake Avenue, New Street, Pearl Street and the public plaza shall include Main Street style street lamps at intervals of spacing consistent with the existing street lamps on Main Street.
- (k) Buildings and parking structures shall be set back a minimum of 15 feet from the edge of curb of the existing or proposed street upon which such building fronts, except on Pearl Street where buildings no taller than two stories may have a reduced setback of 10 feet. Buildings with a height of four stories or greater shall be set back 20 feet. Arcades supporting upper-floor terraces and verandas shall be allowed to project within the setback up to 12 feet. Steps leading to a first floor, balconies, awnings and landscape planters shall be allowed to project within the right-of-way.
- (l) Buildings shall be located to front towards and relate to a public street, both functionally and visually. In locations where on-street parking does not exist, the entry to a use or building may be placed in a location other than facing the street at the discretion of the Planning Board.
- (m) Any surface parking lot shall be designed as a parking plaza. A parking plaza shall be spatially enclosed by buildings and designed with an emphasis on visual and functional pedestrian elements, such as colored, textured paving, pedestrian-scale lighting, shade trees, landscaping and rich streetscape treatments and details.
- (n) Building height within a PUCD shall be generally located as shown in the Regulating Plan [refer to Planned Unit Commercial Development Regulating Plan, Subsection F(5)(r) hereof.]⁹²

[1] Maximum height of principal buildings or structures shall be as follows:

- [a] On Parcel A, maximum building height shall not exceed three stories and 35 feet.
- [b] On Parcel B, maximum building height shall not exceed four stories and 50 feet.
- [c] On Parcel C, maximum building height shall not exceed five stories and 65 feet. For the purposes of this section, the levels of a parking structure shall not count

92. Editor's Note: The Regulating Plan is on file in the Borough offices.

as stories, and the height of any parking structure shall be governed by height in feet.

- [2] For the purposes of this section, height shall be measured from finished grade.
- [3] Building elements and appurtenances such as chimneys, spires, cupolas, belfries, towers or flagpoles, designed for ornamental purposes, as well as functional elements such as elevator housing, roof-mounted HVAC systems, and roof-access stairwells may exceed the height requirements by up to 25 feet.
- (o) The predominant building material for buildings facing New Street, the public plaza, and Lake Avenue shall be brick in traditional colors consistent and complementary with that found on Main Street.
- (p) Any building fronting the public plaza shall be designed using classical proportions with a consistent uniform facade treatment employing an articulated rhythm of bays and windows. These bays or sections shall be a minimum of 20 feet wide and a maximum of 36 feet wide. The ground floors of buildings shall have articulated entries and large storefront-type windows.
- (q) Buildings shall have a defined base, ground floor, belt course and cap which are designed to draw the eye of pedestrians to the lower portions of the buildings. Any building four stories or taller and parking structures greater than 40 feet in height shall be designed using some combination of massing, scale, roof type, cornice, projections, recesses, materials, colors and other architectural treatments to minimize the visual impact of the height of such building.
- (r) The Regulating Plan shall be consistent with the exhibit which is on file with the Borough of Metuchen. **[Amended 10-24-2022 by Ord. No. 2022-19]**

ARTICLE 20
Prohibited Uses

§ 110-92. Uses not specifically permitted.

Where a use is not specifically permitted in any district, it shall be deemed to be prohibited.

§ 110-93. Specific prohibited uses.

The following uses, structures, buildings, lots and signs are specifically prohibited in any district:

- A. Any sign that is not expressly related to a business, product, service or other use being lawfully conducted on the premises upon which such sign is located, unless such sign is otherwise specifically permitted in Article 48 of this chapter.
- B. Auction shops and markets; provided, however, that this provision shall not prohibit an auction of an estate as permitted or required by law or any sole authority by any court or governmental agency having appropriate jurisdiction, nor shall this prohibition apply to an indoor auction of antique and used furniture, household items and collectibles located in a zone where retail uses are permitted. **[Amended 5-17-1999 by Ord. No. 99-6]**
- C. Mobile homes, mobile home parks, trailer coach parks and other nonpermanent places of residence, with the exception of a temporary trailer used solely during fire reconstruction, pursuant to § 110-105.
- D. Junkyards, automobile wrecking yards or disassembly yards or the sorting or baling of scrap metal, paper, rags or other scrap material.
- E. Migrant labor camps.
- F. Privately operated dumps for the disposal of garbage, trash, refuse, junk or other such material.
- G. Stables, kennels and the keeping of live poultry, livestock or live animals of any kind for commercial purposes, except in a pet shop or a veterinarian office for post-operation observation.
- H. Any light industrial use in a residential or business district.
- I. Trucking terminals.
- J. Carnivals, circuses, amusement and live animal rides, amusement and live animal exhibitions and similar type commercial amusements.
- K. Flea markets.
- L. Conducting of business on a public street, sidewalk or right-of-way.
- M. Quarries and other primary industrial operations that extract soil, stone, gravel or other natural materials from the ground.
- N. Factory outlet and warehouse sales.
- O. Processing, packaging or handling of highly inflammable, explosive or radioactive materials.
- P. Slaughterhouses and rendering plants devoted to the rendering or refining of animal parts, fats and oils.

- Q. The manufacture of creosote, creosote products, coal tar, coal tar products and yeast.
- R. Incinerators or dumps, except when municipally owned and operated by the Borough of Metuchen.
- S. The storage of crude oil or any of its volatile products or any highly inflammable liquids or gas in aboveground tanks with individual capacities greater than 550 gallons and with total capacities greater than 1,100 gallons.
- T. The manufacture and storage of illuminating gas.
- U. Blast furnaces, boiler works and forge shops.
- V. The manufacture or refining of asphalt.
- W. The tanning of hides and skins.
- X. The generation of privately used heat, electricity and/or power, unless with smokeless fuels or with the use of approved and effective smoke and fly-ash elimination equipment.
- Y. Fast-food restaurants and drive-in restaurants. **[Added 3-17-2003 by Ord. No. 2003-4]**
- Z. General Prohibitions on all cannabis businesses other than Class 3 Cannabis Wholesale services and Class 5 Cannabis Retail services. In accordance with the authority granted to the Borough by N.J.S.A. 24:61-45, Ordinance No. 2021-10 is hereby amended to conditionally permit Class 3 Cannabis Wholesale Services and Class 5 Cannabis Retail Services within the Borough subject to the conditions, use, permitting, and taxation requirements set forth in this Ordinance No. 2022-19. As provided in Ordinance No. 2021-10, all other cannabis businesses shall be prohibited from operating anywhere within the geographical boundaries of the Borough of Metuchen. **[Added 6-28-2021 by Ord. No. 2021-10; amended 10-24-2022 by Ord. No. 2022-19]**

§ 110-94. Exceptions.

No prohibitions set forth in this article shall prevent the temporary or occasional operation or use of a flea market, sidewalk sale, tent sale, festival, fair, carnival, circus or amusement or animal rides or exhibitions at specific locations and under such rules and regulations as may be set forth by separate Borough ordinance or by permit, such as community-sponsored events.

ARTICLE 21

Affordable Housing

[Amended 6-15-1992 by Ord. No. 92-15; 10-4-1993 by Ord. No. 93-25; 10-7-1996 by Ord. No. 96-13; 12-2-1996 by Ord. No. 96-15; 11-21-2005 by Ord. No. 2005-23; 6-5-2006 by Ord. No. 2006-11; 7-5-2006 by Ord. No. 2006-12; 12-15-2008 by Ord. No. 2008-20; 8-15-2016 by Ord. No. 2016-19; 11-7-2016 by Ord. No. 2016-27]

§ 110-95. Affordable housing: purpose and intent.

In accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"), the Borough of Metuchen filed an action for declaratory judgment requesting that the Court declare that Metuchen has complied with its constitutional obligation to provide a realistic opportunity for the development of housing that is affordable to low- and moderate-income families and individuals.

In order to carry out such constitutional obligation, the Code of the Borough of Metuchen is to be amended to include provisions addressing Metuchen's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

This chapter is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units.

This Ordinance shall apply except where inconsistent with applicable law.

The Metuchen Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.

The Housing Element and Fair Share Plan have been endorsed by the governing body.

This chapter implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

Therefore, is ordained by the Mayor and Council of the Borough of Metuchen as follows.

§ 110-95.1. Filing of reports.

The Borough of Metuchen shall file such annual monitoring reports as may be directed by the Court regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan. The report shall be filed with the Middlesex County Superior Court and shall be available to the public at the Metuchen Municipal Building, Borough Clerk's Office, 500 Main Street, Metuchen, NJ 08840.

§ 110-95.2. Definitions.

The following terms when used in this article shall have the meanings given in this section:

ACT — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT — The entity designated by the Borough to administer affordable units in accordance with this article, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

AFFIRMATIVE MARKETING — A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE — The average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE — A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE HOUSING DEVELOPMENT — A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

AFFORDABLE HOUSING PROGRAM(S) — Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT — A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

AGENCY — The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

AGE-RESTRICTED UNIT — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

ALTERNATIVE LIVING ARRANGEMENT — A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE — A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD — A household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

COAH — The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

DCA — The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT — A housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

DEVELOPER — Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

INCLUSIONARY DEVELOPMENT — A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a nonresidential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50 percent or less of the median household income.

LOW-INCOME UNIT — A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM — The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

MARKET-RATE UNITS — Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME — The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

MODERATE-INCOME UNIT — A restricted unit that is affordable to a moderate-income household.

NON-EXEMPT SALE — Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

RANDOM SELECTION PROCESS — A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT — The maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

REHABILITATION — The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT — The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT — A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHOP or MONI.

UHAC — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

VERY LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 30 percent or less of the median household income for the applicable housing region.

VERY LOW-INCOME UNIT — A restricted unit that is affordable to a very low-income household.

WEATHERIZATION — Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

§ 110-95.3. Applicability.

The provisions of this article shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Metuchen pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

§ 110-95.4. (Reserved)

§ 110-95.5. Alternative living arrangements.

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 110-95.6. Phasing schedule for inclusionary zoning.

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

§ 110-95.7. New construction.**A. Low/moderate split and bedroom distribution of affordable housing units.**

- (1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of median income) except for those units that have been approved and vested prior to 2008. The very low-income units shall be counted as part of the required number of low-income units within the development. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families. A maximum of 25 percent may be age restricted. At least half of the units in total shall be available to families.
- (2) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
- (3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - (b) At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - (c) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility requirements.

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
- (a) An adaptable toilet and bathing facility on the first floor; and
 - (b) An adaptable kitchen on the first floor; and
 - (c) An interior accessible route of travel on the first floor; and
 - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (e) If not all of the foregoing requirements in Subsection B(2)(a) through (2)(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsection B(2)(a) through (2)(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Metuchen has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - [1] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - [2] To this end, the builder of restricted units shall deposit funds within the Borough of Metuchen's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - [3] The funds deposited under Subsection B(2)(f)[2] above shall be used by the Borough of Metuchen for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - [4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Metuchen for the conversion of adaptable to accessible entrances.
 - [5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
 - [6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

C. Design.

- (1) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (2) In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum rents and sales prices.

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (10) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

E. Multifamily zones.

- (1) Any property in the Borough of Metuchen that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside of 15 percent if the affordable units will be for rent and 20 percent if the affordable units will be for sale. The determination of a "sufficient compensatory benefit" shall be made by the reviewing authority based upon prevailing legislation and/or case law.
- (2) Any townhouse, garden apartment or other multiple-family residential development, including PURDS, containing five or more dwelling units shall comply with the following: **[Amended 5-11-2020 by Ord. No. 2020-09]**
 - (a) A minimum of 15 percent of the total number of units in a rental development shall be set-aside as affordable housing units with half being affordable to low-income households and 13 percent shall be affordable to very low-income households. If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5 percent then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of such affordable units yields a fractional unit of 0.5 or greater, it shall count as one additional unit.
 - (b) A minimum of 20 percent of the total number of units in a for-sale development shall be set-aside as affordable housing units. If the calculation of the total number of such

affordable units yields a fractional unit of less than 0.5, then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of such affordable units yields a fractional unit of 0.5 or greater, it shall count as one additional unit.

- F. No subdivision. The subdivision of properties proposed for inclusionary residential developments or mixed use developments that will include affordable housing is prohibited as a means to circumvent the 50 year control period.

§ 110-95.8. Utilities.

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ 110-95.9. Occupancy standards.

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

§ 110-95.10. Control periods for restricted ownership units and enforcement mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this article for a period of at least 30 years, until Metuchen takes action to release the unit from such requirements. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, provided that for any development of five units or more for which an application for development was not filed as of August 18, 2016, the initial control period shall be 50 years. **[Amended 8-15-2016 by Ord. No. 2016-19; 11-7-2016 by Ord. No. 2016-27]**
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this article, an amount equal to the difference between the unit's non-restricted

fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

- E. The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 110-95.11. Price restrictions for restricted ownership units, homeowner association fees and resale prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 110-95.13.

§ 110-95.12. Buyer income eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

§ 110-95.13. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.6(b).

§ 110-95.14. Capital improvements to ownership units.

- A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 110-95.15. Control periods for restricted rental units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article for a period of at least 30 years, until Metuchen takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, except that for any development of five units or more for which an application for development was not filed as of August 18, 2016, the initial control period shall be 50 years. **[Amended 8-15-2016 by Ord. No. 2016-19; 11-7-2016 by Ord. No. 2016-27]**
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language.

The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Middlesex. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.

- C. A restricted rental unit shall remain subject to the affordability controls of this article despite the occurrence of any of the following events:
- (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 110-95.16. Rent restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this article.
- D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15 percent of the total number of dwelling units are restricted rental units in compliance with this article.

§ 110-95.17. Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
- (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (1) The household currently pays more than 35 percent (40 percent for households eligible for age-

restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

- (2) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsections A(1) through B(5) above with the Administrative Agent, who shall counsel the household on budgeting.

§ 110-95.18. Municipal Housing Liaison.

- A. The Borough of Metuchen shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Metuchen shall adopt an ordinance creating the position of Municipal Housing Liaison. Metuchen shall adopt a resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Metuchen, including the following responsibilities which may not be contracted out to the Administrative Agent:
- (1) Serving as Metuchen's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (2) Monitoring the status of all restricted units in Metuchen's Fair Share Plan;
 - (3) Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
 - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the Court, the Borough of Metuchen shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The

Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

§ 110-95.19. Administrative Agent.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

A. Affirmative marketing.

- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Metuchen and the provisions of N.J.A.C. 5:80-26.15; and
- (2) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

B. Household certification.

- (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- (3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Metuchen when referring households for certification to affordable units.

C. Affordability controls.

- (1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Middlesex County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;

- (4) Communicating with lenders regarding foreclosures; and
- (5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and rentals.

- (1) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
- (2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing requests from unit owners.

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this article;
- (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air-conditioning systems;
- (3) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement.

- (1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
- (3) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
- (6) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional responsibilities.

- (1) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
- (3) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§ 110-95.20. Affirmative marketing requirements.

- A. The Borough of Metuchen shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction. At the request of Fair Share Housing Center, the following five organizations have been added to be the Affirmative Marketing Plan: Fair Share Housing Center, New Brunswick NAACP, Plainfield NAACP, Metuchen NAACP and Latino Action Network. **[Amended 8-15-2016 by Ord. No. 2016-19; 11-7-2016 by Ord. No. 2016-27]**
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Middlesex, Hunterdon and Somerset Counties.
- D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of Metuchen shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 110-95.21. Enforcement of affordable housing regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
- (1) The municipality may file a Court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than \$500 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Metuchen Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - (2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
 - (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if

any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the Court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this Plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

§ 110-95.22. Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this article shall be filed in writing with the Court.

§ 110-96. through § 110-96.18. (Reserved)

(Reserved by Ord. No. 2016-19)

ARTICLE 22

Performance Standards for All Uses**§ 110-97. Applicability.**

Any use, building, structure or lot located in the Borough shall comply with all the performance standards enumerated in § 110-98 below.

§ 110-98. Standards. [Added 3-17-2003 by Ord. No. 2003-4]

The following standards shall be complied with in order to protect the public health, safety and welfare from nuisances and other such conditions as specified herein:

- A. Electrical and/or electronic devices. All electronic or electrical devices shall be subject to the provisions of Public Law 90-602, 90th Congress, HR 10790, dated October 18, 1968, entitled "An Act for the Protection of Public Health and Safety from the Dangers of Electronic Product Radiation." Radiation products, as defined in DHEW publication No. (FDA) 75-8003, shall be so limited and controlled that no measurable energy can be recorded at any point beyond the property boundaries. The owner or occupant of the use, structure or property, upon request, shall produce certified data wherein measurements made in accordance with the procedures and standards set forth in the DHEW Publications No. (FA) 75-8003 adequately demonstrate compliance with the minimum standards established by the Act. All other forms of electromagnetic radiation lying between 100 KHz and 18 GHz shall be restricted to the technical limits established in the Federal Communications Commission's Rules and Regulations. Additionally, electric or electronic equipment shall be shielded so there is no interference with any radio or television reception at the lot line or beyond the operator's dwelling unit in the case of multifamily dwellings, as the result of the operation of such equipment.
- B. Glare. No use shall produce a strong, bright, brilliant or dazzling light or glare beyond its lot lines. Exterior lighting shall be shielded, buffered and directed so that glare, direct light or reflection shall not be a nuisance to adjoining properties.
- C. Heat. No use shall produce heat perceptible beyond its lot lines.
- D. Noise. Uses and equipment shall be designed and operated in accordance with those rules and regulations pertaining to noise levels established by the New Jersey State Department of Environmental Protection and Energy.
- E. Odor. Odors shall not be discernible at the lot line of the property from which they emanate or beyond.
- F. Storage and disposal of waste. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substances be deposited which can cause the public sanitary sewer system to fail to meet applicable federal or state efficiency or environmental standards. All materials or waste which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored indoors and enclosed in appropriate containers adequate to eliminate such hazards. All hazardous materials used on the site shall be disposed of in a safe manner consistent with all applicable regulations of the Middlesex County Health Department and the New Jersey Department of Environmental Protection and Energy.
- G. Ventilation. No use shall obstruct the natural ventilation of adjacent uses. Further, no air conditioners or exhaust fans shall be permitted to discharge exhausted air unless set back five feet or more from

any lot line that abuts another use and equipped with baffles to deflect the discharged air away from adjacent uses. No exhaust fan or other ventilation device from any food establishment where cooking is performed on-premises shall be permitted to be located within 25 feet of any lot line, and such shall direct all discharged air away from adjacent uses.

- H. Vibration. There shall be no vibration which is discernible to the human sense of feeling beyond the property boundary.
- I. Hazardous or toxic substances. Any use that utilizes or stores any hazardous or toxic substances on premises shall ensure that hazardous or toxic conditions shall not develop on or off the premises.
- J. Adequacy of parking for customer volume and turnover. No use shall have a parking demand that exceeds the requirements of § 110-154B. Applicants, owners or occupants, upon request, shall produce information and/or data that demonstrates and/or projects customer volume, turnover, and parking usage for any existing or proposed use or documentation of customer volume, turnover and parking usage at similar such facilities. The Borough may rely on such information and/or data in making a determination as to the adequacy of parking required by § 110-54B to meet customer volume, turnover and parking usage.

ARTICLE 23
Supplementary Regulations

§ 110-99. Public utilities.

Public utility transmission lines and other installations shall be permitted in all districts, subject to the following provisions:

- A. Public utility transmission lines required for direct local service may be located anywhere reasonably necessary, provided that such facilities are placed within the street rights-of-way or utility easements. Site plan approval shall not be required for installing such facilities.
- B. Utility installations, including but not limited to electrical substations, power transmission lines, telephone exchanges and similar facilities, but not telephone, gas, water, sewer, electric or cable television transmission lines or similar facilities intended to provide direct local service, shall be permitted, provided that the proposed use is granted site plan approval. Prior to granting site plan approval, the Planning Board shall find that the application is reasonably necessary to the convenience of the community and that the following provisions have been met:
 - (1) The lot shall conform to the minimum lot area requirements for the district in which it is located.
 - (2) All buildings shall meet the density, bulk and coverage requirements for the district in which it is located.
 - (3) Adequate provision shall be made for access and off-street parking.
 - (4) No parking lot shall be permitted in a front yard setback area.
 - (5) The building, structure, use and parking lot shall be designed, arranged and landscaped so as not to detract from the value of adjacent or nearby properties.
 - (6) In a residential district, buffering and/or screening as approved by the Board shall be provided along all property lines.

§ 110-100. Home occupations.

Home occupations shall be permitted in any residence in the Borough, unless otherwise specified below. Such shall require an approved zoning permit prior to commencement of use and are subject to the following provisions:

- A. Activities permitted as home occupations include the following and other clearly similar type uses:
 - (1) Dressmaking, tailoring or millinery services.
 - (2) Musical, voice, dance, acting, art, academic or religious instruction or tutoring, limited to one pupil at any given time.
 - (3) Studio art, including painting, sculpting, graphics or drafting.
 - (4) Typing or resume services and other related office services, such as envelope stuffing.
 - (5) Newspaper routes.
 - (6) Home office of a resident of the premises.

- (7) Family day-care homes, provided that such are located in a single-family detached dwelling and are approved by the New Jersey Division of Youth and Family Services for such use.
 - (8) Limousine or delivery service parking for one vehicle operated by a resident of the premises, provided that such business is based and operated off the premises and that all provisions of § 110-154E are complied with.
- B. Activities specifically deemed not to be permitted home occupations include the following and other clearly similar type uses:
- (1) Clinics, medical and dental offices and hospitals.
 - (2) Barbershops, hair stylists and beauty parlors.
 - (3) Catering and delivery services.
 - (4) Eating and drinking establishments.
 - (5) Fortune-telling parlor.
 - (6) Inns, tourist homes, boarding homes and other places offering lodging on a temporary basis.
 - (7) Music and dancing schools and other educational institutions.
- C. The permitted home occupation shall be conducted entirely within the dwelling unit or a permitted accessory building, subject to the following provisions:
- (1) The home occupation shall not utilize more than 20% of the floor area of the dwelling unit, including the basement, or 50% of the floor area of a permitted accessory building.
 - (2) Outside storage used in connection with the home occupation is prohibited.
 - (3) Art instruction and family day-care home uses may utilize a maximum of 500 square feet of a rear yard for instructional or recreational purposes, provided that any such area is set back a minimum of 15 feet from any side or rear property line.
 - (4) The use of machinery, electrical or electronic equipment or any type of other equipment or processes in connection with the home occupation shall not cause any perceptible noise, vibrations, heat, odors or electronic interference in radio or television reception beyond the dwelling unit in which the home occupation is located.
 - (5) Any internal or external building alterations planned in connection with the home occupation that are of such design so as to be inconsistent with the residential function of the building or the residential character or appearance of the building are prohibited.
 - (6) Any sign, advertising or other visible display on the premises related to the home occupation is prohibited.
 - (7) No other persons besides two residents of the premises shall be employed in the home occupation, no matter whether such employment is full-time or part-time.
 - (8) No person may visit the premises for business purposes or business-related deliveries, with the exception of students attending music, voice, dance, acting, art, academic or religious instruction or tutoring sessions and children attending a family day-care home.

§ 110-101. Corner lots and through lots. [Amended 6-26-2023 by Ord. No. 2023-17]

Whenever a lot shall be bounded by more than one street line, the following provisions shall apply:

- A. All provisions of this chapter with respect to setbacks and all other restrictions and regulations relating to street lines and front yards shall apply to each street line as a front yard.
- B. For the purposes of determining the rear yard on a corner lot, the interior lot line opposite the street line with the shortest frontage shall be considered to be the rear lot line, and any remaining interior lot lines shall be considered side lot lines for the purposes of determining side yards. Additionally, on corner lots and through lots, the reviewing agency or the Zoning Officer shall have the ability to determine which streets shall be treated as the primary and secondary streets for the purposes of applicable subsections in this chapter.
- C. No provision of this chapter shall permit the erection of any structure or other vision-obstructing object with a height greater than 2 1/2 feet, as measured from the elevation of the existing grade, including landscaping, within a triangular area formed by measuring 25 feet along each street line of the property from the point of intersecting lot lines at such corner and connecting such points to form a triangle.

§ 110-102. Newsracks.

Newsracks shall be permitted in all nonresidential districts, subject to the following provisions:

- A. Location and placement of newsracks shall be as follows:
 - (1) No newsrack shall be permitted in any exclusively residential district or on any property located in other zones where the property is being used exclusively for residential purposes.
 - (2) No newsrack shall be installed which projects onto, into or over any part of a public street.
 - (3) All newsracks shall be freestanding; in no event may newsracks be chained, tied and/or fastened to light poles, telephone poles, mailboxes, trees or any other fixed structures or objects.
 - (4) No newsrack shall be placed so as to create a pedestrian or motor vehicle hazard or impede the safe flow of pedestrian or motor vehicle traffic.
 - (5) No newsrack shall be placed, installed or maintained as follows:
 - (a) Within five feet of any marked crosswalk.
 - (b) Within 15 feet of any intersection without a marked crosswalk.
 - (c) Within 10 feet of any fire hydrant, fire call box, police call box or other emergency facility.
 - (d) Within five feet of any driveway opening.
 - (6) No newsrack installed, used or maintained, pursuant to this section, in the Downtown Revitalization Area shall be located within 100 feet on the same side of the street within the same block from any retail store or other business which generally sells newspapers or other periodicals and either sells the newspaper which is proposed to be distributed within the newsrack or has agreed to commence distribution of the newspaper; provided, however, that this subsection shall not apply if the newspaper distributor certifies, in writing, to the Zoning Officer that the retail store or other business refuses to commence or continue distribution of the

aforesaid newspaper.

- (7) Newsracks containing the same newspaper shall not be located within 100 feet of each other situated on the same side of the street on the same block.
- (8) No newsrack shall be located closer than 10 feet from any newsrack on the same side of the street within the same block.

B. Standards for maintenance and installation of newsracks shall be as follows:

- (1) No newsrack shall exceed 60 inches in height, 30 inches in width or 24 inches in thickness.
- (2) No newsrack shall display any advertising or other commercial sign other than the logo or trade name of the newspaper sold therein.
- (3) Each newsrack shall be equipped with a coin-return mechanism to permit a person using the newsrack to secure an immediate refund in the event that the user is unable to receive the publication for which payment was placed in such newsrack.
- (4) Each newsrack shall have affixed to it in a readily visible place a notice setting forth the manner in which refunds may be secured in the event of a malfunction of the coin-return mechanism.
- (5) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times, free of rust, corrosion or chipped or peeled paint.
- (6) The newspaper distributor shall be responsible to repair any and all damage caused by the removal of the newsrack to the sidewalk or public right-of-way.
- (7) All newsracks located in the B-1 and D-1 Districts shall have exterior colors consistent or compatible with the approved Metuchen Downtown Colors.

C. Multiple-bin newsracks shall be permitted as follows:

- (1) Such multiple-bin newsracks shall be located in the B-1, B-3 and D-1 Districts.
- (2) The location, design, materials and colors of such multiple-bin newsrack shall be subject to minor site plan approval.
- (3) If such multiple-bin newsrack is operated by the Borough, all newspapers contained therein shall pay an annual fee to the Borough to compensate the same for the costs of operating and maintaining such facility.
- (4) All other provisions of this section that apply to individual newsracks, newspapers or newspaper distributors shall apply equally to a multiple-bin newsrack.

§ 110-103. Subdivision or resubdivision.

When a new lot or lots are formed from a tract of land or where two or more lots are combined into a single tract of land, the separation or combination must be effected in such a manner as not to impair any of the provisions of this chapter. Moreover, when two or more lots are combined into a single tract of land for the purpose of a site plan submission which is approved by the Board, said lots shall be combined as one lot unless subsequently subdivided in accordance with the requirements of this chapter.

§ 110-104. Number of buildings per lot.

Unless otherwise permitted by Part III of this chapter, no lot in any residential district shall have erected on it more than one building used as a single- or two-family dwelling.

§ 110-105. Temporary trailers.

Trailers shall be permitted in all districts for temporary use by any occupant of a building that is being reconstructed due to damage from a fire, subject to the following provisions:

- A. An approved zoning permit shall be obtained from the Zoning Officer prior to the placement of such temporary trailer on the site. The Zoning Officer, Construction Code Official and Chief of the Fire Department shall be responsible for determining the most practical location for such trailer, which may be permitted in a front yard area.
- B. The time period of occupancy of such trailer shall not exceed three months; provided, however, that the Zoning Officer may extend the time period of occupancy for an additional time period of up to three months due to exceptional circumstances that prevent the reconstruction and reoccupancy of the fire-damaged building within the initial three-month time period. However, in no instance shall such trailer be occupied for a time period to exceed six months.

§ 110-106. Nonconforming uses and structures.

The following provisions shall apply to valid nonconforming uses and structures at the time of adoption of this chapter:

- A. Any nonconforming use or structure approved to be built, altered, enlarged or extended prior to the adoption of this chapter may be continued.
- B. Any nonconforming use or structure may be repaired or maintained at the same dimensions existing at the time it was constructed, but shall not be enlarged or extended.
- C. Any nonconforming use or structure that ceases for a period of one year for any reason shall thereafter conform with all provisions of this chapter.
- D. Any lot containing a nonconforming use or structure that is hereafter removed or more than 50% destroyed for any reason, with the result being that the nonconforming use shall cease thereby, shall be required to have any subsequent use or structure thereon conform with all provisions of this chapter.
- E. Any existing nonconforming use or structure shall not be enlarged, extended or intensified, unless such use or structure shall be changed to a use or structure permitted under Article 17 of this chapter.

§ 110-107. Nonconforming lots.

The requirements imposed in Article 16 of this chapter pertaining to minimum lot area, minimum lot width and minimum lot depth shall apply to any lot nonconforming with such requirements, except that if such lot is used as a permitted single-family dwelling, all buildings and structures otherwise permitted on such lot shall be permitted to be constructed, altered and enlarged, provided that all other provisions of this article are complied with.

§ 110-108. Nonconforming yard setbacks. [Amended 9-3-2013 by Ord. No. 2013-12]

The requirements of Article 16 of this chapter pertaining to setbacks for yards shall apply to any building located on a lot with an existing nonconforming setback, except that if such building is used as a permitted single-family dwelling, such may be altered or enlarged, provided that either of the following conditions are complied with:

- A. The alteration or enlargement shall not affect, extend or increase the existing nonconforming setback and meets all other applicable requirements of this article.
- B. The alteration or enlargement involves the extension of an existing exterior side building wall with a nonconforming side yard setback equaling a minimum of 50% of the individual side yard and a minimum of 75% of the combined side yard setback requirements for the district in which it is located. In addition, such alteration or enlargement shall only involve an extension at the first- or second-story level of the existing building. In no instance shall this provision permit a decrease in the existing nonconforming side yard setback resulting in a greater nonconformity after such alteration or enlargement is constructed. This provision for exception shall not be applicable to corner lots, two-level additions or third-story additions.

§ 110-109. Height exceptions. [Amended 9-3-2013 by Ord. No. 2013-12]

The maximum height requirements of § 110-64 shall not apply to the erection of building appurtenances such as chimneys, church spires, cupolas, belfries, clock towers, flagpoles, stairway or elevator penthouses, solar panels or mechanical equipment, provided that such shall not exceed such height requirements for the district in which such is located by greater than 10 feet.

§ 110-110. Permitted projections. [Amended 9-3-2013 by Ord. No. 2013-12; 2-8-2021 by Ord. No. 2021-01]

Cornices, eaves, gutters, bay windows and chimneys may project a maximum of two feet from an exterior building wall into any required yard setback. Nonenclosed porches, entrance platforms and steps leading to a first floor, excluding decks, may project a maximum of eight feet into a required front yard setback. Nonenclosed porches, uncovered decks, entrance platforms and steps leading to a basement or first floor may project a maximum of four feet into a required side or rear yard setback. Nonenclosed outdoor dining structures within the B-1 and D-1 Districts may project into any required yard setback up to the front, side and rear property lines, provided that such structures do not exceed 15 feet in height.

§ 110-111. Vending machines and telephone booths.

Vending machines and telephone booths shall be permitted in all districts if contained entirely within a building. Such shall be permitted to be located outdoors in all business districts, subject to the following provisions:

- A. A maximum of one vending machine shall be permitted on lots used for automobile repair establishments and gasoline service stations and on any lot located in a LI Light Industrial District. Such shall be placed adjacent to the principal building and shall not be located closer than the required yard setbacks, pursuant to § 110-64, to any lot line.
- B. A maximum of one telephone booth shall be permitted on any lot, provided that such shall be placed adjacent to the principal building and shall not be located closer than the required yard setbacks, pursuant to § 110-64, to any lot line. Additionally, no telephone booth shall be located within 100 feet of any residence.

- C. The location of such shall not be so situated as to cause a traffic or safety hazard, as determined by the Chief of Police.

§ 110-112. Temporary office occupancy.

Office uses shall be permitted on a temporary basis on the ground floor of a building fronting on Main Street in the B-1 Central Business District and shall be subject to the following provisions:

- A. The temporary use shall be an office use otherwise permitted in other locations in the B-1 Central Business District.
- B. The applicant shall be required to apply for a minor site plan approval. The temporary occupancy shall last a maximum of six months, with one permitted extension of occupancy not to exceed six additional months. An applicant who wishes to seek a permitted extension of occupancy shall be required to file a second application for minor site plan and obtain approval prior to the commencement of such extension. In no case shall a temporary office occupancy exceed a period of one year.
- C. The temporary occupancy shall not create or affect any variance from a provision of Part III of this chapter.

§ 110-112.1. Antennas and wireless communication facilities. [Added 6-16-1997 by Ord. No. 97-8]

Antennas and wireless communication facilities shall be permitted as follows:

- A. As an accessory use for governmental operations, including public safety functions, and for cellular communications, a freestanding antenna permitted pursuant to this section shall not exceed 150 feet in height.

§ 110-112.1.1. Television, radio and satellite dish antennas. [Added 2-25-2019 by Ord. No. 2019-04]

Television, radio and satellite dish antennas shall be permitted in any district and require minor site plan approval and/or an approved zoning permit prior to construction. Type and location of such shall be as follows:

- A. Conventional television and/or radio antennas shall be permitted as follows:
- (1) Such antennas may be located either attached to a permitted principal building or permitted accessory structure or freestanding in a rear yard.
 - (2) The maximum height of an attached antenna shall be 10 feet above the existing height of the building or structure to which it is attached, not to exceed 10 feet above the maximum permitted height for the district in which such building or structure is located. The maximum height of freestanding antennas shall not exceed the permitted height of accessory structures for the district in which it is located.
 - (3) The minimum setback distances for an attached antenna or any part thereof shall be the requirements regularly applicable for principal buildings or accessory structures for the district in which such building or structure is located.
 - (4) Not more than one such antenna shall be permitted to be located on a lot.
- B. Radio antenna structures to be operated by a holder of a Federal Communications Commission

amateur radio license shall be permitted as follows:

- (1) Such antennas may be located either attached to a permitted principal building or permitted accessory structure or freestanding in a rear yard.
- (2) The maximum height of such attached antennas shall be 10 feet above the existing height of the building or structure to which it is attached, not to exceed a maximum of 10 feet above the maximum permitted height for the district in which such building or structure is located. The height of freestanding antennas shall not exceed 70 feet.
- (3) The minimum setback distances for an attached antenna or any part thereof shall be the requirement regularly applicable for principal buildings or accessory structures for the district in which such building or structure is located. The minimum side and rear yard setback distances for a freestanding antenna shall be 50% of the total height of such antenna.
- (4) Not more than one such antenna shall be permitted to be located on a lot.

C. Satellite dish antennas shall be permitted as follows:

- (1) Such antennas shall be located either attached to a permitted principal building or permitted accessory structure or freestanding in a rear yard.
- (2) The maximum height of an attached antenna shall be 10 feet above the existing height of the building or structure to which it is attached, not to exceed a maximum of 10 feet above the maximum permitted height for the district in which such building or structure is located. The height of freestanding antennas shall not exceed 15 feet.
- (3) The minimum setback distance of such antennas or any part thereof shall be 10 feet from any side or rear lot line.

D. Provisions applicable to all antennas shall include the following:

- (1) All antennas shall employ materials and colors that are consistent with and visually blend into the surrounding landscape to the greatest extent possible.
- (2) All freestanding antennas shall be screened from view from all adjacent properties and public rights-of-way in order that a six-foot-tall person, with an eye level from grade of approximately 5 1/2 feet, is not able to see the lowest 20% of the total antenna height from a distance of 25 feet from the lot line containing such antenna. In no instance, however, shall such screening be less than six feet in height; however, any fence greater than six feet in height shall require a variance from the provisions of § 110-112.2. Such screening may utilize a solid wooden fence, earth berms, closely spaced evergreen plantings or some combination of these devices. If evergreen plantings are utilized, such shall be sufficiently dense as to achieve 75% of the required screening at time of planting.
- (3) All lots containing freestanding antennas shall be enclosed with a minimum four-foot-high fence that must be kept secured and locked to prevent entry at all times, except to those using the premises.
- (4) All applications for zoning permits for freestanding antennas shall include certification by a New Jersey licensed professional engineer that the proposed installation:
 - (a) Complies with those standards of the BOCA National Building Code for radio and television towers and radio and television antennas listed in Sections 614.0 and 615.0 of

the BOCA Basic Building Code.

- (b) Can withstand wind speeds of a maximum of 70 miles per hour.

§ 110-112.2. Fences and walls. [Added 9-3-2013 by Ord. No. 2013-12]

Fences and walls shall be permitted in all districts, shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

A. Materials. [Amended 6-26-2023 by Ord. No. 2023-17]

- (1) Fences shall be constructed of wood, vinyl, aluminum, metal, wrought iron and mesh netting, except chain-link and chicken wire.
- (2) Walls shall be constructed of stone or brick with a stone or cast stone cap. Corners and entrances shall be defined with articulated piers.
- (3) In no case shall a fence or wall be constructed of any material harmful to humans or animals, such as barbed wire, metal spikes, or electrified conductors.

B. Location. [Amended 6-26-2023 by Ord. No. 2023-17]

- (1) Front yards.
 - (a) Fences shall be permitted to be located in front yards, provided that such fence shall not exceed a height of four feet above grade. Fences shall be constructed so that at least 50% thereof is nonsolid and open.
 - (b) Walls shall be permitted to be located in front yards, provided that such wall shall not exceed a height of two feet above grade.
- (2) Side and rear yards.
 - (a) Both solid and nonsolid fences shall be permitted to be located in side and rear yards, provided that such fence shall not exceed a height of six feet above grade and be no closer than 10 feet to any front lot line.
 - (b) For properties abutting an active or former rail right-of-way, both solid and nonsolid fences shall be permitted to be located in side and rear yards, provided that such fence shall not exceed a height of eight feet above grade and be no closer than 40 feet to any front lot line. Additionally, the portion of the fence above a height of six feet above grade shall be constructed so that at least 50% thereof is nonsolid and open.
 - (c) Walls shall be permitted to be located in side and rear yards, provided that such wall shall not exceed a height of four feet above grade.
- (3) Corner lots and through lots.
 - (a) For permitted fences not exceeding a height of six feet above grade and walls not exceeding a height of four feet above grade, such fence or wall shall be permitted to be located in the front yard along the secondary street, provided that such fence or wall shall be no closer than 10 feet to any such front lot line.
 - (b) For permitted fences not exceeding a height of eight feet above grade, such fence shall be permitted to be located in the front yard along the secondary street, provided that such

fence shall be no closer than 25 feet to any front lot line

- (4) Fenceposts, corners and piers may be articulated to a height not to exceed one additional foot above a permitted fence height. Piers may be articulated to a height not to exceed two additional feet above a permitted wall height, provided that such pier does not exceed 30 inches in width or depth. Pergolas, trellises or arbor entryways may be articulated to a height not to exceed 10 feet above grade, provided that such structure does not exceed 10 feet in width.
 - (5) In no case shall a permitted fence or wall be placed so as to constitute a traffic or safety hazard. No fence or wall shall be located in the public right-of-way. The fence or wall shall be located entirely within the property upon which it is located.
- C. Orientation. The face or finished side of a fence or wall shall face the adjacent property. All supporting posts and cross-members shall face the property upon which it is located.
- D. Drainage. The fence or wall shall be constructed in a manner so as to permit the continued flow of natural drainage and shall not cause surface water to be blocked or dammed to create ponding, either on the property upon which such is located or on any adjacent lot or public right-of-way.
- E. Buffering and screening. Any permitted side or rear yard fence or wall that is less than 25 feet to the property line along any street shall have foundation plantings consisting of evergreen and deciduous shrubs and trees. Such plantings shall be a minimum of 30 inches tall at time of planting and spaced an average of five feet on center. A planting bed containing extensive flower and ground cover shall extend out a minimum of two feet in front of the foundation plantings along the entire fence or wall facing the street.
- F. Retaining walls. Any permitted wall proposed to be used as a retaining wall four feet or greater in height shall be required to be reviewed by the Borough Engineer prior to the issuance of a zoning permit.
- G. Clear sight triangles. Fences and walls shall comply with the provisions for clear sight triangles pursuant to § 110-101C at street intersections and § 110-151H at locations where driveways approach sidewalks and streets in the public right-of-way. **[Added 6-26-2023 by Ord. No. 2023-17]**

§ 110-112.3. Driveways. [Added 9-3-2013 by Ord. No. 2013-12; amended 6-26-2023 by Ord. No. 2023-17]

Driveways shall be permitted in all districts, shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

- A. Lot access.
- (1) Every lot shall have a maximum of one driveway opening providing access to a street.
 - (2) On lots a minimum of 100 feet in lot width, an additional driveway opening shall be permitted for the purpose of creating a connected or U-shaped driveway in the front yard. In no case shall the two driveway openings be located closer than 25 feet to each other.
- B. Setbacks.
- (1) A driveway on a corner lot shall be set back a minimum of 40 feet from the intersecting lot lines at the corner.
 - (2) A driveway shall be set back a minimum of three feet from a side or rear lot line, unless such

driveway is a common or shared driveway for dwelling units on adjacent lots.

- (3) On lots 50 feet or less in lot width, a driveway shall be set back a minimum of one foot from a side or rear lot line, unless such driveway is a common or shared driveway for dwelling units on adjacent lots.

C. Width.

- (1) A driveway shall maintain a maximum width of 12 feet at the front lot line, after which the driveway may flare out to a maximum width of 20 feet in the front yard.
- (2) On lots a minimum of 62.5 feet in lot width, a driveway shall maintain a maximum width of 16 feet at the front lot line, after which the driveway may flare out to a maximum width of 20 feet in the front yard.
- (3) On lots a minimum of 75 feet in lot width, a driveway shall maintain a maximum width of 20 feet at the front lot line, after which the driveway may flare out to a maximum width of 24 feet in the front yard.
- (4) On corner lots and through lots, where the driveway opening provides access from the secondary street and the driveway is 18 feet or less in length, a driveway shall maintain a maximum width of 20 feet at the front lot line.

D. Coverage. The area of a driveway shall not exceed 30% impervious coverage of the front yard.

E. Design specifications. A driveway shall comply with the provisions for construction specifications, grading, aprons, side slopes and clear sight triangles, pursuant to Article 35 of this chapter.

§ 110-112.4. Patios and walkways. [Added 9-3-2013 by Ord. No. 2013-12; amended 6-26-2023 by Ord. No. 2023-17]

Patios and walkways shall be permitted in all districts, shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

A. Materials. Patios and walkways shall be constructed of slate, stone, brick or concrete.

B. Location. No patio shall be located in the front yard. On corner lots and through lots, a patio shall be permitted to be located in the front yard along the secondary street, provided that such shall be no closer than 10 feet to any front lot line.

C. Setbacks.

- (1) A patio or walkway shall be set back a minimum of three feet from a side or rear lot line, exclusive of the private walkway providing access to the lot.
- (2) On lots 50 feet or less in lot width, a patio or walkway shall be set back a minimum of one foot from a side or rear lot line, exclusive of the private walkway providing access to the lot.
- (3) Raised patios greater than 30 inches above grade shall be set back a minimum of three feet from a side or rear lot line.
- (4) Raised patios greater than five feet above grade shall be set back a minimum of five feet from a side or rear lot line.

D. Drainage. Patios and walkways shall be constructed in a manner so as to permit the continued flow

of natural drainage and shall not cause surface water to be blocked or dammed to create ponding, either on the property upon which such is located or on any adjacent lot or public right-of-way.

§ 110-112.5. Swimming pools and sport courts. [Added 9-3-2013 by Ord. No. 2013-12]

Swimming pools and sport courts shall be permitted on all lots used as single- and two-family dwellings in residential districts and on any tract developed for townhouses or apartments. Such shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

- A. Location. Any swimming pool or sport court shall be permitted in a rear yard, located completely behind the rear walls of the principal structure.
- B. Coverage. The surface area of a swimming pool or sport court shall not exceed 25% coverage of the rear yard area.
- C. Setbacks. No part of the surface area of a swimming pool or sport court, including structures attached thereto or any pool filtering equipment, whether or not such is attached, shall be closer than 10 feet to any side or rear lot line. For the purposes of this subsection, a ground-level patio and associated walkways surrounding a swimming pool shall not be considered to be a structure attached thereto.
- D. Fencing. The entire swimming pool or sport court shall be fenced. Said fence shall be six feet above grade for sport courts and a minimum height of four feet above grade for swimming pools and shall be of such design that it securely controls access to such area. Where such is located on a corner lot and the fence on the side facing the street is nonsolid, that portion of the fence shall be screened with shrubs not less than four feet tall at the time of planting.
- E. Swimming pool drainage. No swimming pool shall drain into a public sanitary sewer or be located in such a manner that water from the pool or filtering equipment drains onto another property. Any permitted in-ground pool shall be required to be reviewed by the Borough Engineer prior to the issuance of a zoning permit.

§ 110-112.6. Accessory structures. [Added 9-3-2013 by Ord. No. 2013-12; amended 2-8-2021 by Ord. No. 2021-01; 6-26-2023 by Ord. No. 2023-17]

Accessory structures, inclusive of air-conditioner (A/C) condenser units, generators, transformers and other mechanical equipment, shall be permitted in all districts and shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

- A. Location.
 - (1) No accessory structure shall be located in a front yard. On corner lots and through lots, an accessory structure shall be permitted to be located in the front yard along the secondary street, provided that such shall be no closer than 15 feet to any front lot line.
 - (2) Nonenclosed outdoor dining structures within the B-1 and D-1 Districts shall be permitted to be located in a front yard without a minimum setback requirement from the front lot line, provided that such structures do not exceed a height of 15 feet above grade.
- B. Setbacks.
 - (1) Accessory structures not exceeding 100 square feet in area and a height of 10 feet above grade shall be set back a minimum of three feet from a side or rear lot line.

- (2) Accessory structures exceeding 100 square feet in area and/or a height of 10 feet above grade shall be set back a minimum of five feet from a side or rear lot line.
 - (3) On lots 50 feet or less in lot width, accessory structures, including detached garages, not exceeding 300 square feet in area and a height of 15 feet above grade shall be set back a minimum of three feet from a side or rear lot line.
 - (4) On lots in the LI Light Industrial District, accessory structures shall be set back a minimum of 10 feet from a side or rear lot line.
 - (5) Nonenclosed outdoor dining structures within the B-1 and D-1 Districts shall not have minimum setback requirements from side or rear lot lines, provided that such structures do not exceed a height of 15 feet above grade.
- C. Height. No accessory structure shall be greater than 1 1/2 stories or a height of 20 feet above grade.
- D. Screening. Ground-mounted mechanical equipment shall be properly screened from the street by planting of evergreen trees, shrubs or a berm and/or a permitted fence or wall to provide an opaque visual barrier, provided that such shall be 100% visually impervious at all times of the year.

§ 110-112.7. Design and landscape provisions. [Added 9-3-2013 by Ord. No. 2013-12; amended 2-17-2015 by Ord. No. 2015-03; 12-14-2020 by Ord. No. 2020-19; 9-12-2022 by Ord. No. 2022-16; 2-8-2021 by Ord. No. 2021-01]

- A. Orientation. The dwelling shall be oriented to face to and relate to the street and sidewalk in terms of the footprint location and front entrance. On corner lots, the reviewing agency or the Zoning Officer shall have the ability to determine which street such dwelling shall face and relate to as the primary street and which side shall be treated as a secondary street for the purposes of orientation.
- B. Facade width. The width of any facade facing a street shall not extend greater than 40 feet. Such facade may extend beyond 40 feet by stepping inward or outward with offsets of a minimum of eight feet. The width of any facade facing a street to achieve the required stepping shall extend no less than eight feet. For the purposes of this subsection, a covered porch at least four feet in depth, 10 feet in width and located not greater than four feet from the garage shall meet the intent of being a portion of the facade facing the street. These provisions shall apply to pre-existing dwellings that currently conform to these provisions and new dwellings only. **[Amended 6-26-2023 by Ord. No. 2023-17]**
- C. Garage locations and design. A one- or two-car garage facing the street shall be recessed behind the nearest portion of the facade facing the street with an offset of a minimum of eight feet. Any three-car garage shall be located to face the side or rear of the property and not the street. Any garage facing the side or rear of the property shall be recessed behind the nearest portion of the facade facing the street with an offset of a minimum of four feet. For the purposes of this subsection, a covered porch at least four feet in depth, 10 feet in width and located not greater than four feet from the garage shall meet the intent of being a portion of the facade facing the street. The width of the portion of the facade facing the street containing the garage shall not exceed 40% of the overall facade facing the street or 30 feet, whichever is less. In no case shall the garage door(s) be closer to the street than the main entry door. These provisions shall apply to preexisting dwellings that currently conform to these provisions and new dwellings only. **[Amended 6-26-2023 by Ord. No. 2023-17]**
- D. Repetition of building design. The same building design shall not be utilized on adjacent lots not within 200 feet of another dwelling of the same design. Building design shall vary in terms of footprint, architectural elevations, fenestration, type of roof, height, entrance and garage location,

architectural style, materials and colors and details. This provision shall only apply to an application involving a subdivision.

- E. Existing vegetation. To the greatest extent possible, significant existing vegetation in good health and condition shall be preserved. Particular consideration shall be given to preserving any tree greater than four inches in caliper, as well as existing stands of trees and tall shrubs and hedgerows along property lines. In cases where trees are removed, their replacement shall be provided in accordance with Article 46 of this chapter.
- F. Foundation plantings. The base along the front(s) and side(s) of each dwelling as well as porches and entrance platforms in the front yard(s) and side yard(s) of each dwelling shall be planted consisting of evergreen and deciduous shrubs. Such plantings shall be a minimum of two feet tall at time of planting and spaced an average of three feet on center. To avoid monocultures, the following species diversity shall be used: where up to 10 plants are proposed, not more than 1/2 proposed plants shall be of any one species; where 11 to 30 plantings are proposed, not more than 1/3 of the proposed plantings shall be of any one species; and where greater than 30 plantings are proposed, not more than 1/4 of the proposed plantings shall be of any one species. Plantings shall be selected from the recommended Borough plant list. A planting bed containing extensive flower and ground cover shall extend a minimum of two feet in front of the foundation plantings along the entire facade facing a street.
- G. Front yard tree plantings. The front yard(s) of each dwelling shall be planted with a minimum of one shade tree and one flowering tree for each 50 feet of frontage along the street or part thereof. On front yards where healthy and mature shade and/or flowering trees currently exist and are being preserved, such shall count toward the requirement. Shade trees shall be a minimum of three inches in caliper, and flowering trees shall be a minimum of two inches in caliper at time of planting. To avoid monocultures, the following species diversity shall be used: where three to five shade and/or three to five flowering trees are proposed, not more than 2/3 of the proposed shade and/or flowering trees shall be of any one species; and where greater than five shade and/or five flowering trees are proposed, not more than 1/2 of the proposed shade and/or flowering trees shall be of any one species. Shade trees shall be selected from the recommended Borough street tree list. If the approving authority determines that some or all of the shade and/or flowering trees cannot be accommodated in the front yard(s) on the subject premises, the applicant shall pay to the Shade Tree Commission the sum of \$500 per shade tree and \$200 per flowering tree required, to be used by the Shade Tree Commission for the planting of trees on public lands in the Borough. Newly planted trees shall be monitored for a period of one year to ensure the health of the trees. If the trees die within the one-year period, the developer/applicant shall replace the dead tree(s). The developer/applicant shall remain liable to replace trees, notwithstanding that the subject premises may have been conveyed to another person or entity.
- H. Street trees. Street trees shall be provided in accordance with Article 46 of this chapter.
- I. Public sidewalks and private walkways. Public sidewalks and private walkways shall be provided in accordance with Article 34 of this chapter.

§ 110-112.8. Grading and drainage provisions. [Added 2-25-2019 by Ord. No. 2019-04⁹³; amended 8-12-2019 by Ord. No. 2019-13]

93. Editor's Note: This ordinance also renamed and moved former § 110-112.8, Antennas, added 9-3-2013 by Ord. No. 2013-12, to § 110-112.1.1.

- A. **Applicability.** A permit for grading and drainage shall be required prior to all new construction, additions having a basement or cellar, and the construction of any structure or improvements which the Borough Engineer, Construction Official or Zoning Officer have determined may cause an adverse impact to any adjoining property or public right-of-way. Exemptions to these provisions are as follows:
- (1) In the case of an application for an existing single- or two-family dwelling proposing an addition creating an increase of up to 200 square feet of building footprint, such application may be exempt from all of the requirements contained in this section, provided that if a basement or cellar is proposed, it is not lower in elevation than the basement or cellar in the existing dwelling.
 - (2) In the case of an application for an existing single- or two-family dwelling proposing an addition creating an increase greater than 200 square feet and up to 400 square feet of building footprint, such application may be exempt from the requirements of providing a plot and grading plan, provided that if a basement or cellar is proposed, it is not lower in elevation than the basement or cellar in the existing dwelling.
- B. **Zoning permit requirements.** Prior to the issuance of a zoning permit for the applicable construction or improvements as delineated under § 110-112.8A herein, the applicant for the permit shall submit to the Zoning Officer three copies of a plot and grading plan signed and sealed by a New Jersey licensed professional engineer.
- C. **Plot and grading plan requirements.** The plot and grading plan prepared is to be based on survey measurements, drawn to a scale of not more than one inch equals 10 feet or less than one inch equals 40 feet, and shall include the following, as applicable to the proposed construction:
- (1) Boundary, property lines, dimensions, physical features and topography based upon a current (within last two years) outbound survey prepared by a New Jersey licensed land surveyor.
 - (2) The width of street rights-of-way, the width of street pavements and the material composition of the street surface.
 - (3) The location and identification of flood zones, conservation easements, and wetland areas, if applicable.
 - (4) Existing and proposed buildings including projections such as porches, entrance platforms and steps, decks, accessory or other structures, building dimensions, existing and proposed setback dimensions and height of buildings and accessory or other structures.
 - (5) Existing buildings and accessory or other structures within 25 feet of the property.
 - (6) Existing and proposed contour lines at one-foot intervals with reference to an assumed datum or to NGVD 1988 for the property upon which the building is to be constructed. Proposed grades shall include sufficient spot elevations at the building corners, driveway, parking areas and yard areas and extend 25 feet in all directions from the property.
 - (7) Finished floor elevations of all buildings, description of the building (ranch, bi-level, two story, masonry, frame), applicable critical grades and the seasonal high water table elevation, if applicable.
 - (8) A description of the building to be constructed (basement, cellar, crawl space or slab construction).

- (9) Where applicable, sufficient information to show impact, if any, on adjoining properties.
 - (10) Total area of the tract and the total area upland or buildable area, if applicable.
 - (11) Existing and proposed total area and percentage of building coverage and impervious coverage.
 - (12) Schedule showing zoning of the property, zoning requirements and plan provisions in relation to each zoning requirement.
 - (13) Existing and proposed private walkway, other walkways, paths, stairs, steps, trash and recycling pads, fence locations and the sidewalk/curb within the public right-of-way, including the type of material to be used for construction.
 - (14) Existing and proposed driveways, parking areas, patios, sport courts, pools, water features and other site improvements and impervious surfaces, including the type of material to be used.
 - (15) Existing and proposed terraced areas and retaining wall location including top and bottom elevations of wall at the beginning and end of each wall segment and at any grade change.
 - (16) All trees and their estimated driplines, including trees from adjacent property which have driplines onto the subject property.
 - (17) Location of all existing utilities and utility easements, proposed connections thereto and any utility relocations, following American Society of Civil Engineers (ASCE) Standard 38-02, minimum Quality Level C.
 - (18) Construction details for all improvements on the lot and in the public right-of-way.
 - (19) Any proposed stormwater management elements such as drainage swales, rain barrels, recharge facilities such as dry wells, seepage pits, perforated pipe or similar system, rain gardens or similar methods. Rain barrels or other similar devices shall be provided with antivector screening.
 - (20) Stormwater flow direction arrows must be provided for both on-site and off-site conditions.
 - (21) Drainage system routing and termination details and specifications.
 - (22) A North arrow shall be shown with datum referenced.
 - (23) Submission of the plot and grading plan to the Middlesex County Mosquito Extermination Commission (MCMEC) for any development that has a surface stormwater facility, including a detention basin, drainage swale, rain gardens or similar facilities.
 - (24) Submission of a zoning permit application in accordance with Article 24, Flood Damage Prevention, of this chapter for any development within flood hazard areas.
 - (25) United States Army Corps of Engineers or New Jersey Department of Environmental Protection approved wetlands and wetlands buffer delineations by metes and bounds, if applicable. Calculated wetland and wetland buffer areas shall be noted.
- D. Plan review. The Borough Engineer shall review and provide either an approval or rejection of the plot and grading plan in writing to the applicant within a maximum of 10 business days after receipt of the plot and grading plan by the Zoning Officer. After approval is granted, the final approved plot and grading plan and all soils work data shall be submitted electronically to the Zoning Officer.

E. Specific requirements.

- (1) After review of existing conditions, the design engineer shall manage roof drain runoff as follows:
 - (a) Roof drain runoff from the front and side of the structure that discharges to the front yard area and drains overland towards the public street shall be permitted, provided that the discharge point is not more than five feet from the face of the structure. They are encouraged but not required to be tied into a recharge facility.
 - (b) In the event that existing conditions prevent satisfactory positive drainage from the front and side roof drains to reach the public street, roof drain runoff may discharge through a curb penetration in the public street in accordance with Chapter 166 of the Code of the Borough of Metuchen or may be piped and directly connected into the stormwater collection system subject to the review and approval of the Borough Engineer.
 - (c) If roof drain runoff from the side and rear of the structure that discharges to the rear of the structure will exceed preexisting drainage and/or will flow toward adjoining properties, such excess roof drain runoff shall be retained and recharged in the rear yard area using recharge facilities subject to the review and approval of the Borough Engineer.
- (2) After review of existing conditions, the design engineer shall manage sump pump discharge as follows:
 - (a) Sump pump discharge shall be permitted to be piped and directly connected into the stormwater collection system. The stormwater collection system may be extended at the sole cost of the applicant and shall be subject to the review and approval of the Borough Engineer. Extensions within the public right-of-way shall receive written consent from Borough Council and extensions crossing adjacent property shall receive written consent from the property owner.
 - (b) Where sump pump discharge is not piped and directly connected into the stormwater collection system, sump pump discharge shall be retained and recharged in the front yard area using recharge facilities. Any overflow from the recharge facility may discharge to the front yard area and drain overland towards the public street subject to the review and approval of the Borough Engineer. The following additional provisions shall apply:
 - [1] A minimum of two test pits shall be completed for up to 5,000 square feet in building footprint, and at least one additional test pit shall be completed for each additional 5,000 square feet in building footprint or part thereof.
 - [2] Test pits shall be completed within 15 feet of the perimeter of the footprint of the proposed structure and/or within the area of any proposed recharge facility.
 - [3] Test pits shall extend to a depth of at least three feet below the proposed lowest finished floor elevation, basement, cellar, slab construction, and the bottom of any proposed recharge facility. The results of the test pits and permeability tests for recharge facilities shall indicate the nature of the subsoil conditions, the permeability test results and the seasonal high water table elevation shall be provided in a report that is signed and sealed by a New Jersey licensed professional engineer.
 - [4] The minimum separation distance between the seasonal high water table elevation and the proposed lowest finished floor elevation, basement, cellar, slab construction,

and the bottom of any recharge facility shall be two feet.

(3) Recharge facilities shall be regulated as follows:

- (a) All recharge facilities shall be designed by a New Jersey licensed professional engineer, shall be designed in accordance with NJDEP and RSIS stormwater management design standards and shall be subject to the review and approval of the Borough Engineer.
 - (b) Recharge facilities for roof drain runoff shall be designed for the twenty-five-year storm event.
 - (c) Recharge facilities for sump pump discharge shall be designed based upon monitoring well data, groundwater modeling or similar design criteria.
- (4) Roof drain runoff and sump pump discharge water shall not be directed onto driveways, parking areas, adjoining properties or within 10 feet of the public right-of-way.
- (5) The maximum distance between the finished floor elevation of the first floor (except for the garage floor) and the average finished grade, or preconstruction grade, whichever is lower in elevation, as measured along the front wall of the building closest to the street, shall not exceed four feet. If, at the determination of the Borough Engineer, the average preconstruction grade at the rear of the proposed building footprint is greater than two feet above the average preconstruction grade at the front of the proposed building footprint, the maximum distance may be increased, provided that additional foundation landscaping (either additional number or height or any combination thereof) is provided to the satisfaction of the Zoning Official.
- (6) The average finished grade elevation along the perimeter of the proposed building footprint and all areas 10 feet beyond such building footprint shall not be increased by greater than one foot over the average preconstruction grade. If, at the determination of the Borough Engineer, the property has existing site conditions requiring additional fill (such as, but not limited to, portions of the front yard area are lower in elevation in relation to the top of curb along the street or low spots on the property), additional fill greater than one foot may be permitted to ensure positive drainage.
- (7) No fill shall be permitted within five feet from a property line, unless such area being graded is to be used for the management of stormwater runoff, as approved by the Borough Engineer.
- (8) The minimum slope for drainage swales shall be 1 1/2%.
- (9) In the case where roof drain runoff is permitted to extend to a curb penetration in the public street, the curblin and gutter along the entire frontage of the property and up to 100 feet beyond the adjoining property that is downstream shall be determined prior to the issuance of a zoning permit to be in good condition by the Borough Engineer or otherwise be removed and reconstructed in accordance with Chapter 166 of the Code of the Borough of Metuchen. The alternative shall be the payment to the Borough in an amount of \$75 per linear foot, which amount shall be reserved for curblin and gutter installation or replacement in the Borough. For additions to single- or two-family dwellings, the payment shall be reduced to \$50 per linear foot.

§ 110-112.9. Foundation location plan. [Added 2-25-2019 by Ord. No. 2019-04; amended 8-12-2019 by Ord. No. 2019-13]

Prior to framing or placing the modular units or pre-fab units on the foundation as constructed, a New Jersey professional land surveyor shall submit to the Zoning Officer three copies of a plan showing the

setbacks and elevations as to said as-built foundation and specifically showing the top of block elevation and any other critical floor elevation.

§ 110-112.10. Final as-built plan. [Added 2-25-2019 by Ord. No. 2019-04; amended 8-12-2019 by Ord. No. 2019-13]

- A. Prior to the issuance of a certificate of occupancy, the Zoning Officer shall require three copies of the final as-built plan be submitted, signed and sealed by a New Jersey professional land surveyor for a final zoning permit review. The plans utilized for a request for a final zoning permit review shall be accompanied by a Copy of the initial review plans. The Borough Engineer will, in addition to said review, cause an on-site inspection and submit a written report to the Zoning Officer and Construction Code Official as to the status of all improvements required and as-built conditions that conform satisfactorily to the approved plans and that a certificate of occupancy may be issued. In the event that the final as-built plan does not conform to the requirements herein set forth, a report shall be prepared by the Borough Engineer indicating conditions which must be satisfied prior to the issuance of a certificate of occupancy. The as-built plans shall include the following:
- (1) Boundary, property lines dimensions, physical features and topography.
 - (2) Buildings including projections such as porches, entrance platforms and steps, decks, accessory or other structures, building dimensions, setback dimensions and height of buildings and accessory or other structures.
 - (3) As-built elevations of the lot and adjacent roadway, building corner grades, lot corner grades, drainage swale grades, as well as contours and critical spot elevations to clearly define surface flow.
 - (4) Finished floor elevations of all buildings, description of the building (ranch, bi-level, two story, masonry, frame), applicable critical grades and the season high water table elevation, if applicable.
 - (5) A description of the building constructed (basement, cellar, crawl space or slab construction).
 - (6) Where applicable, sufficient information to show impact, if any, on adjoining properties.
 - (7) Total area of the tract and the total area upland or buildable area, if applicable.
 - (8) Total area and percentage of building coverage and impervious coverage.
 - (9) Schedule showing zoning of the property, zoning requirements and plan provisions in relation to each zoning requirement.
 - (10) All completed improvements, including but not limited to walks, drives, curbs, landscaping, shall be shown. Elevations, locations, materials, slopes and sizes shall be included on the plan.
 - (11) Compliance with Article 24, Flood Damage Prevention, of this chapter for all development within flood hazard areas, if applicable.
 - (12) Submission of a certified FEMA elevation certificate in flood hazard areas and in accordance with Article 24, Flood Damage Prevention, if applicable.
- B. If alterations have been made between the initial review plans and the final as-built plan, same shall be explained by notes or attachments, with an explanation of how the changes are different from the approval and that there are no significant impacts to adjoining properties.

§ 110-112.11. Temporary certificate of occupancy (TCO). [Added 2-25-2019 by Ord. No. 2019-04; amended 8-12-2019 by Ord. No. 2019-13]

If, in the opinion of the Borough Engineer, inclement weather prohibits the completion of the improvements required on the approved plot and grading plan and proposed building construction and improvements in accordance with this chapter, a temporary certificate of occupancy (TCO) may be issued by the Construction Official. The issuance of the TCO shall be conditioned upon the following items:

- A. The estimated construction costs to complete the improvements are placed in a cash bond. The estimated costs for the incomplete improvements shall be determined by the Borough Engineer.
- B. Written proof of the cash bond must be given to the Zoning Official.
- C. Proof of receipt of a conditional or permanent report of compliance from the Freehold Soil Conservation District, where applicable, shall be submitted to the Construction Official.
- D. All bonded improvements shall be completed and ready for final inspection no later than June 1 next occurring, unless an extension is granted by the Borough Engineer, Construction Official and/or Zoning Officer.

ARTICLE 24

Flood Damage Prevention**[Added 6-13-2022 by Ord. No. 2022-12⁹⁴]****§ 110-113. (Reserved)****§ 110-114. Flood damage prevention ordinance.****§ 110-114.1. Recitals.**

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

§ 110-114.2. Repeal and replace.

These regulations specifically repeal and replace the following ordinance(s) and regulation(s): Chapter 110, Part III, Article 24, §§ 110-113 to 110-124.

§ 110-114.3. Severability.

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

§ 110-114.4. When effective.

This article shall take effect immediately after final adoption in accordance with law.

§ 110-115.1. Scope and administration.**§ 110-115.1.1. Title.**

These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter "Uniform Construction Code," consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter "FHACA"), N.J.A.C. 7:13, shall be known as the "Floodplain Management Regulations of Borough of Metuchen" (hereinafter "these regulations").

§ 110-115.1.2. Scope.

These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in § 110-115.2 of these regulations.

§ 110-115.1.3. Purposes and objectives.

The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed

94. Editor's Note: This ordinance also repealed former Art. 24, Flood Damage Prevention, as amended, which consisted of §§ 110-113 through 110-124.

to:

- A. Protect human life and health.
- B. Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- C. Manage the alteration of natural floodplains, stream channels and shorelines.
- D. Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- E. Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- F. Contribute to improved construction techniques in the floodplain.
- G. Minimize damage to public and private facilities and utilities.
- H. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- I. Minimize the need for rescue and relief efforts associated with flooding.
- J. Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- K. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- L. Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 of the Code of Federal Regulations, Section 59.22.

§ 110-115.1.4. Coordination with building codes.

Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Borough of Metuchen administer and enforce the state building codes, the Mayor and Council of Borough of Metuchen does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

§ 110-115.1.5. Ordinary building maintenance and minor work.

Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including nonstructural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc., shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the substantial damage and substantial improvement § 110-115.3.14 of this article.

§ 110-115.1.6. Warning.

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will

be free from flooding or flood damage.

§ 110-115.1.7. Other laws.

The provisions of these regulations shall not be deemed to nullify any provisions of local, state, or federal law.

§ 110-115.1.8. Violations and penalties for noncompliance.

- A. No structure or land shall hereafter be constructed, relocated to, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this article or fails to comply with any of its requirements shall be subject to one or more of the following: a fine of not more than \$2,000, imprisonment for a term not exceeding 90 days or a period of community service not exceeding 90 days.
- B. Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a thirty-day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine up to \$2,000 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.
- C. Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

§ 110-115.1.8.1. Solid waste disposal in a flood hazard area.

Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2,500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

§ 110-115.1.9. Abrogation and greater restrictions.

These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances, including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

§ 110-115.2. Applicability.

§ 110-115.2.1. General.

These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and Miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

§ 110-115.2.2. Establishment of flood hazard areas.

The Borough of Metuchen was accepted for participation in the National Flood Insurance Program on December 4, 1979. The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all federal, state, and local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA special flood hazard area. Maps and studies that establish flood hazard areas are on file at the Office of the Borough Engineer, 500 Main Street, Metuchen, New Jersey. The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the best available flood hazard data area:

- A. Effective Flood Insurance Study. Special flood hazard areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study, Middlesex County, NJ (All Jurisdictions)" dated July 6, 2010, and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 110-115.2.2(1) whose effective date is July 6, 2010, are hereby adopted by reference.

Table 110.115.2.2(1)

Map Panel No.	Effective Date	Revision Letter	Map Panel No.	Effective Date	Revision Letter
34023CIND0	Jul, 6, 2010	A			
34023C0042	Jul 6, 2010	F			
34023C0061	Jul 6, 2010	F			
34023C0063	Jul 6, 2010	F			

- B. Federal best available information. The Borough of Metuchen shall utilize federal flood information as listed in the table below that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include, but is not limited to, preliminary flood elevation guidance from FEMA (such as advisory flood hazard area maps, work maps or preliminary FIS and FIRM). Additional federal best available studies issued after the date of this article must also be considered. These studies are listed on FEMA's Map Service Center. This information shall be used for floodplain regulation purposes only.

Table 110-115.2.2(2)

Map Panel No.	Preliminary Date	Map Panel No.	Preliminary Date
34023C0042F	Jan 31, 2014		
34023C0061F	Jan 31, 2014		
34023C0063G	Jan 31, 2014		

- C. State-regulated flood hazard areas. For state-regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the Flood Hazard Area Control Act design flood elevation, as defined in § 110-116, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the special flood hazard areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 110-115.2.2(3) List of State Studied Waters

Name of Studied Water	File Name	Map Number
Dismal Bk	C0000003	2
Tributary to Mill Bk	C0000005	1
Bound Bk	C0000031	BD-6

§ 110-115.2.3. Establishing the local design flood elevation (LDFE).

The local design flood elevation (LDFE) is established in the flood hazard areas determined in § 110-115.2.2, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum statewide elevation requirements for lowest floors in A, Coastal A, and V Zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this article. At a minimum, the local design flood elevation shall be as follows:

- A. For a delineated watercourse, the elevation associated with the best available flood hazard data area determined in § 110-115.2.2, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- B. For any undelineated watercourse (where mapping or studies described in Tables 110-115.2.2(1) and (2) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the local design flood elevation:
 - (1) A copy of an unexpired NJDEP flood hazard area verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
 - (2) A determination of the flood hazard area design flood elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to §§ 110-115.5.2 through 110-115.5.2.3
- C. AO Zones. For Zone AO areas on the municipality's FIRM (or on preliminary flood elevation guidance from FEMA), the local design flood elevation is determined from the FIRM panel as the

highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the local design flood elevation is three feet above the highest adjacent grade.

- D. Class IV critical facilities. For any proposed development of new and substantially improved flood design Class IV critical facilities, the local design flood elevation must be the higher of the 0.2% annual chance (500-year) flood elevation or the flood hazard area design flood elevation with an additional two feet of freeboard in accordance with ASCE 24.
- E. Class III critical facilities. For proposed development of new and substantially improved flood design Class III critical facilities in coastal high hazard areas, the local design flood elevation must be the higher of the 0.2% annual chance (500-year) flood elevation or the flood hazard area design flood elevation with an additional one foot of freeboard in accordance with ASCE 24.

§ 110-115.3. Duties and powers of the floodplain administrator.

§ 110-115.3.1. Floodplain administrator designation.

The Borough Engineer is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

§ 110-115.3.2. General.

The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to § 110-115.7 of these regulations.

§ 110-115.3.3. Coordination.

The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

§ 110-115.3.4. Duties.

The duties of the Floodplain Administrator shall include, but are not limited to:

- A. Review all permit applications to determine whether proposed development is located in flood hazard areas established in § 110-115.2 of these regulations.
- B. Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- C. Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- D. Determine whether additional flood hazard data shall be obtained or developed.
- E. Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.

- F. Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to § 110-115.3.14 of these regulations.
- G. Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- H. Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood-resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to § 110-115.7 of these regulations.
- I. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available.
- J. Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- K. Inspect development in accordance with § 110-115.6 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- L. Prepare comments and recommendations for consideration when applicants seek variances in accordance with § 110-115.7 of these regulations.
- M. Cite violations in accordance with § 110-115.8 of these regulations.
- N. Notify the Federal Emergency Management Agency when the corporate boundaries of Borough of Metuchen have been modified.
- O. Permit ordinary maintenance and minor work in the regulated areas discussed in § 110-115.2.2.

§ 110-115.3.5. Use of changed technical data.

The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a conditional letter of map revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the state pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

§ 110-115.3.6. Other permits.

It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by federal or state agencies having jurisdiction over such development, including Section 404 of the Clean Water Act.⁹⁵ In the

95. Editor's Note: See 33 U.S.C.A. § 1344.

event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

§ 110-115.3.7. Determination of local design flood elevations.

If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

- A. Obtain, review, and reasonably utilize data available from a federal, state, or other source; or
- B. Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant. It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed best available flood hazard data area and the local design flood elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in §§ 110-115.2.2 and 110-115.2.3 respectively. This information shall be provided to the Construction Official and documented according to § 110-115.3.15.

§ 110-115.3.8. Requirement to submit new technical data.

Base flood elevations may increase or decrease resulting from natural changes (e.g., erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g., dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations, Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

§ 110-115.3.9. Activities in riverine flood hazard areas.

In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.

§ 110-115.3.10. Floodway encroachment.

Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.

§ 110-115.3.10.1. Floodway revisions.

A floodway encroachment that increases the level of the base flood is authorized if the applicant has

applied for a conditional letter of map revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.

§ 110-115.3.11. Watercourse alteration.

Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.

§ 110-115.3.11.1. Engineering analysis.

The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.

§ 110-115.3.12. Alterations in coastal areas.

The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.

§ 110-115.3.13. Development in riparian zones.

All development in riparian zones as described in N.J.A.C. 7:13 is prohibited by this article unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other floodplain development provisions of this article. The width of the riparian zone can range between 50 feet and 300 feet and is determined by the attributes of the water body and designated in the New Jersey Surface Water Quality Standards, N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine state permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

§ 110-115.3.14. Substantial improvement and substantial damage determinations.

When buildings and structures are damaged due to any cause, including, but not limited to, man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

A. Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a

qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.

- B. Determine and include the costs of all ordinary maintenance and minor work, as discussed in § 110-115.2.2, performed in the floodplain regulated by this article in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- C. Compare the cost to perform the improvement, the cost to repair the damaged building to its predamaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- D. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
- E. Notify the applicant, in writing, when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the building code is required and notify the applicant, in writing, when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood-resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.

§ 110-115.3.15. Department records.

In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built elevation certificates; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurance that the flood-carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood-resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the local design flood elevation in the floodplain development permit.

§ 110-115.3.16. Liability.

The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until

the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

§ 110-115.4. Permits.

§ 110-115.4.1. Permits required.

Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

§ 110-115.4.2. Application for permit.

The applicant shall file an application, in writing, on a form furnished by the Floodplain Administrator. Such application shall:

- A. Identify and describe the development to be covered by the permit.
- B. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- C. Indicate the use and occupancy for which the proposed development is intended.
- D. Be accompanied by a site plan and construction documents as specified in § 110-115.5 of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
- E. State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
- F. Be signed by the applicant or the applicant's authorized agent.

§ 110-115.4.3. Validity of permit.

The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.

§ 110-115.4.4. Expiration.

A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

§ 110-115.4.5. Suspension or revocation.

The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

§ 110-115.5. Site plans and construction documents.**§ 110-115.5.1. Information for development in flood hazard areas.**

- A. The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:
- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
 - (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with § 110-115.5.2.
 - (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with § 110-115.5.2A(3) of these regulations.
 - (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A Zones, new buildings shall be located landward of the reach of mean high tide.
 - (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 - (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
 - (7) Extent of any proposed alteration of sand dunes.
 - (8) Existing and proposed alignment of any proposed alteration of a watercourse.
 - (9) Floodproofing certifications, V Zone and breakaway wall certifications, operations and maintenance plans, warning and evacuation plans and other documentation required pursuant to FEMA publications.
- B. The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

§ 110-115.5.2. Information in flood hazard areas without base flood elevations (approximate Zone A).

- A. Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:
- (1) Use the approximation method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
 - (2) Obtain, review, and reasonably utilize data available from a federal, state or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
 - (3) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.
- B. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a letter of map change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

§ 110-115.5.3. Analyses and certifications by a licensed professional engineer.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

- A. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in § 110-115.5.4 of these regulations and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.
- B. For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in § 110-115.5.4 of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
- D. For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A

Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.

- E. For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A Zones).

§ 110-115.5.4. Submission of additional data.

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

§ 110-115.6. Inspections.

§ 110-115.6.1. General.

Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.

§ 110-115.6.2. Inspections of development.

The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.

§ 110-115.6.3. Buildings and structures.

The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

- A. Lowest floor elevation. Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in § 110-122.2 shall be submitted to the Construction Official on an elevation certificate.
- B. Lowest horizontal structural member. In V Zones and Coastal A Zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in § 110-122.2 shall be submitted to the Construction Official on an elevation certificate.
- C. Installation of attendant utilities (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in § 110-122.2.
- D. Final inspection. Prior to the final inspection, certification of the elevation required in § 110-122.2 shall be submitted to the Construction Official on an elevation certificate.

§ 110-115.6.4. Manufactured homes.

The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an elevation certificate to the Floodplain Administrator prior to the final inspection.

§ 110-115.7. Variances.**§ 110-115.7.1. General.**

The Zoning Board of Adjustment shall hear and decide requests for variances. The Zoning Board of Adjustment shall base its determination on technical justifications submitted by applicants, the considerations for issuance in § 110-115.7.5, the conditions of issuance set forth in § 110-115.7.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Zoning Board of Adjustment has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

§ 110-115.7.2. Historic structures.

A variance to the substantial improvement requirements of this article is authorized, provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this article, and the variance is the minimum necessary to preserve the historic character and design of the structure.

§ 110-115.7.3. Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.

§ 110-115.7.4. Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in § 110-115.5.3A of these regulations.

§ 110-115.7.5. Considerations.

In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect

of such damage on current and future owners.

- D. The importance of the services provided by the proposed development to the community.
- E. The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- F. The compatibility of the proposed development with existing and anticipated development.
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
- J. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems, streets, and bridges.

§ 110-115.7.6. Conditions for issuance.

Variances shall only be issued upon:

- A. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
- C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Notification to the applicant, in writing, over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

§ 110-115.8. Violations.

§ 110-115.8.1. Violations.

Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.

§ 110-115.8.2. Authority.

The Floodplain Administrator is authorized to serve notices of violation or stop-work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.

§ 110-115.8.3. Unlawful continuance.

Any person who shall continue any work after having been served with a notice of violation or a stop-work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.

§ 110-115.8.4. Review period to correct violations.

A thirty-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine up to \$2,000 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

§ 110-116. Definitions.**§ 110-116.1. General.**

The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

§ 110-116.2. Definitions.

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

100-YEAR FLOOD ELEVATION — Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as the "base flood elevation."

500-YEAR FLOOD ELEVATION — Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

A ZONES — Areas of special flood hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the base flood elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) Zones A, AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this article. A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

ACCESSORY STRUCTURE — Accessory structures are also referred to as "appurtenant structures." An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and

similar buildings.

AGRICULTURAL STRUCTURE — A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the base flood elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry floodproofing requirements of 44 CFR 60.3(c)(3).

AH ZONES — Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one foot and three feet. Base flood elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

ALTERATION OF A WATERCOURSE — A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

AO ZONES — Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one foot and three feet.

AREA OF SHALLOW FLOODING — A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — See "special flood hazard area."

ASCE 24 — The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code (N.J.A.C. 5:23).

ASCE 7 — The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. which includes, but is not limited to, methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads, including those from natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

BASE FLOOD ELEVATION (BFE) — The water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year, as shown on a published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the "100-year flood elevation."

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA — The most recent available preliminary flood risk guidance FEMA has provided. The best available flood hazard data may be depicted on, but not limited to, advisory flood hazard area maps, work maps, or preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA AREA — The aerial mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The best available flood hazard data may be depicted on, but not limited to, advisory flood hazard area maps, work maps, or preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION — The most recent available preliminary flood elevation guidance FEMA has provided. The best available flood hazard data may be depicted on, but not limited to, advisory flood hazard area maps, work maps, or preliminary FIS and FIRM.

BREAKAWAY WALLS — Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the local design flood elevation, it will collapse under specific lateral loads such that 1) it allows the free passage of floodwaters, and 2) it does not damage the structure or supporting foundation system. Certification in the V Zone certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

BUILDING — Per the FHACA, "building" means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

CONDITIONAL LETTER OF MAP REVISION — A conditional letter of map revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the letter of map change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CONDITIONAL LETTER OF MAP REVISION- FILL — A conditional letter of map revision - fill (CLOMR-F) is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the letter of map change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CRITICAL BUILDING — Per the FHACA, "critical building" means that:

- A. It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or

- B. It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day-care center, assisted-living facility, or nursing home.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

DRY FLOODPROOFING — A combination of measures that results in a nonresidential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

ELEVATED BUILDING — A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundations walls are not an acceptable means of elevating buildings in V and VE Zones.

ELEVATION CERTIFICATE — An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a letter of map amendment (LOMA) or letter of map revision based on fill (LOMR-F).

ENCROACHMENT — The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

FEMA PUBLICATIONS — Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include, but are not limited to, technical bulletins, desk references, and American Society of Civil Engineers Standards documents, including ASCE 24.

FLOOD HAZARD AREA DESIGN FLOOD ELEVATION — Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the state, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood elevations, wider floodway limits, greater flow rates, or indicates a change from an A Zone to a V Zone or Coastal A Zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 through 7:13-3.6 and is typically higher than FEMA's base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) — The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOOD or FLOODING —

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in Subsection (a)(2) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (a)(1) of this definition.

FLOODPLAIN MANAGEMENT REGULATIONS — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPLAIN OR FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source. See "flood or flooding."

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODPROOFING CERTIFICATE — Certification by a licensed design professional that the design and methods of construction for floodproofing a nonresidential structure are in accordance with accepted standards of practice to a proposed height above the structure's lowest adjacent grade that meets or exceeds the local design flood elevation. A completed floodproofing certificate is required at permit application.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 feet.

FREEBOARD — A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE — A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

HABITABLE BUILDING — Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multiresidence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of

worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a nonhabitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

HARDSHIP — As related to § 110-115.7 of this article, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Mayor and Council require that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LAWFULLY EXISTING — Per the FHACA, means an existing fill, structure and/or use, which meets all federal, state, and local laws, and which is not in violation of the FHACA because it was established:

- A. Prior to January 31, 1980; or
- B. On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered lawfully existing for the purposes of the NFIP. This definition is included in this article to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT — A letter of map amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the letter of map change (LOMC) process. A LOMA establishes a property's location in relation to the special flood hazard area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as

being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE — The letter of map change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an area of special flood hazard on a Flood Insurance Rate Map (FIRM). Conditional letters of map revision, conditional letters of map revision - fill, letters of map revision, letters of map revision-fill, and letters of map amendment are requested through the letter of map change (LOMC) process.

LETTER OF MAP REVISION — A letter of map revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of map revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP REVISION - FILL — A letter of map revision based on fill (LOMR-F) is FEMA's modification of the special flood hazard area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the letter of map change (LOMC) process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM) map, it is a public record that the community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

LICENSED DESIGN PROFESSIONAL — Licensed design professional shall refer to either a New Jersey licensed professional engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey licensed architect, licensed by the New Jersey State Board of Architects.

LICENSED PROFESSIONAL ENGINEER — A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

LOCAL DESIGN FLOOD ELEVATION (LDFE) — The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on, but not limited to, advisory flood hazard area maps, work maps, or preliminary FIS and FIRM which is also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LDFE be lower than a permit-specified flood hazard area design flood elevation or a valid NJDEP flood hazard area verification letter plus the freeboard as required in ASCE 24 and the effective FEMA base flood elevation.

LOWEST ADJACENT GRADE — The lowest point of ground, patio, or sidewalk slab immediately next to a structure, except in AO Zones where it is the natural grade elevation.

LOWEST FLOOR — In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and Coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other applicable nonelevation design requirements of these regulations.

MANUFACTURED HOME — A structure that is transportable in one or more sections, eight feet or more in width and greater than 400 square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE — The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods: 1) actual cash value (replacement cost depreciated for age and quality of construction), 2) tax assessment value adjusted to approximate market value by a factor provided by the property appraiser, or 3) established by a qualified independent appraiser.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

NONRESIDENTIAL — Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

ORDINARY MAINTENANCE AND MINOR WORK — This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018, New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include, but are not limited to, replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air-conditioning equipment, exhaust fans, built-in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of state or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures, as discussed in 44 CFR 59.1, shall not be included in the determination of ordinary maintenance and minor work.

RECREATIONAL VEHICLE — A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

RESIDENTIAL — Pursuant to the ASCE 24:

- A. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or nontransient basis;
- B. Structures, including, but not limited to, one- and two-family dwellings, townhouses, condominiums, multifamily dwellings, apartments, congregate residences, boardinghouses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and

- C. Institutional facilities where people are cared for or live on twenty-four-hour basis in a supervised environment, including, but not limited to board and care facilities, assisted-living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

SOLID WASTE DISPOSAL — The storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in N.J.A.C. 7:13-2.3 for a period of greater than six months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked, or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

SPECIAL FLOOD HAZARD AREA — The greater of the following: 1) Land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; 2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; 3) riparian buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the "area of special flood hazard."

START OF CONSTRUCTION —

- A. The start of construction is as follows:

- (1) For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA),⁹⁶ this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on-site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (2) For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and base flood elevations (BFEs) increase or zones change, the start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

- B. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it

96. Editor's Note: See 16 U.S.C.A. § 3501 et seq.

include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and base flood elevations (BFEs) increase or zones change.

- C. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- D. For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

STRUCTURE — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally aboveground.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place over a ten-year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The period of accumulation includes the first improvement or repair of each structure that is permanent subsequent to the date of ordinance adoption. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

THIRTY-DAY PERIOD — The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this article has been issued.

UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES — Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

VARIANCE — A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION — A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION — The height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE — A river, creek, stream, channel, or other topographic feature in, on, through, or over

which water flows at least periodically.

WET FLOODPROOFING — Floodproofing method that relies on the use of flood-damage-resistant materials and construction techniques in areas of a structure that are below the local design flood elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and nonresidential structures and to accessory and agricultural structures that have been issued variances by the community.

§ 110-117. Subdivisions and other developments.

§ 110-117.1. General.

Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
- C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from structures.

§ 110-117.2. Subdivision requirements.

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- A. The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
- B. Residential building lots shall be provided with adequate buildable area outside the floodway.
- C. The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

§ 110-118. Site improvement.

§ 110-118.1. Encroachment in floodways.

Development, land-disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with § 110-115.5.3A of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If § 110-115.5.3A is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with § 110-122.2 of this article and the floodway requirements of N.J.A.C. 7:13.

§ 110-118.1.1. Prohibited in floodways.

The following are prohibited activities:

- A. The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.

B. Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.

§ 110-118.2. Sewer facilities.

All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into floodwaters, or impairment of the facilities and systems.

§ 110-118.3. Water facilities.

All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.

§ 110-118.4. Storm drainage.

Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

§ 110-118.5. Streets and sidewalks.

Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

§ 110-118.6. Limitations on placement of fill.

Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

§ 110-118.7. Hazardous materials.

The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

§ 110-119. Manufactured homes.

§ 110-119.1. General.

All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).

§ 110-119.2. Elevation.

All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation

specified in § 110-122.2.

§ 110-119.3. Foundations.

All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on permanent, reinforced foundations that are designed in accordance with Section R322 of the Residential Code.

§ 110-119.4. Anchoring.

All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

§ 110-119.5. Enclosures.

Fully enclosed areas below elevated manufactured homes shall comply with the requirements of § 110-122.2.

§ 110-119.6. Protection of mechanical equipment and outside appliances.

Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in § 110-122.2 of these regulations.

Exception. Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by § 110-122.2, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

§ 110-120. Recreational vehicles.

§ 110-120.1. Placement prohibited.

The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

§ 110-120.2. Temporary placement.

Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.

§ 110-120.3. Permanent placement.

Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of § 110-122.2 for habitable buildings.

§ 110-121. Tanks.

§ 110-121.1. Tanks.

Underground and aboveground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

§ 110-122. Other development and building work.**§ 110-122.1. General requirements for other development and building work.**

All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- A. Be located and constructed to minimize flood damage;
- B. Meet the limitations of § 110-115.5.3A of this article when located in a regulated floodway;
- C. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the local design flood elevation determined according to § 110-115.2.3;
- D. Be constructed of flood-damage-resistant materials as described in ASCE 24, Chapter 5;
- E. Have mechanical, plumbing, and electrical systems above the local design flood elevation determined according to § 110-115.2.3 or meet the requirements of ASCE 24, Chapter 7, which requires that attendant utilities are located above the local design flood elevation unless the attendant utilities and equipment are:
 - (1) Specifically allowed below the local design flood elevation; and
 - (2) Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- F. Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- G. Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

§ 110-122.2. Requirements for habitable buildings and structures.

- A. Construction and elevation in A Zones not including Coastal A Zones.
 - (1) No portion of a building is located within a V Zone.
 - (2) No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
 - (3) All new construction and substantial improvement of any habitable building (as defined in § 110-116) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the local design flood elevation as determined in § 110-115.2.3, be in conformance with ASCE 24,

Chapter 7, and be confirmed by an elevation certificate.

- (4) All new construction and substantial improvements of nonresidential structures shall:
- (a) Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the local design flood elevation as determined in § 110-115.2.3, be in conformance with ASCE 24, Chapter 7, and be confirmed by an elevation certificate; or
 - (b) Together with the attendant utility and sanitary facilities, be designed so that below the local design flood elevation, the structure:
 - [1] Meets the requirements of ASCE 24, Chapters 2 and 7; and
 - [2] Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a floodproofing certificate, and is confirmed by an elevation certificate.
- (5) All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
- (a) For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
 - (b) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is nonresidential and the requirements of 110.122.2A(4)(b) are met;
 - (c) Be constructed to meet the requirements of ASCE 24, Chapter 2;
 - (d) Have openings documented on an elevation certificate; and
 - (e) Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C. 7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including preconstruction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
 - [1] The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 - [2] The depth of flooding that the enclosure would experience to the flood hazard area design flood elevation;
 - [3] The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

- (6) For new construction or substantial improvements, enclosures shall be less than 295 square feet in size.

§ 110-122.3. Garages and accessory storage structures.

Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

§ 110-122.4. Fences.

Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire-mesh fences, shall meet the requirements of § 110-115.5.3A of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain-link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than six feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in § 110-115.7 of this article.

§ 110-122.5. Retaining walls, sidewalks, and driveways.

Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of § 110-115.5.3A of these regulations and N.J.A.C. 7:13.

§ 110-122.6. Swimming pools.

Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Aboveground swimming pools and belowground swimming pools that involve placement of fill in floodways shall also meet the requirements of § 110-115.5.3A of these regulations. Aboveground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

§ 110-122.7. Roads and watercourse crossings.

- A. For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
- B. Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of § 110-115.5.3A of these regulations.

§ 110-123. Temporary structures and temporary storage.

§ 110-123.1. Temporary structures.

Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of floodwaters.

§ 110-123.2. Temporary storage.

Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.

§ 110-123.3. Floodway encroachment.

Temporary structures and temporary storage in floodways shall meet the requirements of § 110-115.5.3A of these regulations.

§ 110-124. Utility and Miscellaneous Group U**§ 110-124.1. Utility and Miscellaneous Group U.**

In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 square feet), fences more than six feet (1,829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.

§ 110-124.2. Flood loads.

Utility and Miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the local design flood elevation as determined in § 110-115.2.3.

§ 110-124.3. Elevation.

Utility and Miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the local design flood elevation as determined in § 110-115.2.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

§ 110-124.4. Enclosures below base flood elevation.

Fully enclosed areas below the design flood elevation shall be constructed in accordance with § 110-122.2 and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.

§ 110-124.5. Flood-damage-resistant materials.

Flood-damage-resistant materials shall be used below the local design flood elevation determined in § 110-115.2.3.

§ 110-124.6. Protection of mechanical, plumbing, and electrical systems.

Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment shall be elevated to or above the local design flood elevation determined in § 110-115.2.3.

Exception: Electrical systems, equipment and components, and heating, ventilating, air-conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the local design flood elevation, provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the local design flood elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the local design flood elevation, provided they conform to the provisions of NFPA 70 (National Electric Code).

Part IV
Development And Design Standards

ARTICLE 25
General Provisions

§ 110-125. Purpose.

The purpose and intent of Part IV of this chapter is as follows:

- A. To set forth guidelines and standards that promote the creation of functional and attractive development that shall promote and give due consideration to the health, safety, general welfare, morals, order, efficiency, economy, maintenance of property values and character of the Borough.
- B. To ensure that any development shall comply with the Master Plan, zoning plan and other overall or district plans of the Borough and this chapter.
- C. To provide guidelines and standards that shall be used by an applicant in preparing a development plan, and the Board in reviewing the same. In reviewing a development plan, the Board shall establish findings as to whether or not, and to what degree, an application for development meets such guidelines and standards. Based upon its review of the development plan and the degree to which such findings of compliance are established, the Board may approve, conditionally approve, request modifications or deny approval of the application for development.
- D. To minimize adverse impacts of flooding, drainage, erosion, vehicular traffic, pedestrian movement, parking, vibration, lighting and glare, noise, odor, solid waste disposal, litter, ventilation, vibration, crime and vandalism and inappropriate design and development.
- E. To ensure that any new development gives due consideration to the physical, visual and spatial characteristics of the existing streetscape, neighborhood and district in which such is located and the Borough generally.
- F. To ensure that the physical, visual and spatial characteristics of any proposed development shall not be so markedly incongruous with the same characteristics of the existing streetscape, neighborhood and district in which such is located, and the Borough generally, so as to materially detract from the real property value of adjacent or nearby properties.

§ 110-126. Exceptions.

The design guidelines and standards described in Part IV of this chapter shall be used as the Borough's presumptive minimum requirements for subdivision and site plan development and as criteria for evaluating the plan and design of such development plans. However, the guidelines and standards are not intended to restrict creativity, and an applicant may request that the guidelines and standards be modified or waived. To gain approval of such modification or waiver, the applicant shall demonstrate to the Board the criteria for exceptions pursuant to N.J.S.A. 40:55D-51, which shall include a showing that the resulting change will:

- A. Generally satisfy the purpose of Part IV of this chapter.
- B. Be designed in accordance with the Borough's normally acceptable engineering, planning and/or architectural practices.

- C. Not have an adverse impact on the physical, visual or spatial characteristics of the overall development plan for the tract to be developed.
- D. Generally enhance the overall development plan for the tract.
- E. Not have an adverse impact on the physical, visual or spatial characteristics of the existing streetscape, neighborhood and district in which such development is located or the Borough generally.
- F. Generally enhance the streetscape and neighborhood in which it is located.
- G. Not reduce the useful life or increase the cost of maintenance of the improvement to be modified or otherwise have an adverse impact on the long-term function of the development.
- H. Not materially detract from the real property value of the development or adjacent or nearby properties.

ARTICLE 26
Subdivision Development Standards

§ 110-127. Applicability.

This article shall apply to all subdivision applications.

§ 110-128. Standards. [Amended 9-3-2013 by Ord. No. 2013-12]

The following standards shall be used to prepare any development plan for a subdivision:

- A. Blocks. The length, width and area of blocks created within bounding roads creating blocks shall be such as to accommodate the lot areas and dimensions required by Part III of this chapter for the specific district in which the block is located and to provide for convenient access, circulation, control and safety of street traffic.
- B. Lots. No lot shall be created on which development may be rendered impracticable due to significant environmental or man-made constraints, such as steep slopes, wetlands, floodplains, flood hazard areas, drainage or other natural conditions or lack of sewer capacity, utility service, vehicular access or other man-made conditions. Where such conditions occur, the affected land shall be incorporated into the adjoining lots or contiguous open space. Where there are unanswered questions as to the suitability of a lot for its intended use due to any of the above-referenced factors or similar circumstances, the Board may, after adequate investigation, withhold approval of such a lot.
- C. Lot lines. Side lot lines shall be at right angles to straight street lines and radial to curved street lines, wherever practical.
- D. Setbacks. Slight variations in setbacks may be provided at the discretion of the Board, in order to provide visual interest and relieve the sometimes negative effect of multiple lots with uniform setbacks.
- E. Repetition of building design. The same building design for single- and two-family dwellings shall not be utilized on more than two adjacent lots nor within 200 feet of another building of the same design. Building designs shall vary in terms of footprint, architectural elevations, fenestration, type of roof, height, entrance and garage locations, architectural style, materials, colors and details.
- F. Existing vegetation. To the greatest extent possible, significant existing vegetation in good health and condition shall be preserved. Particular consideration shall be given to preserving any existing tree greater than four inches in caliper, as well as existing stands of trees and tall shrubs and hedgerows along or near lot lines.
- G. Foundation plantings. The base of the front and sides of all single- and two-family dwellings shall be planted with foundation plantings consisting of evergreen and/or semi-evergreen shrubs and trees. Such plantings shall be a minimum of 2 1/2 feet tall at time of planting and spaced an average of three feet on center.
- H. Replacement of dead plantings. The developer shall be required to replace dead or dying plant material for a period of two years from the date of issuance of a final zoning permit for occupancy and shall post a maintenance guaranty for such pursuant to Article 58 of this chapter. If plant material is dead or dying during a planting season, it shall be replaced that same season. If plant material is dead or dying during a nonplanting season, it shall be replaced as soon as reasonably possible at the start of the next planting season.

ARTICLE 27
Site Plan Development Standards

§ 110-129. Applicability.

This article shall apply to all site plan applications.

§ 110-130. Development standards.

The following standards shall be used to prepare and review any site plan:

- A. Vehicular access. No public or private roadway shall be located within 25 feet of an existing adjacent residential use or district, except in such cases where the Board determines that it shall be necessary for an existing or future roadway connection. No driveway shall be located within 10 feet of an existing adjacent residential property nor within five feet of any other property line.
- B. Building location. A building shall be located to front towards and relate to a public street, both functionally and visually. In a multiple-building development, buildings located on the interior of a site shall front towards and relate to one another, both functionally and visually. To the greatest extent possible, the development shall divide proposed buildings into smaller, individualized groupings, utilizing such features as courtyards, quadrangles and alleys that encourage pedestrian activity and incidental social interaction among users. Spatial relationships between buildings shall be geometrically logical and architecturally formal. No building shall be oriented to front toward a parking lot. All buildings shall be located to allow for adequate fire and emergency access.
- C. Parking lot location. A parking lot shall be located to the rear of a building and/or the interior of the site where its visual impact to adjacent properties and the public right-of-way can be minimized. Parking lots shall be prohibited in any front yard setback area.
- D. Pedestrian circulation. A barrier-free walkway system shall be provided to allow pedestrian access to a building or use from both a parking lot within the site and from the Borough sidewalk system. Such walkway system shall promote pedestrian activity both within the site itself and throughout the community by its integration with the Borough sidewalk system. Walkways shall be separate from motor vehicle circulation to the greatest extent possible and shall provide a pleasant route for users that will promote enjoyment of the site and encourage incidental social interaction among pedestrians.
- E. Decorative lampposts. The exterior of a site with greater than 100 feet of street frontage shall provide decorative lampposts approximately 10 feet to 12 feet high, spaced at intervals of approximately 40 feet to 60 feet along or near all street lines and driveways. Walkways in the interior of a site shall have decorative lampposts approximately 10 feet to 12 feet high, spaced at intervals of approximately 30 feet to 40 feet. The style, size, color and type of light source of such lampposts shall be determined by the Board based on existing fixtures located in other similar type developments in the Borough. Lighting levels from such fixtures shall be provided pursuant to § 110-157.
- F. Building setbacks. The minimum setbacks for buildings from driveways, parking areas and private streets within the site shall be 25 feet for residential developments and 15 feet for nonresidential developments. The provisions of this subsection are in addition to the yard setback requirements of § 110-64, which shall additionally be complied with.
- G. Building spacing. Separation of buildings in a multiple-building development shall be based on spacing relationships corresponding to a multiplier of the highest single wall height of the buildings involved, as measured from ground level to the height of the top of the cornice or from ground level

to the height of the juncture of the wall plane and the roof eaves, as follows:

Formula

Wall height x Multiplier = Distance of separation between buildings

Building Wall Relationship	Multiplier	Minimum Spacing (Feet)
Front wall to front wall	1.5	30
Front wall to rear wall	2.0	40
Front wall to side wall	1.5	30
Front wall to windowless side wall	1.5	30
Rear wall to rear wall	2.0	40
Rear wall to side wall	2.0	40
Rear wall to windowless side wall	1.5	30
Side wall to side wall	1.25	25
Side wall to windowless side wall	0.75	15
Windowless side wall to windowless side wall	0.75	15
NOTE: The minimum spacing standards listed above are generally intended for average two-story buildings and, therefore, may need to be adjusted for buildings of other heights.		

ARTICLE 28

Multifamily Residential Development Standards**§ 110-131. Applicability.**

This article shall apply to all site plan applications for multifamily residential development, including townhouses, apartments, garden apartments and PURDs.

§ 110-132. Development standards.

The following standards shall be used to prepare and review any development plan for multifamily residential development:

- A. Building type mix. In developments of 25 or more dwelling units, the mix of building types shall be such that not more than 50% of the total number of dwelling units shall be located in the same type of building. In developments of 50 or more dwelling units, the mix of building types shall be such that not more than 40% of the total number of dwelling units shall be located in the same type of a building. The building type mix for each section or phase of a development plan need not reflect the building type mix prescribed for the entire development. In such cases, the Board shall require, as a condition of final approval on a particular phase or section of a development plan, the provision that future phases or sections shall bring the building type mix into conformance with the above standards.
- B. Dwelling unit mix. In developments of 25 or more dwelling units, the mix of dwelling units shall be such that not more than 75% of the total number of dwelling units shall have the same number of bedrooms. The dwelling unit mix for each section or phase of a development plan need not reflect the building type mix and dwelling unit mix prescribed for the entire development. In such cases, the Board shall require, as a condition of final approval on a particular phase or section of a development plan, the provision that future phases or sections shall bring the dwelling unit mix into conformance with the above standards.
- C. Affordable housing units. Developments of 10 or more dwelling units shall provide for affordable housing units pursuant to Article 21 of this chapter. Such affordable housing units shall be evenly mixed and distributed throughout the entire development. No such affordable housing unit shall be readily distinguished from the exterior as an affordable housing unit by the architectural design, style, materials, colors or details of such dwelling unit or building.
- D. Number of dwelling units per building. Any building shall contain a maximum of 10 dwelling units unless otherwise specified in this chapter.
- E. Dwelling unit privacy. Adjacent dwelling units in the same building shall be adjoined in such a manner as to provide maximum soundproofing and privacy between such units.
- F. Site layout. The development plan shall locate buildings, parking areas and open space in an arrangement that promotes the enjoyment of dwelling units, other on-site facilities and the community as a whole by residents of the development. Dwelling units and buildings shall be oriented towards the street and interior open spaces and away from parking lots and garages. Driveways, parking lots and garages shall be prohibited from being located in the front yard area of any dwelling unit.
- G. Individuality of dwelling units and buildings. In order to provide attractiveness, identity and individuality to dwelling units, buildings and complexes of buildings within the entire development and to avoid the monotonous repetition of design elements and its undesirable visual effects, the following design standards shall be utilized:

- (1) Varying dwelling unit widths, staggering dwelling unit setbacks and altering building heights and rooflines.
 - (2) Varying architectural embellishments to roofs between dwelling units, buildings or complexes of buildings. Such roof elements may include dormers, belvederes, masonry chimneys and similar elements, provided that such are architecturally compatible with the style, materials, colors and details of the building.
 - (3) Varying the front entrance definition and articulation between dwelling units, buildings or complexes of buildings, provided that such are architecturally compatible with the style, materials, colors and details of the building.
- H. Front steps. Entry steps and platforms to the front entrance to each dwelling unit or building shall be constructed of brick or stone.
- I. Entrance lighting. A minimum of one low-wattage incandescent light fixture shall be provided outside each exterior entrance to a dwelling unit or building.
- J. Fire escapes. Buildings containing dwelling units located above the second story and requiring a second means of egress pursuant to the Uniform Construction Code shall not utilize an attached external fire escape as one of the required means of egress.
- K. Dwelling unit size. Minimum dwelling unit floor areas shall be as follows:

Type	Minimum Floor Area (square feet)
Studio/efficiency apartments	500
One-bedroom apartments	850
Two-bedroom apartments	1,000
For each additional bedroom	+150

- L. Dwelling unit storage space. Each dwelling unit shall be provided with a completely enclosed, covered storage space consisting of a minimum of 350 cubic feet. Such storage area shall be exclusive of normal interior closets and may either be contained within the dwelling unit or building, attached thereto or located separately.
- M. Dwelling unit private open space. All dwelling units shall have a private open space area as follows:
- (1) Each dwelling unit located on a ground floor level shall be provided with a private rear yard consisting of a minimum area of 200 square feet. Such private rear yard shall be enclosed by means of a six-foot-high wooden fence or screen, brick wall, evergreen hedge or some combination of the same, which shall provide adequate screening from all other neighboring dwelling units and private rear yards, walkways, common recreational facilities, parking lots, driveways and streets. A minimum of one low-wattage incandescent light fixture shall be provided to light such area.
 - (2) Each dwelling unit located above the ground floor level shall be provided with a private outdoor patio or balcony area consisting of a minimum of 64 square feet. The minimum length of any individual dimension of such area shall not be less than six feet. This area shall be located or recessed inside the outer wall plane of the building on which it is located. A minimum of one

low wattage incandescent light fixture shall be provided to light such area.

- N. Ground floor elevations. The ground floor level of each dwelling unit shall be elevated above grade, except for dwelling units designed for senior citizens or the handicapped. The minimum height of such elevation shall be 20 inches at the front entrance. No dwelling unit shall be located below grade, whether fully or partially.
- O. Common open space. Active and passive recreational areas and other public and/or semipublic open space, such as courtyards, plazas, alleys and pedestrian walkways, shall be designed to promote use and enjoyment by residents of the development. Such areas shall be designed to utilize natural features of the site, including existing vegetation, where possible, and shall be extensively landscaped with a wide variety of plant materials. Where such areas are enclosed by buildings, such as courtyards and plazas, they shall be designed to be architecturally formal and geometrically logical; however, this shall not preclude the use of curvilinear designs for walkways or landscaped areas.
- P. Yard area definition. The front and side yards of a dwelling unit or building fronting on a street, driveway or parking lot shall be defined with a three-foot-high wooden picket type fence, wrought iron fence, brick wall, evergreen hedge or some combination of the above.
- Q. Pedestrian walkway materials. Formal walkways shall be constructed of brick, slate, cobblestone, colored/textured concrete or some combination of the above materials that is architecturally compatible with the style, materials, colors and details of the buildings. Informal paths may be constructed of the above materials or crushed granite or shale stone.
- R. Curbing material. All on-site curbing for driveways, access aisles and parking lots shall be constructed of Belgian block granite to specifications approved by the Borough Engineer.
- S. Type of lighting source. Low-wattage incandescent lamps shall be used along all sidewalks, walkways, courtyards and plazas and on any building or unit. Parking lot lighting shall be incandescent or another light source compatible with the same.
- T. Cable television utility. All dwelling units shall be provided with such facilities for potential linkage to the Borough's cable television utility.
- U. Maintenance equipment storage. An accessory building shall be provided for the storage of maintenance equipment, if such is to be stored on-site. Such accessory building shall be architecturally compatible with the style, materials, colors and details of the principal buildings.
- V. Common entrances. Apartment buildings with common entrances, lobbies, elevators and/or stairwells shall be designed to promote safety and security of residents and visitors using such areas.

ARTICLE 29
Urban Design Guidelines

§ 110-133. Applicability.

This article shall apply to all site plan applications.

§ 110-134. Design guidelines.

The following guidelines shall be used to prepare and review the physical, visual and spatial characteristics and overall appearance of a development plan in relationship to the existing streetscape, neighborhood and district in which such is located and to the Borough generally:

- A. Consideration of context. An individual development plan shall not be considered on its own, but with sufficient regard to the existing streetscape neighborhood and district in which it is located and to the Borough generally. Extreme consideration and respect shall be given to abutting and nearby properties and the existing buildings, site improvements and open spaces located thereon and in adjacent portions of the public right-of-way.
- B. Urban design elements. The physical, visual and spatial characteristics of a streetscape, neighborhood, district and the Borough generally shall be established and reinforced through the consistent use of compatible urban design elements. Such urban design elements shall relate the physical, visual and spatial characteristics of an individual development to other existing and planned developments in a harmonious manner, resulting in a coherent overall development pattern for an entire streetscape, neighborhood and district and the Borough generally. A development plan shall relate to and reinforce urban design elements where such exist, as established by an urban design elements inventory conducted of the streetscape, neighborhood and district in which such development is located. If a site is located in a streetscape, neighborhood or district where existing design elements are weak or nonexistent, the development plan shall establish design elements that relate to the community generally, based on an urban design inventory of the Borough. In the case of an addition or renovation to an existing building, the development plan shall also relate to and reinforce design elements of such existing building. Urban design elements to be addressed in a development plan shall include but not be limited to the following:
 - (1) Scale, as defined by the height of a building and its component elements.
 - (2) Massing, as defined by the shape, dimensions and volume of the solid form of a building.
 - (3) Proportion, as defined by comparing the width of a building wall to the height of the same.
 - (4) Rhythm of solid to voids, as defined by comparing the solid portions of a building wall to the voids formed by door and window openings and recesses in the same.
 - (5) Horizontal courses, as defined by the base course, middle wall section, belt courses and cornice of a building.
 - (6) Projections and recesses, as defined by the projections formed by such elements as bay windows, dormers, cornices and eaves from the building wall surface and the indentations formed by such elements as porch and window recesses from the same.
 - (7) Roof form, as defined by the type, shape and pitch of the roof of a building.
 - (8) First floor elevation, as defined by the height of the first floor level of a building from the ground

and any elements, such as stairs, that facilitate transition between levels.

- (9) Entrance treatment, as defined by the placement and articulation of the entrance to a building.
- (10) Street orientation, as defined by the visual and functional orientation of the front facade and entrance of a building to the street and sidewalk.
- (11) Footprint, as defined by the location and coverage of the lot by the building area of the ground floor.
- (12) Setbacks, as defined by the dimensions a building is set back from front, side and rear lot lines.
- (13) Yard areas, as defined by the areas of open space remaining between front, side and rear lot lines and a building.
- (14) Architectural style, materials, colors and details.
- (15) Signage.
- (16) Shade trees.
- (17) Lampposts and other lighting fixtures.
- (18) Landscaping.
- (19) Walls and fencing.
- (20) Sidewalks and walkways.
- (21) Benches, trash receptacles and other street or site furniture.

ARTICLE 29A

Mixed-Use Neighborhoods Design Standards**[Added 7-16-2007 by Ord. No. 2007-4]****§ 110-134.1. Mixed-use neighborhood in the D-1 Downtown Development District.**

- A. Parking for nonresidential uses shall be subject to § 110-154. Parking for residential uses shall be subject to the Residential Site Improvement Standards at N.J.A.C. 5:21. The Planning Board shall entertain reductions in the required number of both nonresidential and residential parking spaces if the applicant can demonstrate through expert testimony and technical documents that the proposed application would so warrant, as a result of its mixed-use nature, parking demands of specific users, proximity to transit options, specific housing demographics, a parking management plan or other special reasons.
- B. Business and service uses included within a mixed-use neighborhood shall be designed to be integrated with and/or complement Main Street and other existing commercial areas within the B-1 and D-1 Districts. Integration of business and service uses shall be accomplished by proximity of location, site orientation, scale and massing along the streetscape, architectural style, color, materials and details, pedestrian circulation linkages, vehicular circulation and parking, lighting, landscaping and street furniture.
- C. Off-tract improvements may be required of the developer as part of an overall development integration plan, including but not limited to vehicular and pedestrian circulation elements and linkages and stormwater management systems.
- D. Any commuter parking areas shall be situated so that commuter pedestrian linkages to the train station shall be integrated with Main Street and other existing commercial areas within the B-1 and D-1 Districts.
- E. Sidewalks and walkways that link all uses with one another and with business areas within the tract and with Main Street and other commercial areas shall be integrated into the development plan. Open space areas shall be provided consisting of walkways and elements such as courtyards, alleys, squares, plazas, or similar-type improvements. Sidewalks, walkways and open space areas shall incorporate pedestrian amenities, such as gathering/sitting areas, benches, shade trees, landscaping, accent lighting and other street furniture.
- F. Frontages along Middlesex Avenue, Lake Avenue, New Street, Center Street and Pearl Street shall include Main Street style streetlamps at intervals of spacing consistent with the existing streetlamps on Main Street.
- G. Minimum front yard setbacks: five feet, except along Central Avenue, where no minimum setback is required. Buildings shall be set back a minimum of 15 feet from the edge of the curb of the street upon which such building fronts, except along Central Avenue, where the setback from the edge of the curb shall be 10 feet. Steps leading to a first floor, balconies, awnings and landscape planters shall be allowed to project within the right-of-way.
- H. Buildings shall be located to front towards and relate to a public street, both functionally and visually. In locations where on-street parking does not exist, the entry to a use or building may be placed in a location other than facing the street at the discretion of the Planning Board.
- I. Buildings located in the interior of a site may be permitted to front upon interior parking lots if the parking lot is designed as a parking plaza. A parking plaza shall be spatially enclosed by buildings

and designed with an emphasis on visual and functional pedestrian elements such as colored textured paving, pedestrian-scale lighting, shade trees, landscaping and rich streetscape treatments and details.

- J. Building elements and appurtenances such as chimneys, spires, cupolas, belfries, towers or flagpoles, designed exclusively for ornamental purposes, as well as functional elements such as elevator housing, roof-mounted HVAC systems, and roof access stairwells may exceed the height requirements by up to 10 feet.
- K. The predominant building material for buildings facing Middlesex Avenue, Lake Avenue and New Street shall be brick in traditional colors consistent and complimentary with that found on Main Street.
- L. Drive-in banks shall comply with the following standards:
 - (1) A total of three vehicle-stacking spaces shall be provided for each drive-in lane.
 - (2) A bypass lane shall be provided to allow vehicles to alternatively exit the drive-in stacking area without having to pass the drive-in facility or window.
 - (3) All drive-in stacking lanes shall have adequate directional signage and striping to ensure safe and efficient operation of the facility.
 - (4) Internal circulation shall be arranged such that stacked vehicles in drive-in lanes shall not interfere with general vehicular circulation or parking or pedestrian circulation on the site. Additionally, vehicles exiting from the parking lot shall not use any drive-in lane as a means of egress.
 - (5) Principal buildings and pedestrian walkways shall have the primary visual orientation to the street or a parking plaza and drive-in facilities shall maintain a secondary visual orientation through location, setbacks, driveway, width and architectural design treatments.
 - (6) Where possible, drive-in lanes shall exit onto side streets or parking lots, in which case setbacks may be reduced if a secondary visual orientation is appropriately achieved for the drive-in facility.
 - (7) The drive-in facility shall be on the same property as the primary bank use, with walk-in service and teller windows having not less than 1,500 square feet.
 - (8) The applicant shall demonstrate by competent professional evidence that vehicular ingress and egress and internal traffic circulation shall be designed in accordance with engineering standards to be safe and that no unreasonably adverse impact on adjacent thoroughfares or intersections will result from development of the site as proposed.
- M. Height of principal buildings fronting on Middlesex Avenue, Lake Avenue, New Street, Center Street or Pearl Street shall not exceed three stories and 55 feet. Height of principal buildings or portions of such buildings set back a minimum of 70 feet from the edge of the curb of the above streets or fronting on Central Avenue shall not exceed four stories and 60 feet in height. Any four-story building shall be designed using some combination of massing, scale, roof type, cornice, projections, recesses, materials, colors and other architectural treatments to minimize the visual impact of the height of such building. For the purposes of this section, height shall be measured from finished grade.

ARTICLE 29B

Sports and Athletic Facilities in the G-1 Gateway Development District Design Standards**[Added 11-17-2008 by Ord. No. 2008-17]****§ 110-134.2. Sports and athletic facilities in the G-1 Gateway Development District.**

- A. The site plan for such facility shall provide an overlay plan which illustrates that no proposed permanent building or structure shall be placed in a location that would preclude or reduce the likelihood for the dedication or acquisition of rights-of-way for interchange improvements at the intersection of Route 27 and Route 287, as shown on conceptual studies prepared by the Borough or the New Jersey Department of Transportation.
- B. The height of seasonal sports dome structures may be permitted up to a maximum of 45 feet.
- C. The lighting associated with a seasonal sports dome structure shall be designed in order to limit the impact of such lighting on adjacent and nearby residential properties as well as sky glow.
- D. The lighting of any outdoor sports field or court shall be turned off no later than 10:30 p.m. and designed in order to limit the impact of such lighting on adjacent and nearby residential properties as well as sky glow.
- E. Not more than 24 video games and/or pinball machines shall be located in any single establishment as an accessory use to a principal use.
- F. Food and beverages may be prepared and/or dispensed as an accessory use to a principal use, provided that the area devoted to the storage, preparation, service and consumption shall not exceed 25% of the gross floor area of the establishment contained within any permanent building and such use complies with all other Borough ordinances.
- G. Parking areas shall be provided for bicycles in addition to that parking required for automobiles in § 110-154.
- H. Off-tract improvements may be required of the developer, including but not limited to vehicular, pedestrian and bicycle circulation improvements.

ARTICLE 29C

Downtown Gateway Overlay District Design Standards**[Added 8-18-2014 by Ord. No. 2014-12]****§ 110-134.3. Downtown Gateway Overlay District in the B-3 Office Business District, B-4 Restricted Business District and D-1 Downtown Development District.**

- A. Maximum building coverage: 70% of the tract.
- B. Maximum impervious coverage: 90% of the tract.
- C. Business and service uses included within a Downtown Gateway Overlay District shall be designed to be integrated with and/or complement other existing commercial areas within the B-3, B-4 and D-1 Districts. Integration of business and service uses shall be accomplished by proximity of location, site orientation, scale and massing along the streetscape, architectural style, color, materials and details, pedestrian circulation linkages, vehicular circulation and parking, lighting, landscaping and street furniture.
- D. Height of principal buildings fronting on Middlesex Avenue, Lake Avenue and Central Avenue shall be a minimum height of 20 feet for one-story buildings and a maximum height of three stories and 45 feet. Height of principal buildings or portions of such buildings set back a minimum of 50 feet from the edge of curb of the above streets shall not exceed four stories and 50 feet in height. Any four-story building shall be designed using some combination of massing, scale, roof type, cornice, projections, recesses, materials, colors and other architectural treatments to minimize the visual impact of the height of such building. For the purposes of this section, height shall be measured from finished grade.
- E. Building elements and appurtenances such as cornices, chimneys, spires, cupolas, belfries, towers or flagpoles, designed exclusively for ornamental purposes, as well as functional elements such as elevator housing, roof-mounted HVAC systems, solar panels and roof access stairwells may exceed the height requirements by up to 15 feet.
- F. Minimum front yard setbacks: five feet, except along Central Avenue, where no minimum setback is required. Buildings shall be set back a minimum of 15 feet from the edge of curb of the street upon which such building fronts, except along Central Avenue and other internal streets, where the setback from the edge of curb shall be 10 feet. Steps leading to a first floor, balconies, awnings and landscape planters shall be allowed to project within the right-of-way.
- G. Minimum side and rear yard setbacks: 10 feet for any residential use and five feet for all other uses. Along a property line adjacent to a railroad right-of-way or utility-owned property, the minimum side or rear setback may be reduced to zero feet.
- H. Buildings shall be located to front towards and relate to a public street, both functionally and visually. In locations where on-street parking does not exist, the entry to a use or building may be placed in a location other than facing the street at the discretion of the Planning Board. All buildings facing Middlesex Avenue, Lake Avenue and Central Avenue shall be designed with facades that engage and activate the streetscape and shall not appear to turn the backside of the building to the street. Design techniques that may be used to engage and activate the street include multisided pavilion-style buildings, wrap-around storefronts, large display windows to create interest along walls, overhanging awnings and canopies, front entries visible from the street, outdoor display spaces and cafe dining terraces lining the streetscape.

- I. A supermarket may be permitted to have parking located between the building and the street. Buildings located in the interior of a site may be permitted to front upon parking lots. In such instances, the parking lot shall be designed to incorporate visual and functional pedestrian elements such as pedestrian-scale signage and lighting, shade trees and landscaping to soften the parking area, and more detailed streetscape treatments along the frontage of such buildings.
- J. The predominant building material for buildings facing Middlesex Avenue, Lake Avenue and Central Avenue shall be brick in traditional colors consistent and complementary to those found on Main Street.
- K. Pedestrian gathering spaces shall be provided consisting of walkways and special elements such as courtyards, outdoor cafes, plazas, or similar type improvements. Sidewalks and pedestrian gathering spaces shall incorporate pedestrian amenities, such as movable seating and chairs, benches, bicycle racks, shade trees, landscaping, accent lighting and other street furniture.
- L. Frontages along Middlesex Avenue, Lake Avenue and Central Avenue shall include Main Street style street lamps at intervals of spacing consistent with the existing street lamps on Main Street.
- M. Freestanding monument signage shall be visually compatible with the design characteristics of a town center by taking the form of unique monuments or kiosk-style structures, while strictly avoiding typical highway pylon or shopping center directory sign boards.
- N. Off-tract improvements may be required of the developer as part of an overall development integration plan, including but not limited to vehicular, pedestrian and bicycle circulation improvements, including channelization of travel lanes along Middlesex Avenue with landscaped medians and pedestrian shelter islands, textured crosswalks, wide sidewalks designed to accommodate safe pedestrian and bicycle linkage between the downtown and the Middlesex Greenway, street connections and other improvements identified in the circulation plan element of the Master Plan or that advance the Borough's complete streets policy, and stormwater management systems.
- O. Parking for nonresidential uses shall be subject to § 110-154. Parking for residential uses shall be subject to the Residential Site Improvement Standards, N.J.A.C. 5:21.⁹⁷ The Planning Board shall entertain reductions in the required number of both nonresidential and residential parking spaces if the applicant can demonstrate through expert testimony and technical documents that the proposed application would so warrant, as a result of its mixed-use nature, parking demands of specific users, proximity to transit options, specific housing demographics, a parking management plan or other special reasons.
- P. Drive-in banks shall comply with the following standards:
 - (1) A total of three vehicle-stacking spaces shall be provided for each drive-in lane.
 - (2) A bypass lane shall be provided to allow vehicles to alternatively exit the drive-in stacking area without having to pass the drive-in facility or window.
 - (3) All drive-in stacking lanes shall have adequate directional signage and striping to ensure safe and efficient operation of the facility.
 - (4) Internal circulation shall be arranged such that stacked vehicles in drive-in lanes shall not interfere with general vehicular circulation or parking or pedestrian circulation on the site.

97. Editor's Note: See N.J.S.A. 40:55D-40.4.

Additionally, vehicles exiting from the parking lot shall not use any drive-in lane as a means of egress.

- (5) Principal buildings and pedestrian walkways shall have the primary visual orientation to the street or a parking plaza, and drive-in facilities shall maintain a secondary visual orientation through location, setbacks, driveway, width and architectural design treatments.
- (6) Where possible, drive-in lanes shall exit onto side streets or parking lots, in which case setbacks may be reduced if a secondary visual orientation is appropriately achieved for the drive-in facility.
- (7) The drive-in facility shall be on the same property as the primary bank use, with walk-in service and teller windows having not less than 1,500 square feet.
- (8) The applicant shall demonstrate by competent professional evidence that vehicular ingress and egress and internal traffic circulation shall be designed in accordance with engineering standards to be safe and that no unreasonably adverse impact on adjacent thoroughfares or intersections will result from development of the site as proposed.

ARTICLE 30
Architectural Design Standards

§ 110-135. Applicability.

This article shall apply to all site plan applications.

§ 110-136. Design standards.

The following standards shall be used to prepare and review the architectural design of all buildings and structures in a development plan. Where a development plan involves an existing building or a site upon which an existing building is located, the existing building shall be repaired, renovated and restored to comply with this article.

- A. **Massing.** A building shall not be permitted to have a total measurement greater than 150 feet in length along any wall, roof or footprint plane. Building wall offsets, including both projections and recesses, shall be provided along any building wall measuring greater than 50 feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall. The total measurement of such offsets shall equal a minimum of 10% of the building wall length. The maximum spacing between such offsets shall be 40 feet. The minimum projection or depth of any individual offset shall not be less than two feet. Roofline offsets shall be provided along any roof measuring longer than 75 feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long roof.
- B. **Horizontal courses.** All visibly exposed sides of a building shall have an articulated base course and cornice. The base course shall be traditionally proportionate to the overall horizontal and vertical dimensions of a facade and shall align with either the kickplate or sill level of the first story. The cornice shall terminate the top of a building wall, may project out horizontally from the vertical building wall plane and shall be ornamented with moldings, brackets and other details that shall be appropriate to the architectural style of a building. The middle section of a building may be horizontally divided at floor, lintel or sill levels with belt courses. Building courses shall be considered an integral part of the design of a building and shall be architecturally compatible with the style, materials, colors and details of the building.
- C. **Continuity of treatment.** The architectural treatment of a facade or roof shall be completely continued around all visibly exposed sides of a building. All sides of a building shall be architecturally designed so as to be consistent with regard to style, materials, colors and details.
- D. **Roof.** The type, shape, pitch, texture and color of a roof shall be considered as an integral part of the design of a building and shall be architecturally compatible with the style, materials, colors and details of such building. The minimum permitted roof pitch shall be eight on 12, and all gables on a building shall be of the same pitch. A flat roof may be permitted on a building of a minimum of two stories in height, provided that all visibly exposed walls shall have an articulated cornice that projects out horizontally from the vertical building wall plane. A mansard roof may be permitted, but only if such is located on the third story of a building, completely and integrally enclosing such story. Flat or mansard roofs shall be prohibited on all one-story buildings. Architectural embellishments that add visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas, clock towers and such similar elements shall be permitted, provided that such are architecturally compatible with the style, materials, colors and details of the building.

- E. Windows. Fenestration shall be architecturally compatible with the style, materials, colors and details of a building. Windows shall be vertically proportioned wherever possible. The location of windows on the upper stories of a building shall be vertically aligned with the location of windows and doors on the ground level of such building. Permitted retail and personal service business uses located in business districts may have large pane display windows on the ground level, provided that such window shall be framed by the surrounding wall and shall not comprise greater than 75% of the total ground level facade area of such building. All other windows shall be double-hung or casement types. A building designed of an architectural style that normally has windows with muntins or divided lights shall utilize them. Such muntin or divided light grids may be the snap-on type, if fitted on the exterior of the window or between the glazing of the window units.
- F. Entrances. All entrances to a building shall be defined and articulated by utilizing such elements as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, balustrades and other such elements, where appropriate. Any such element utilized shall be architecturally compatible with the style, materials, colors and details of such building.
- G. Physical plant. All air-conditioning units, HVAC systems, exhaust pipes or stacks and elevator housing shall be shielded from view for a minimum distance of 500 feet from the site. Such shielding shall be accomplished by utilizing the walls or roof of the building or a penthouse-type screening device that shall be designed to be architecturally compatible with the style, materials, colors and details of such building.
- H. Materials, colors and details. All materials, colors and details used on the exterior of a building shall be architecturally compatible with the style of such building, as well as with each other. A building designed of an architectural style that normally includes certain integral materials, colors and/or details shall have such incorporated into the design of such building.
- I. Shutters. A building designed of an architectural style that normally includes shutters shall provide such on all windows on the front facade. If such building is located on a corner lot, shutters shall be provided on all windows of all facades fronting on a street.
- J. Lighting. Light fixtures attached to the exterior of a building shall be designed to be architecturally compatible with the style, materials, colors and details of such building and other lighting fixtures used on the site. Consideration shall also be given to the type of light source utilized and the light quality such produces. The type of light source used on buildings, signs, parking areas, pedestrian walkways and other areas of a site shall be the same or compatible. The use of low-pressure sodium or mercury vapor lighting either attached to buildings or to light the exterior of buildings shall be prohibited.
- K. Signage. Signs affixed to the exterior of a building shall be architecturally compatible with the style, materials, colors and details of the building and other signs used on the site. All signage affixed to a building shall conform to Article 48.
- L. Awnings and canopies. The ground level of a building in a business district shall have awnings or canopies, where appropriate, to complement the architectural style of a building. Awnings may also be used on the upper levels of a building, where appropriate. The design of awnings shall be architecturally compatible with the style, materials, colors and details of such building. All signage on awnings or canopies shall conform to Article 48 of this chapter.
- M. Multiple uses. A building with multiple storefronts or other multiple uses, no matter whether such uses are the same type of use or located on the same floor level, shall be unified through the use of architecturally compatible styles, materials, colors, details, awnings, signage, lighting fixtures and

other design elements for all such storefronts or uses.

- N. Corner buildings. A building on a corner lot shall be considered a more significant structure from an urban design standpoint since such building has at least two front facades visibly exposed to the street. Such building may be designed to have additional height and architectural embellishments relating to its location on a corner lot, if deemed appropriate by the Board.
- O. Multiple buildings. A development plan that contains more than one building or structure shall be unified through the use of architecturally compatible styles, materials, colors, details, awnings, signage, lighting fixtures and other design elements for all such buildings or structures.

§ 110-136.1. (Reserved)⁹⁸

§ 110-137. Additional standards for downtown development.

The following standards shall be used to guide and determine the specific exterior materials and colors of all buildings and structures in a development plan located in the B-1 Central Business District or D-1 Downtown Development District:

- A. Materials. Exterior building materials shall consist of the following:
 - (1) Walls shall consist of brick, stone, cast stone or other smooth finished surface masonry and wood, aluminum or vinyl horizontal clapboard.
 - (2) Roofs shall consist of asphalt or cedar shingles, tile, slate, synthetic slate (mineral fiber reinforced roofing shingles) and standing or batten seam metal.
 - (3) Door trim shall consist of wood, stone, steel, anodized aluminum or fiberglass.
 - (4) Window trim shall consist of wood, stone, steel, anodized aluminum, fiberglass or vinyl clad wood.
 - (5) Cornices shall consist of wood, stone or fiberglass.
 - (6) Shutters shall consist of wood or vinyl with woodgrain imprint.
 - (7) Awnings shall consist of canvas, acrylic or vinyl.
 - (8) Gutters, leaders and flashing shall consist of galvanized steel, copper, colored anodized aluminum or terne coated stainless steel.
- B. Prohibited materials. The use of bare aluminum or other bare metal materials or exposed concrete block as exterior building materials shall be prohibited.
- C. Colors. All exterior portions of a building and all materials used on such shall conform to the approved Metuchen Downtown Colors. Colors not contained on the Metuchen Downtown Colors list or building materials that are not available in colors specifically contained on the Metuchen Downtown Colors list may be permitted if such are proven to be substantially consistent and compatible with the Metuchen Downtown Colors.

98. Editor's Note: Former § 110-136.1, Applicability and design standards for single-family and two-family dwellings, added 12-15-2003 by Ord. No. 2003-19, was repealed 9-3-2013 by Ord. No. 2013-12.

ARTICLE 31
Street Design Standards

§ 110-138. Applicability.

This article shall apply to all applications for development.

§ 110-139. Design standards.

The following standards shall be used to prepare and review any development plan that involves the construction of a new street or repair of an existing street:

- A. Lot access. All lots shall have frontage on and driveway access to a public street, except that lots in PURDs may have access from a private street, if specifically approved by the Board, pursuant to § 110-141 below. In no instance shall access to a nonresidential use be permitted through or across a lot located in a residential district.
- B. Construction and repair specifications. All streets shall meet the construction specifications as set forth in applicable Borough ordinances or as approved by the Borough Engineer. This shall also apply to recommendations by the Borough Engineer regarding the maintenance, repair or upgrading of existing streets located in that portion of the public right-of-way that directly abuts the lot to be developed.
- C. Street layout. Streets shall be designed to provide for motor vehicle traffic circulation that is safe, controllable, efficient and convenient. The layout of streets shall be planned to continue the street system pattern of the surrounding neighborhood and shall provide for the extension of existing streets, where applicable. Streets shall be located so as to discourage through traffic within residential neighborhoods. The location of streets shall be such as to provide for the extension of existing streets, where applicable.
- D. Culs-de-sac. Where one end of a street terminates in a dead-end, a cul-de-sac shall be provided. The maximum length of a street ending in a cul-de-sac shall be 600 feet from the nearest intersection. A vehicular turnaround shall be provided at the terminus of the cul-de-sac with a minimum radius of 40 feet at the curbline. For public streets, an additional ten-foot-wide utility and planting strip shall be provided around the entire cul-de-sac for a minimum total right-of-way radius of 50 feet.
- E. Street names and address numbers. A street name shall not conflict with or be mistaken for an existing street name in the Borough unless the street is a logical extension of an existing street. All street names, whether for a public or private street, shall be approved by resolution of the Borough Council. The street address numbering system shall be as approved by the Borough Clerk.
- F. Street name signs. Street name signs shall be placed at all street intersections within or abutting the development. The type, style and location of such signs shall be as approved by the Borough Engineer.

§ 110-140. Public streets.

All public streets shall be located in a public right-of-way dedicated to the Borough having a minimum width of 50 feet, unless another width is specifically recommended in an adopted element of the Master Plan or on the adopted Official Map or Tax Map of the Borough. Developments that adjoin or include existing public streets which do not conform to the above required right-of-way widths shall dedicate the required additional width along one or both sides of said street. If development is proposed along one side

of the street only, then 1/2 of the required extra width shall be dedicated. The approval of any map or plat delineating streets by the governing body of the Borough shall in no way be construed as an acceptance of any street indicated thereon.

§ 110-141. Private streets.

Where approved as part of a PURD, private streets may be permitted by the Board with the following conditions:

- A. Design standards. The design of a private street shall meet all other applicable design standards of this article for a public street.
- B. Access control. A development plan involving access to a private street shall not be approved unless the control and disposal of said land controlling access has been placed with the Borough or unless a protective deed restriction has been approved by the Board.
- C. Maintenance. The applicant shall establish, prior to final approval or as a condition thereof, an entity responsible for maintaining such private street for which the Board shall require a developer's agreement. This agreement shall include the Borough's right to enter the premises to make repairs and/or conduct other necessary maintenance. The cost for such repairs and/or maintenance by the Borough shall be paid by the property owner(s) and shall include all legal, administrative, clerical, planning, engineering, repair and maintenance costs associated with such work.

ARTICLE 32
Intersection Design Standards

§ 110-142. Applicability.

This article shall apply to all applications for development.

§ 110-143. Design standards.

The following standards shall be used to prepare and review any development plan that involves the construction of a new intersection or development of a lot located at an existing intersection:

- A. Clear sight triangles. All street intersections shall be designed to reserve clear sight triangles including areas both within the public right-of-way and on the tract. Within such areas, no vision-obstructing object with a height between 2 1/2 feet and eight feet above the elevation of the intersecting streets shall be permitted. For the purposes of this article, utility poles, lampposts, shade trees, street name signs and traffic signs shall not be considered vision-obstructing objects. However, shade trees shall be restricted pursuant to § 110-180C within such areas. Clear sight triangles shall be designed in accordance with the following standards:

- (1) A motor vehicle driver on the minor (controlled) street located 10 feet from the intersecting right-of-way line of the major (uncontrolled) street shall be able to see approaching traffic on the intersecting street as specified below. The minimum required clear sight distance shall be measured along the center line of the uncontrolled or major street based on the posted speed limit of such street as follows:

Posted Speed Limit (mph)	Minimum Required Clear Sight Distance (feet)
25	250
30	300
35	350
40	400
45	450

- (2) An easement controlling structures and landscaping shall be established in a form acceptable to the Board Attorney for all portions of the clear sight triangle not located in a public right-of-way.
- B. Intersection separation. All intersections shall be separated from adjacent intersections by the minimum distances set forth below. The minimum distance shall be measured from center line to center line along the common intersecting street and shall be dependent upon the type of intersection and the posted speed limit of the roadway between the adjacent intersections. Adjacent "T" intersections with approaches from opposite directions shall be considered full intersections for the purpose of determining a minimum separation distance pursuant to this subsection.

Posted Speed Limit (mph)	Full Intersection (feet)	"T" Intersection (feet)
25	300	200
30	325	225
35	350	250
40	400	275
45	450	300

- C. Traffic flow lanes. To facilitate traffic flow at major intersections, turning lanes and acceleration and deceleration lanes may be required by the Board.

ARTICLE 33
Curb Design Standards

§ 110-144. Applicability.

This article shall apply to all applications for development.

§ 110-145. Design standards.

The following standards shall be used to prepare and review any development plan that involves the construction of new curbs or repair of existing curbs:

- A. Location. Curbs shall be designed to define the sides of streets, driveways, parking lots and loading areas.
- B. Construction and repair specifications. All curbs shall meet the construction specifications as set forth in applicable Borough ordinances or as approved by the Borough Engineer. This shall also apply to recommendations by the Borough Engineer regarding the maintenance, repair or upgrading of existing curbs located in that portion of the public right-of-way that directly abuts the tract to be developed.
- C. Drainage. Curbs shall be designed to direct surface water runoff along, on and/or across paved surfaces to drainage facilities.
- D. Handicapped ramps. Depressed curb ramps for the handicapped shall be installed at all locations where sidewalks, pedestrian crosswalks or walkways intersect any street, driveway or parking lot curb and shall be designed in accordance with the applicable laws and regulations of the State of New Jersey.
- E. Planting strips. The area located between curbs and sidewalks or walkways shall be either planted with grass or another type of ground cover plant material. Planting strips located in the public right-of-way may be paved with bricks or other similar type decorative paving materials as specified by the Borough Engineer. In no instance, however, shall a planting strip be permitted to be covered with asphalt or loose stones of any variety.

ARTICLE 34
Sidewalk and Walkway Design Standards

§ 110-146. Applicability.

This article shall apply to all applications for development.

§ 110-147. Design standards. [Amended 9-3-2013 by Ord. No. 2013-12; 2-17-2015 by Ord. No. 2015-03]

The following standards shall be used to prepare and review any development plan that involves the construction of a new public sidewalk or private walkway or repair of an existing public sidewalk or private walkway:

- A. Lot access. All lots shall have private walkway access to a public sidewalk in the right-of-way if such is provided. Such access shall be designed for the safety, control, efficient movement, convenience and encouragement of pedestrian traffic into and out of the site and to promote pedestrian circulation generally within the Borough.
- B. Construction and repair specifications. All sidewalks and walkways shall meet the construction specifications as set forth in applicable Borough ordinances or as approved by the Borough Engineer. This shall also apply to recommendations by the Borough Engineer regarding the maintenance, repair or upgrading of existing sidewalks located in that portion of the public right-of-way that directly abuts the tract to be developed.
- C. Materials. The Board may waive the paving material specifications required by Subsection B above if the applicant can demonstrate, in addition to the requirements of § 110-126, that the substitute paving material(s) will be architecturally compatible with the style, materials, colors and details of buildings and other structures on the site and adjacent properties and will create a more attractive development generally. In no instance, however, shall a sidewalk located in a public right-of-way be permitted to be constructed of asphalt.
- D. In the B-1 and D-1 Districts, the material used for sidewalks shall be white concrete constructed in approximately ten-foot sections. The sidewalk sections shall be separated by a band of four-inch by eight-inch red clay brick spaced approximately 10 feet eight inches on center. The brick band shall be perpendicular to the curb with bricks laid parallel with the curb. The concrete shall be scored into four smaller symmetric areas. Sidewalk improvements, along the right-of-way of any property shall be constructed to match improvements on adjacent portions of the right-of-way that meet this design standard. A plan shall be submitted to and approved by the Borough Zoning Officer prior to the issuance of a permit for construction. Construction permits shall be obtained from the Middlesex County Road Department for property located on a county road and by the Borough Zoning Officer for property located on a municipal road.⁹⁹

§ 110-148. Public sidewalks. [Amended 9-3-2013 by Ord. No. 2013-12; 9-14-2020 by Ord. No. 2020-15]

Sidewalks shall be provided in the right-of-way along all public streets. The location and width of sidewalks shall be consistent with the location and width of existing sidewalks adjacent to or near the site to be developed but in no case shall be less than four feet in width. Where placement of sidewalks in

99. Editor's Note: Former Subsection E, regarding an alternative to sidewalk construction, as amended, and which immediately followed this subsection, was repealed 9-14-2020 by Ord. No. 2020-15.

the right-of-way would cause injury to or removal of mature trees in good health, the approving authority may require placement of the sidewalk entirely or partially on the property which is the subject of the application, in which case the applicant shall make, execute and record an easement over the sidewalk for the benefit of the public to travel over same. In the event that any applicant may request and be granted an exception pursuant to N.J.S.A. 40:55D-51 by the Planning Board or Board of Adjustment or, in the case of an application involving a single- or two-family dwelling, a variance pursuant to N.J.S.A. 40:55D-70.c by the Board of Adjustment, the applicant shall, as an alternative to sidewalk construction, pay to the Borough an amount equal to 150% of the estimated cost of the sidewalk, as determined by the Board Engineer, which amount shall be reserved for sidewalk installation or replacement in the Borough.

§ 110-149. Private walkways. [Amended 2-17-2015 by Ord. No. 2015-03]

Walkways shall be located on a site to facilitate pedestrian access between the public sidewalk, buildings, parking lots and other facilities and to provide for pedestrian circulation generally within a site. Where walkways abut the ends of parking spaces and wheel stops are not provided, the minimum width of such walkways shall be a minimum of five feet in order to provide for the front ends of vehicles to overhang onto such walkways with appropriate space remaining for the passage of pedestrians. For residential properties, in the case where there is no public sidewalk located or to be provided at the front of the property, such may provide access from the driveway.

ARTICLE 35
Driveway Design Standards

§ 110-150. Applicability.

This article shall apply to all applications for development.

§ 110-151. Design standards. [Amended 9-3-2013 by Ord. No. 2013-12]

The following standards shall be used to prepare and review any development plan that involves the construction of a new driveway or the expansion or repair of an existing driveway:

- A. Lot access. Every use shall have driveway access to a street. Such access shall be designed for the safety, control, efficient movement and convenience of motor vehicle traffic accessing the site, including service and emergency vehicles, and to promote safe, efficient and convenient traffic circulation generally within the Borough.
- B. Location. Driveways shall be located along the street line of a lot as follows:
 - (1) A driveway on a corner lot shall be set back a minimum of 40 feet from the intersecting lot lines at the corner.
 - (2) Driveways shall comply with the width requirements for buffer areas, pursuant to Article 44 of this chapter.
- C. Construction specifications. Driveways shall be constructed with a minimum of four inches of compacted aggregate subbase material and a minimum of three inches of hot-mix asphalt. Hot-mix asphalt shall be installed in two lifts, compacted between lifts to achieve the minimum three-inch thickness. Alternate driveway construction material and methods shall be approved by the Borough Engineer prior to construction.
- D. Width. The width of driveways shall be based on the following:

Land Use Type	1-Way Traffic		2-Way Traffic	
	Minimum Width (feet)	Maximum Width (feet)	Minimum Width (feet)	Maximum Width (feet)
Single- and 2-family dwellings	9	18	9	18
Townhouses and apartments	15	18	18	22
All other residential	10	15	18	20
Nonresidential uses	15	18	20	24
Warehouse and light industrial uses	18	22	24	35

- E. Grading. Driveway grades shall not exceed 10% at any point along the entire length of the driveway.
- F. Aprons. Driveway aprons shall be designed to permit access to any driveway from a street. Such apron shall be constructed between the curb or edge of street pavement and the sidewalk or, in the

absence of sidewalk, for a distance of four feet back from the curb or edge of pavement. The construction specifications of driveway aprons shall be pursuant to applicable Borough ordinances or as approved by the Borough Engineer.

- G. Side slopes. Driveway side slopes shall be topsoiled, seeded, fertilized and mulched or otherwise stabilized to prevent erosion. If banks exceed a slope of two increments vertical to one increment horizontal (2:1) and the slope face is not stable rock, retaining walls shall be constructed of a design approved by the Borough Engineer.
- H. Clear sight triangles. At locations where driveways approach sidewalks and streets in the public right-of-way, clear sight triangles shall be provided on both sides of such driveways. No vision-obstructing object with a height greater than 2 1/2 feet, as measured from the elevation of the driveway, shall be located in such areas formed by outward-facing isosceles triangles, with equal sides of 10 feet in length, consisting of the curblane of the driveway and the property line along the right-of-way.

ARTICLE 36

Parking Lot and Loading Area Design Standards**§ 110-152. Applicability.**

This article shall apply to all site plan applications.

§ 110-153. Design standards.

The following standards shall be used to prepare and review any development plan that involves the construction of a new parking lot or loading area or repair of an existing parking lot or loading area:

- A. Layout. All parking lots and loading areas shall be designed for the safety, control, efficient movement and convenience of motor vehicle circulation within a site. Traffic circulation shall be designed to minimize the use of aisles serving parking areas as access drives. For all uses except single- and two-family dwellings, parking lots or individual spaces shall be prohibited within front yard areas. For nonresidential uses, parking areas with more than 25 spaces shall have separate entrances and exits, where possible.
- B. Construction and repair specifications. All parking lots and loading areas shall be constructed or repaired to specifications as approved by the Borough Engineer.
- C. Striping and signage. Surface painted aisle, stall and directional striping and directional and traffic safety signs shall be provided throughout the parking, loading and circulation areas, pursuant to Article 48 of this chapter and in accordance with the Manual of Uniform Traffic Control Devices.
- D. Parking space dimensions. Standard parking spaces shall measure nine feet wide by 18 feet long. Handicapped parking spaces shall measure 12 feet wide by 18 feet long.
- E. Aisle dimensions. Parking lot aisles shall measure as follows:

Angle of Parking Stall (degrees)	Width of One-Way Traffic Aisle (feet)	Width of Two-Way Traffic Aisle (feet)
0 (parallel)	11	22
30	12	Not permitted
45	13	Not permitted
60	18	Not permitted
90 (perpendicular)	24	24

- F. Handicapped parking spaces. The number, location, size and marking of handicapped parking spaces shall be pursuant to the requirements specified in N.J.S.A. 55:32-12. However, where handicapped accessible or adaptable dwelling units are provided in accordance with § 110-132B, a minimum of one handicapped parking space shall be provided in a location within closest proximity to such dwelling unit.
- G. Loading areas. Standards for the location, dimensions and design of loading areas shall be determined by the Board separately for each application providing for such.

§ 110-154. Parking regulations. [Amended 12-16-1996 by Ord. No. 96-18;¹⁰⁰ 9-15-1997 by Ord. No. 97-20; 3-17-2003 by Ord. No. 2003-4; 9-3-2013 by Ord. No. 2013-12]

- A. General provisions. The total number of off-street parking spaces required for all uses or combination of uses shall be provided as specified in Subsection B below. Any building or site containing more than one use shall meet the combined parking requirements for all uses, based on the area utilized for each separate use. The parking schedule in Subsection B below represents general parking requirements acceptable to the Borough. Since a specific use may generate parking usage that varies from the requirements enumerated in Subsection B below, documentation and testimony shall be presented to the Board as to the anticipated parking usage. The parking requirements for any use not specifically indicated shall be determined by the Board based on evidence presented at the time of the application and based on requirements for similar type uses. Based upon the above, the Board may take action as follows:
- (1) Grant a waiver of parking requirements to permit a lesser number of spaces.
 - (2) Grant a waiver of parking requirements to permit a lesser number of spaces; provided, however, that adequate provision is made for construction of the additional required spaces in the future, if needed.
 - (3) Grant a waiver of parking requirements to permit a lesser number of spaces; provided, however, that spaces shall be shared by two or more separate uses with nonconflicting parking usage schedules.
 - (4) Grant a waiver of parking requirements contingent upon the applicant obtaining a specified number of reserved off-street parking spaces from another source, including, but not exclusively, the Metuchen Parking Authority.
 - (5) Require construction of a greater number of spaces.
- B. Requirements. The number of off-street parking spaces required for all uses or combinations of uses shall be as follows: **[Amended 8-12-2019 by Ord. No. 2019-12]**

Parking requirements for residential uses shall be governed by the Residential Site Improvement Standards promulgated by the New Jersey Department of Community Affairs.

Nonresidential Uses	Required Spaces
°Automobile repair establishments	4.0 per bay plus 1.0 per service vehicle
Automobile washing establishments	3.0 per establishment for employees
Banks and other financial institutions	4.0 per teller window plus 1.5 spaces per nonteller work station or 1.0 per 180 square feet of floor area, whichever is greater
Churches and other places of worship	1.0 per 3 seats or 1.0 per 72 linear inches of seating when benches are used
Day-care centers and nursery schools for more than 5 children	1.0 per teacher or staff member plus 1.0 per every 3 children

100. Editor's Note: Section 8 of this ordinance provided that this chapter shall become effective immediately in the B-1, B-2, B-3 and B-4 Zoning Districts and shall be effective in all other Zoning Districts two years following adoption and publication.

Parking requirements for residential uses shall be governed by the Residential Site Improvement Standards promulgated by the New Jersey Department of Community Affairs.	
Nonresidential Uses	Required Spaces
Dry-cleaning establishments	1.0 per 180 square feet of floor area
Eating and drinking establishments	1.0 per 200 square feet of floor area or 1.0 per every 3 seats, whichever is greater
Funeral homes	10.0 per viewing room plus 1.0 per 300 square feet of public floor area
Gasoline service stations	1.0 per pump
Hotels, inns and motels	1.0 per guest room plus 2.5 per 1,000 square feet of floor area plus 75% of the requirement for any eating and drinking establishment on the premises
Laboratory and research uses	3.0 per 1,000 square feet of floor area
Light industrial uses, except manufacturing	1.0 per 800 square feet of floor area
Machine shops and manufacturing uses	1.0 per 500 square feet of floor area
Offices	
Business and professional, including clinical psychologists and mental health counselors not engaged in group counseling on a regular basis	1.0 per 250 square feet of floor area
Medical, dental, veterinary, clinical psychologists engaged in group counseling on a regular basis	1.0 per 250 square feet of floor area plus 4.0 per professional on duty
Real estate	1.0 per 150 square feet of floor area
Personal service businesses and physical fitness studios	1.0 per 180 square feet of floor area
Retail uses	1.0 per 180 square feet of floor area where the total floor area per use or occupant is less than 2,000 square feet; 1.0 per 200 square feet of floor area where the total floor area per use or occupant is 2,000 square feet or greater
Shops and stores	
Appliance and furniture stores	1.0 per 300 square feet of floor area plus 1.0 per 500 square feet of accessory storage area
Schools	
Elementary and middle	2.0 per classroom plus 1.0 per every 6 seats in an assembly hall
Secondary	3.5 per classroom plus 1.0 per every 6 seats in an assembly hall

Parking requirements for residential uses shall be governed by the Residential Site Improvement Standards promulgated by the New Jersey Department of Community Affairs.

Nonresidential Uses	Required Spaces
Social halls, clubs, lodges, and places of public assembly	1.0 per 2 seats
Warehouses and storage uses	1.0 per 1,000 square feet of floor area

- C. Exceptions. The parking requirements of Subsection B above shall not apply to the following:
- (1) The continuation of any lawfully nonconforming use or any use that does not conform to the requirements of this article in existence prior to the adoption of this chapter, so long as the current use is not substantially changed or intensified. If the use is changed or intensified to the extent that Subsection B above requires additional parking, the applicant shall provide the additional parking equal to the difference between that required by the proposed use or building and that previously applicable to the use in existence at the time this chapter was adopted.
 - (2) Any storage area in a basement or attic that is accessory to a permitted principal use located elsewhere in such building.
- D. Handicapped parking. Every use shall provide handicapped parking spaces as a portion of its total required parking in accordance with the Uniform Construction Code.
- E. Parking in residential areas. The following regulations shall apply to motor vehicle parking on any lot located in a residential district or used for residential purposes:
- (1) Permitted motor vehicles. Motor vehicles registered as passenger vehicles, livery vehicles and commercial vehicles having a gross weight of 7,000 pounds or less shall be permitted to be parked on such lots, with the following exceptions:
 - (a) One passenger or livery vehicle having a gross weight in excess of 7,000 pounds, but not exceeding 10,000 pounds, may be parked in a garage or a driveway in a side or rear yard, provided that such is substantially screened from view from all adjacent lot lines and the street line. Such screening shall consist of a six-foot-high solid wooden fence and/or minimum six-foot-high evergreen shrubs or trees. Any such screening shall be approved by the Zoning Officer prior to installation to ensure that such will provide necessary screening to satisfy the intent of this provision.
 - (b) One commercial vehicle having a gross weight in excess of 5,000 pounds, but not exceeding 8,000 pounds, may be parked in a wholly enclosed garage. Such vehicle shall be stored in the garage at all times when such is parked on the lot. In no instance shall any person other than the resident of the property on which the commercial vehicle is parked operate such vehicle. Additionally, no materials, tools, equipment or other items used in connection with the business that such commercial vehicle is associated with shall be stored anywhere on the residential property, except in or on the commercial vehicle itself.
 - (2) Permitted motor vehicle dimensions. No motor vehicle shall be parked on such lot with linear dimensions exceeding the following:
 - (a) Twenty feet in length.
 - (b) Eight feet in width, excluding rearview mirrors.

- (c) Eight feet in height, excluding radio antennas.
 - (3) Prohibited motor vehicles. Trucks, tractors, trailers, semitrailers, tow trucks and buses are hereby prohibited from any such lot.
 - (4) Recreational vehicles, trailer coaches, campers and boats. One recreational vehicle, trailer coach, camper and/or boat may be stored or parked on any lot used solely as a single-family residence, provided that such vehicle shall be stored in a garage or in a rear yard at least 15 feet from any lot line and substantially screened from view from all adjacent lot lines and the street line. In the case of corner lots, said vehicle must be screened from view from all street lines bounding the lot. No such vehicles shall be occupied for living, sleeping or recreational purposes while stored or parked on such lot.
 - (5) Driveways. No motor vehicle shall be parked in the side or front yards of such lot, except in a driveway located pursuant to Article 35 of this chapter.
 - (6) Corner lots. Nothing herein shall permit the parking or storage of any vehicle on a corner lot property which obstructs, impairs or obscures vision of motor vehicle traffic at an intersection, as determined by the Chief of Police.
- F. Parking in the downtown area. The following regulations shall apply to parking in the B-1 Central Business District, B-3 Office Business District and D-1 Downtown Development District: **[Added 3-16-2015 by Ord. No. 2015-04]**
- (1) Reduced parking requirements. The minimum parking requirements of § 110-154B shall be reduced by 50% for all uses. For residential uses where parking is governed by the Residential Site Improvement Standards (RSIS), the Board may grant alternative parking standards in accordance with N.J.A.C. 5:21-4.14(c).
 - (2) Maximum parking requirements. The parking requirements of § 110-154B shall be considered maximum permitted parking standards, and exceeding such standards shall require an exception to be granted by the Board.
 - (3) Payments in lieu of parking (PILOP). The Board may allow applicants whose application for development has insufficient on-site parking to meet the reduced parking requirements of Subsection F(1) above, provided the following are satisfied:
 - (a) Prior to granting a PILOP agreement to an applicant as part of final approval, the Board shall determine that circumstances exist which make the granting of a PILOP appropriate based on the type of use proposed and after due consideration of the impact that granting of a PILOP will have on the area surrounding the development site.
 - (b) Nothing in this subsection shall be deemed to serve as an automatic requirement to grant a PILOP agreement, nor in any way diminish the Board's ability to grant full or partial parking exceptions.
 - (c) The entry into a PILOP agreement with the Borough of Metuchen shall be a condition of any approval by the appropriate Board. Such agreement shall indicate that the Metuchen Parking Authority has established that there are adequate available parking resources to provide any parking required under the PILOP.
 - (d) The PILOP payment shall be established at \$5,000 per required parking space for all uses and \$2,500 per required parking space for any affordable housing unit. The established

fees herein shall be reexamined, and may be modified, from time to time, in intervals no greater than once every two years, to ensure that the fees are appropriate for intents and purposes of the PILOP program.

- (e) The PILOP shall be paid in full to the Borough of Metuchen prior to the issuance of any certificate of occupancy by the Borough in order to effectuate the goals and objectives of the Master Plan, Downtown Parking Plan and Complete Streets policies as it relates to circulation, accessibility, traffic and pedestrian safety and related issues in the Borough. The proceeds shall be deposited into a fund established solely for the acquisition, development, expansion or capital repair of public and municipal parking facilities, traffic- or transportation-related capital projects, the provision or operating expenses of transit facilities designed to reduce reliance on private automobiles, programs to facilitate carpooling or ride sharing, and creating a consistent streetscape for all user groups utilizing all modes of transportation by introducing context-sensitive design elements at intersections and corridors, such as parking meters, wayfinding signage, kiosks, trails, sidewalks, crosswalks, streets and similar improvements that connect users to public and municipal parking facilities throughout the Borough. The proceeds of such fund shall not be considered a part of the municipal general fund.
- (f) The PILOP shall not relieve the applicant or any users of the parking spaces covered under a PILOP agreement from paying any required parking fees to the Metuchen Parking Authority.

§ 110-155. Loading regulations.

- A. General provisions. The total number of loading berths required for all uses or combination of uses shall be provided as specified in Subsection B below. It is the intent of this chapter to provide for all loading areas at locations where such will not extend in any way onto a public right-of-way. The loading schedule in Subsection B below represents general requirements acceptable to the Borough. Since a specific use may generate loading usage that varies from the requirements enumerated in Subsection B below, documentation and testimony shall be presented to the Board as to the anticipated loading usage. Based upon the above, the Board may take action as follows:
 - (1) Grant a waiver of loading requirements to permit construction of a lesser number of berths.
 - (2) Grant a waiver of loading requirements to permit construction of a lesser number of berths, provided that adequate provision is made for construction of the additionally required berths in the future, if needed.
 - (3) Require construction of a greater number of berths.
- B. Requirements. The number of off-street loading berths required for a use shall be as follows:

Use	Total Floor Area (in square feet)	Number of Loading Berths
Institutional use	15,000 or more	1
Funeral homes and mortuaries	Up to 5,000	1
	5,000 or more	2

Use	Total Floor Area (in square feet)	Number of Loading Berths
All other business and commercial uses	From 10,000 to 24,999	1
	From 25,000 to 39,999	2
	40,000 or more	3
Light industrial and warehouses	Up to 5,000	2
	5,000 to 9,999	3
	10,000 to 19,999	4
	20,000 to 29,999	5
	30,000 to 39,999	6
	40,000 or more	7

- C. Exceptions. The loading requirements of Subsection B above shall not apply to the continuation of any lawfully nonconforming use or any use that does not conform to the requirements of this article in existence prior to the adoption of this chapter, so long as the current use is not substantially changed or intensified. If the use is substantially changed or intensified to the extent that Subsection B above requires additional loading berths, the applicant shall provide the additional loading berths equal to the difference between that required by the proposed use or building and that previously applicable to the use in existence at the time this chapter was adopted.

ARTICLE 37
Lighting Design Standards

§ 110-156. Applicability.

This article shall apply to all applications for development.

§ 110-157. Design standards.

The following standards shall be used to prepare and review any development plan that involves the construction of any streetlights or on-site lighting fixtures:

- A. Streetlights. The type and number of public streetlights shall be such as to provide safe and adequate lighting on streets and sidewalks in the public right-of-way, as approved by the Borough Engineer. In addition, the following standards shall apply:
- (1) All streetlights shall be serviceable by a utility company; however, wherever electric utility installations are required to be underground or existing installations in the surrounding area are so located, the applicant shall provide for underground service for streetlighting.
 - (2) Streetlighting within the B-1 Central Business District and D-1 Downtown Development District shall be provided to conform to existing street lamp poles and light fixtures on Main Street. Any property in these Districts fronting on a street other than Main Street shall provide the Main Street street lamp poles and light fixtures along all public streets in the right-of-way at intervals of spacing consistent with the existing street lamps on Main Street. Where such lamp poles and light fixtures are installed, all existing overhead utility lines shall be placed underground.
- B. On-site lighting. For all uses other than single-family or two-family dwellings, all areas between buildings, along walkways, active recreation areas, driveways, parking lots and loading areas shall be adequately illuminated to ensure security and safe pedestrian and vehicular circulation according to the following standards:
- (1) For parking areas, lighting shall be provided by standards with a mounting height not more than 20 feet or the height of the building, whichever is less, unless such standard is located within 100 feet of a residential district or use, in which case the mounting height shall not exceed 12 feet. Lighting in and around parking areas shall provide for nonglare lights focused downward. Mounting height shall be measured from the ground level to the center line of the light source for all calculations of such pursuant to this subsection.
 - (2) For other areas of the site, lighting shall be provided by standards pursuant to § 110-130E. For multifamily residential development, § 110-132S shall apply additionally.
- C. Intensity of lighting. All lighting shall be shown on the lighting plan in sufficient detail to allow determination of effects on adjacent properties, traffic safety and overhead sky glow. The objective of this article is to achieve adequate lighting of the site while minimizing adverse impacts, such as glare and overhead sky glow, on adjacent and nearby properties. No light shall shine onto streets and driveways in such a manner as to interfere with or distract driver vision. The intensity of light sources, the method of light shielding and similar specifications shall be shown in detail on the plans in order that the Board may determine compliance with this subsection. Standards for average maintained horizontal illumination shall be as follows:

Use Classification	Nonresidential Use (footcandles)	Residential Use (footcandles)
Driveways and parking areas	0.9	0.4
Walkways and all other areas	0.9	0.2

ARTICLE 38

Solid Waste Disposal and Recycling Collection Standards**§ 110-158. Applicability.**

This article shall apply to all major subdivision and site plan applications.

§ 110-159. Requirements.

All development plans shall utilize either Borough-provided or privately contracted solid waste disposal and designated recyclable collection, as follows:

- A. Major subdivisions. All major subdivisions involving single- and two-family detached dwellings shall utilize Borough-provided curbside solid waste disposal and designated recyclable collection.
- B. Site plans. All site plan applications shall provide for privately contracted solid waste disposal and designated recyclable collection designated recyclable materials. However, the Board may permit the utilization of Borough-provided curbside solid waste disposal and designated recyclable collection in appropriate situations.

§ 110-160. Storage facility standards.

The following standards shall be used to prepare and review any site plan providing for privately contracted solid waste disposal and designated recyclable collection storage facilities.

- A. Location. All storage facilities shall be located in proximity to one another or may be combined in a single common facility. Such facilities shall be centrally located and convenient for the users of the site. Designated recyclable storage facilities may be located inside a building. Such facilities shall not be located as to be visual focal points in courtyards or parking lots. Where located in a parking lot, such facilities shall not be permitted to be placed on the paved surface of the parking lot and shall be placed on a curbed area set back a minimum of three feet from the curb edge of such parking lot.
- B. Access. Adequate pedestrian and service vehicle access shall be provided to all storage facilities. Such vehicular access shall accommodate the type of service vehicles used for the collection of solid waste and designated recyclable materials.
- C. Size and capacity. The size and capacity of all storage facilities shall be based on the size and capacity of bins and/or dumpsters utilized, frequency of pickup and projected generation rates of users of the site.
- D. Odors. All storage facilities shall be designed to reduce discernible odors and contain such within the storage facility area.

§ 110-161. Temporary storage area standards.

The following standards shall be used to prepare and review any development plan:

- A. Residential uses. All dwelling units shall be designed to have a temporary designated recyclable storage area located either within the interior of such unit in the kitchen, laundry room, basement or storage closet or in an attached garage or private rear yard area. Such area shall be designed to accommodate the average accumulated volume of designated recyclables per dwelling unit per period of collection and any necessary storage equipment. The minimum size of such storage area shall be six square feet. Recyclable accumulation calculations shall be based on average generation rates

developed by the Association of New Jersey Environmental Commissions.

- B. Nonresidential uses. All nonresidential uses shall be designed to have a temporary designated recyclable storage area located within the building occupied by such use. Such storage area may be located anywhere within the interior of a building, including basements, storage closets or attached garages, but shall not be situated in a hallway or corridor necessary for internal circulation or emergency access. Such area shall be designed to accommodate the average accumulated volume of designated recyclables per occupant per period of collection and any necessary storage equipment. Recyclable accumulation calculations shall be based on average generation rates developed by the Association of New Jersey Environmental Commissions.

ARTICLE 39
Sewer, Water and Utilities Standards

§ 110-162. Applicability.

This article shall apply to all applications for development.

§ 110-163. Standards.

The following standards shall be used to prepare and review any development plan:

- A. Sanitary sewer service. All lots shall be connected to the public sanitary sewer system for the disposal of sewage. Sewer mains and lateral connections shall be provided as necessary. The applicant shall provide proof that the public system has adequate capacity for the additional discharge anticipated by such development without causing adverse impacts to such system. The entire sanitary sewer system shall meet construction specifications as approved by the Borough Engineer.
- B. Water service. All lots shall be connected to the public water system for the provision of water service. Water mains and lateral connections shall be provided as necessary. The entire water service system shall be designed in accordance with the approved standards of the Board of Public Utility Commissioners or its successor and the Middlesex Water Company and shall meet construction specifications as approved by the Borough Engineer. The system shall be designed with adequate capacity and sustained pressure in a looped system with no dead-end lines unless such dead-end line services not more than 16 dwelling units or 2,500 square feet of nonresidential building floor area. **[Amended 9-15-1997 by Ord. No. 97-20]**
- C. Electricity, telephone, gas and cable television service. All lots shall be connected to the public electricity, telephone and cable television service systems. Provision of gas service is optional. Connections shall be provided below grade, except that service boxes may be located above grade. Lots which abut existing streets where overhead electric or telephone distribution supply lines and service connections have heretofore been installed may be supplied with electric and telephone service from these overhead lines, but any new service connections from the utilities' overhead lines shall be installed below grade. In the case of existing overhead utilities, however, should a road widening or an extension of service or other such condition occur as a result of the development and necessitate the replacement or relocation of such utilities, such replacement or relocation shall be underground, if in accordance with the current regulations of the Board of Public Utility Commissioners or its successor. If located within a public street right-of-way, said utilities shall be outside of the cartway except for required crossings. The applicant shall arrange with the servicing utility for the underground installation of the utilities' distribution supply lines and service connections in accordance with the provisions of the applicable Standard Terms and Conditions incorporated as part of the servicing utility's tariff and on file with the State of New Jersey Board of Public Utility Commissioners. In the event that there is any modification in the final placements or locations of any of the above, the applicant shall be required to have the development plan amended by the Board. **[Amended 9-15-1997 by Ord. No. 97-20]**

ARTICLE 40
Fire Protection Standards

§ 110-164. Applicability.

This article shall apply to all applications for development.

§ 110-165. Standards.

The following standards shall be used to prepare and review any development plan:

- A. Hydrants and standpipes. At locations on the tract and adjacent portions of the public right-of-way as specified by the Chief of the Metuchen Fire Department, hydrants and standpipes shall be provided for fire protection purposes.
- B. Emergency access. Secondary and tertiary points of vehicular access shall be provided for emergency access as specified by the Chief of the Metuchen Fire Department, where such is possible.

ARTICLE 41
Clearing and Grading Standards

§ 110-166. Applicability.

This article shall apply to all applications for development.

§ 110-167. Standards.

The following standards shall be used to prepare and review any development plan involving clearing, grading or regrading of land:

- A. Surface water flow. All lots shall be properly graded to ensure that surface water flow is directed away from buildings, walkways and other improvements and into the drainage system, pursuant to Article 42 of this chapter. Grading shall be designed to prevent the collection of surface water flow in pools or the concentration of surface water flow such that it may produce adverse impacts, either on-site or on adjacent or nearby properties. To the extent possible, grading shall not divert water to flow across property lines.
- B. Slopes. Grading shall create slopes that minimize maintenance requirements and allow for the cutting of grass, cleaning of drainage ditches and other maintenance activities without the necessity of special equipment. Wherever it is determined that slopes may be unstable or erosion may occur or that slopes are in excess of two increments horizontal to one increment vertical (2 to 1), other than on a stable rock face, retaining walls of a maintenance-free design shall be utilized to alleviate such conditions.
- C. Topsoil. All graded areas shall be covered with a minimum of four inches of topsoil and stabilized with seeding or planting. Any topsoil moved during the course of construction shall be redistributed on all regraded surfaces. Exposed rock may be left in its natural state if it can be demonstrated that the rock face will remain stable.
- D. Removal of debris. All tree stumps, limbs and other parts of trees, litter, brush, weeds, excess or scrap building materials or other debris shall be removed from the tract and disposed of in accordance with the law. No tree stumps, limbs or other parts of trees shall be buried anywhere on the tract.
- E. Soil erosion and sediment control. Clearing and grading shall be in accordance with a soil erosion and sediment control plan approved by the Freehold Soil Conservation District, where applicable.
- F. Construction specifications. All grading plans shall meet construction specifications as approved by the Borough Engineer.

ARTICLE 42

Surface Water Runoff

[Prior history includes Ord. No. 2005-18, which was repealed and replaced 2-8-2021 by Ord. No. 2021-03]

§ 110-168. Scope and purpose. [Added 2-8-2021 by Ord. No. 2021-03; amended 9-12-2022 by Ord. No. 2022-15]

- A. Policy statement. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- B. Purpose. The purpose of this article is to establish minimum stormwater management requirements and controls for "major development," as defined below in Section 110-169, and to establish minimum stormwater quantity standards for "non-major developments."
- C. Applicability.
 - (1) This article shall be applicable to the following major developments:
 - (a) Non-residential major developments; and
 - (b) Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
 - (2) This article shall also be applicable to all major developments undertaken by the Borough of Metuchen.
 - (3) The stormwater runoff quantity standards of this article and as set forth in and consistent with N.J.A.C. 7:8, last amended April 19, 2010, shall be applicable to the following non-major developments:
 - (a) Non-residential developments; and
 - (b) Residential developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
- D. Compatibility with other permit and ordinance requirements. Development approvals issued pursuant to this article are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this article shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

This article is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 110-169. Definitions. [Added 2-8-2021 by Ord. No. 2021-03]

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 not inconsistent 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. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

CAFRA CENTERS, CORES OR NODES — Means those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

CAFRA PLANNING MAP — Means the map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (GIS).

COMMUNITY BASIN — Means an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this chapter.

COMPACTION — Means the increase in soil bulk density.

CONTRIBUTORY DRAINAGE AREA — Means the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

CORE — Means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY — Means an agency designated by the Board of County Commissioners to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

- A. A county planning agency; or
- B. A county water resource association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

DEPARTMENT — Means the Department of Environmental Protection.

DESIGN ENGINEER — Means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

DESIGNATED CENTER — Means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

DEVELOPMENT — Means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge-enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

In the case of development of agricultural land, development means: any activity that requires a State permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

DISTURBANCE — Means the placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

DRAINAGE AREA — Means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

EMPOWERMENT NEIGHBORHOODS — Means neighborhoods designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

ENVIRONMENTALLY CONSTRAINED AREA — Means the following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

ENVIRONMENTALLY CRITICAL AREA — Means an area or feature which is of significant environmental value, including but not limited to: stream corridors, natural heritage priority sites, habitats of endangered or threatened species, large areas of contiguous open space or upland forest, steep slopes, and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

EROSION — Means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

GREEN INFRASTRUCTURE — Means a stormwater management measure that manages stormwater close to its source by:

- A. Treating stormwater runoff through infiltration into subsoil;
- B. Treating stormwater runoff through filtration by vegetation or soil; or
- C. Storing stormwater runoff for reuse.

HUC 14 or HYDROLOGIC UNIT CODE 14 — Means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

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

INFILTRATION — The process by which water seeps into the soil from precipitation.

LEAD PLANNING AGENCY — Means one or more public entities having stormwater management

planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

MAJOR DEVELOPMENT — Means an individual "development," as well as multiple developments that individually or collectively result in:

- A. The disturbance of one or more acres of land since February 2, 2004;
- B. The creation of one-quarter acre or more of "regulated impervious surface" since February 2, 2004;
- C. The creation of one-quarter acre or more of "regulated motor vehicle surface" since March 2, 2021 or the effective date of this article,¹⁰¹ whichever is earlier; or
- D. A combination of B and C above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of paragraphs A, B, C and D above. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

MOTOR VEHICLE — Means land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

MOTOR VEHICLE SURFACE — Means any pervious or impervious surface that is intended to be used by "motor vehicles" and/or aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

MUNICIPALITY — Means any city, borough, town, township, or village.

NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES (BMP) MANUAL or BMP MANUAL — Means the manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this chapter. The BMP Manual is periodically amended by the Department as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department's determination as to the ability of that best management practice to contribute to compliance with the standards contained in this chapter. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this chapter, provided the design engineer demonstrates to the municipality, in accordance with § 110-168.4F and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this chapter.

NODE — Means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

101.Editor's Note: Adopted 2-8-2021 by Ord. No. 2021-03.

NUTRIENT — Means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

PERSON — Means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

POLLUTANT — Means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

RECHARGE — Means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

REGULATED IMPERVIOUS SURFACE — Means any of the following, alone or in combination:

- A. A net increase of impervious surface;
- B. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);
- C. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
- D. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

REGULATED MOTOR VEHICLE SURFACE — Means any of the following, alone or in combination:

- A. The total area of motor vehicle surface that is currently receiving water;
- B. A net increase in motor vehicle surface; and/or quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

SEDIMENT — Means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SITE — Means the lot or lots upon which a major development is to occur or has occurred.

SOIL — Means all unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1) — Means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

STATE PLAN POLICY MAP — Is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

STORMWATER — Means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or

drainage facilities, or conveyed by snow removal equipment.

STORMWATER MANAGEMENT BMP — Means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or infiltration system), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE — Means any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

STORMWATER MANAGEMENT PLANNING AGENCY — Means a public body authorized by legislation to prepare stormwater management plans.

STORMWATER MANAGEMENT PLANNING AREA — Means the geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

STORMWATER RUNOFF — Means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

TIDAL FLOOD HAZARD AREA — Means a flood hazard area in which the flood elevation resulting from the two-, ten-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD — Means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

URBAN ENTERPRISE ZONES — Means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

URBAN REDEVELOPMENT AREA — Previously developed portions of areas:

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- B. Designated as CAFRA Centers, Cores or Nodes;
- C. Designated as Urban Enterprise Zones; and
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATER CONTROL STRUCTURE — Means a structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, ten-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

WATERS OF THE STATE — Means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND — Means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

§ 110-169.1. Design and performance standards for stormwater management measures. [Added 2-8-2021 by Ord. No. 2021-03]

- A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
 - (1) The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
 - (2) The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- B. The standards in this article apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

§ 110-169.2. Stormwater management requirements for major development. [Added 2-8-2021 by Ord. No. 2021-03]

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 110-169.8.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of § 110-169.2P, Q and R:
 - (1) The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
 - (2) The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
 - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- D. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of § 110-169.2O, P, Q and R may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
 - (1) The applicant demonstrates that there is a public need for the project that cannot be

accomplished by any other means;

- (2) The applicant demonstrates through an alternatives analysis, that through the use of stormwater management measures, the option selected complies with the requirements of § 110-169.2O, P, Q and R to the maximum extent practicable;
 - (3) The applicant demonstrates that, in order to meet the requirements of § 110-169.2O, P, Q and R, existing structures currently in use, such as homes and buildings, would need to be condemned; and,
 - (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under § 110-169.2D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 110-169.2O, P, Q and R that were not achievable onsite.
- E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in § 110-169.2O, P, Q and R. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2 (f) Tables 5-1, 5-2 and 5-3 and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department's website at: https://njstormwater.org/bmp_manual2.htm
- F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this article the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

Table 1 Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Cistern	0	Yes	No	—
Dry well ^(a)	0	No	Yes	2
Grass swale	50 or less	No	No	2 ^(e) 1 ^(f)
Green roof	0	Yes	No	—

Table 1 Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Manufactured treatment device ^{(a)(g)}	50 or 80	No	No	Dependent upon the device
Pervious paving system ^(a)	80	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-scale bioretention basin ^(a)	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-scale infiltration basin ^(a)	80	Yes	Yes	2
Small-scale sand filter	80	Yes	Yes	2
Vegetative filter strip	60-80	No	No	—

Table 2 Green Infrastructure BMPs for Stormwater Runoff Quantity (or for Groundwater Recharge and/or Stormwater Runoff Quality with a Waiver or Variance from N.J.A.C. 7:8-5.3)				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Bioretention system	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Infiltration basin	80	Yes	Yes	2
Sand filter ^(b)	80	Yes	Yes	2
Standard constructed wetland	90	Yes	No	N/A
Wet pond ^(d)	50-90	Yes	No	N/A

Table 3 BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity only with a Waiver or Variance from N.J.A.C. 7:8-5.3				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Blue roof	0	Yes	No	N/A
Extended detention basin	40-60	Yes	No	1
Manufactured treatment device ^(h)	50 or 80	No	No	Dependent upon the device
Sand filter ^(c)	80	Yes	No	1
Subsurface gravel wetland	90	No	No	1
Wet pond	50-90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- (a) Subject to the applicable contributory drainage area limitation specified at § 110-169.2O(2);
- (b) Designed to infiltrate into the subsoil;
- (c) Designed with underdrains;
- (d) Designed to maintain at least a ten-foot wide area of native vegetation along at least 50% of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- (e) Designed with a slope of less than 2%;
- (f) Designed with a slope of equal to or greater than 2%;
- (g) Manufactured treatment devices that meet the definition of green infrastructure at § 110-169;
- (h) Manufactured treatment devices that do not meet the definition of green infrastructure at § 110-169.

- G. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with § 110-169.4B. Alternative stormwater management measures may be used to satisfy the requirements at § 110-169.2O only if the measures meet the definition of

green infrastructure at § 110-169. Alternative stormwater management measures that function in a similar manner to a BMP listed at § 110-169.2O(2) are subject to the contributory drainage area limitation specified at § 110-169.2O(2) for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at § 110-169.2O(2) shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with § 110-169.2D is granted from § 110-169.2O.

- H. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- I. Design standards for stormwater management measures are as follows:
- (1) Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);
 - (2) Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 110-169.6C;
 - (3) Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;
 - (4) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at § 110-169.6; and
 - (5) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of 2 1/2 inches in diameter.
- J. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at Section II may be used only under the circumstances described at § 110-169.2O(4).

- K. Any application for a new agricultural development that meets the definition of major development at § 110-169 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at § 110-169.2O, P, Q and R and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.
- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Sections 110-169.2P, Q and R shall be met in each drainage area, unless the runoff from the drainage areas converge on site and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.
- M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Office of the Middlesex County Clerk. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § 110-169.2O, P, Q and R and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to § 110-169.8B(5). Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the municipality.
- N. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to § 110-169.2 of this article and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Office of the Middlesex County Clerk and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with M above.
- O. Green infrastructure standards.
- (1) This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.
 - (2) To satisfy the groundwater recharge and stormwater runoff quality standards at § 110-169.2P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at § 110-169.2F and/or an alternative stormwater management measure approved in accordance

with § 110-169.2G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

Best Management Practice	Maximum Contributory Drainage Area
Dry well	1 acre
Manufactured treatment device	2.5 acres
Pervious pavement systems	Area of additional inflow cannot exceed three times the area occupied by the BMP
Small-scale bioretention systems	2.5 acres
Small-scale infiltration basin	2.5 acres
Small-scale sand filter	2.5 acres

- (3) To satisfy the stormwater runoff quantity standards at § 110-169.2R, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with § 110-169.2G.
- (4) If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with 110-169.2D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with § 110-169.2 may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § 110-169.2P, Q and R.
- (5) For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at § 110-169.2P, Q and R, unless the project is granted a waiver from strict compliance in accordance with § 110-169.2D.

P. Groundwater recharge standards.

- (1) This subsection contains the minimum design and performance standards for groundwater recharge as follows:
- (2) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 110-169.3, either:
 - (a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site; or,
 - (b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is

infiltrated.

- (3) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to paragraph (4) below.
- (4) The following types of stormwater shall not be recharged:
 - (a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and,
 - (b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

Q. Stormwater runoff quality standards.

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.
- (2) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:
 - (a) 80% TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.
 - (b) If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average.
- (3) The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with paragraph (2) above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for

TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.

- (4) The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Table 4 - Water Quality Design Storm Distribution					
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250

Table 4 - Water Quality Design Storm Distribution					
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

- (5) If more than one BMP in series is necessary to achieve the required 80% TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where:

R	=	total TSS Percent Load Removal from application of both BMPs.
A	=	the TSS Percent Removal Rate applicable to the first BMP.
B	=	the TSS Percent Removal Rate applicable to the second BMP.

- (6) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in § 110-169.2P, Q and R.

- (7) In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (8) The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
- (9) Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95% of the anticipated load from the developed site, expressed as an annual average.
- (10) This stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

R. Stormwater runoff quantity standards.

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
- (2) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 110-169.3, complete one of the following:
 - (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two-, ten-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
 - (b) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
 - (c) Design stormwater management measures so that the post-construction peak runoff rates for the two-, ten- and 100-year storm events are 50%, 75% and 80%, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or,
 - (d) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with paragraphs (2)(a), (2)(b) and (2)(c) above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three will

not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.

- (3) The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

§ 110-169.3. Calculation of stormwater runoff and groundwater recharge. [Added 2-8-2021 by Ord. No. 2021-03]

A. Stormwater runoff shall be calculated in accordance with the following:

- (1) The design engineer shall calculate runoff using one of the following methods:

- (a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at: https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873; or
- (b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at: <http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandards Complete.pdf>.

- (2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology above at paragraph 110-169.3A(1)(a) and the Rational and Modified Rational Methods at § 110-169.3A(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- (3) In computing pre-construction stormwater runoff, the design engineer shall account for all

significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.

- (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds or other methods may be employed.
- (5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater-Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological Survey website at: <https://www.nj.gov/dep/njgs/pricelst/greport/gsr32.pdf> or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

§ 110-169.4. Sources for technical guidance. [Added 2-8-2021 by Ord. No. 2021-03]

A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at: http://www.nj.gov/dep/stormwater/bmp_manual2.htm.

- (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.
- (2) Additional maintenance guidance is available on the Department's website at: https://www.njstormwater.org/maintenance_guidance.htm.

B. Submissions required for review by the Department should be mailed to:

The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

§ 110-169.5. Solids and floatable materials control standards. [Added 2-8-2021 by Ord. No. 2021-03]

A. Site design features identified under § 110-169.2F above, or alternative designs in accordance with § 110-169.2G above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see § 30.7A(2) below.

- (1) Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

- (a) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or,
- (b) A different grate, if each individual clear space in that grate has an area of no more than 7.0 square inches, or is no greater than 0.5 inch across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-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 system floors used to collect stormwater from the surface into a storm drain or surface water body.

- (c) For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that 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 7.0 square inches, or be no greater than 2.0 inches across the smallest dimension.
- (2) The standard in A(1) above does not apply:
- (a) Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than 9.0 square inches;
 - (b) Where the municipality agrees 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., end of pipe netting facility, 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 4.625 inches long and 1.5 inches wide (this option does not apply for outfall netting facilities); or
 - [2] A bar screen having a bar spacing of 0.5 inch.

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 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 New Jersey Department of Environmental Protection 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 this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

§ 110-169.6. Safety standards for stormwater management basins. [Added 2-8-2021 by Ord. No.

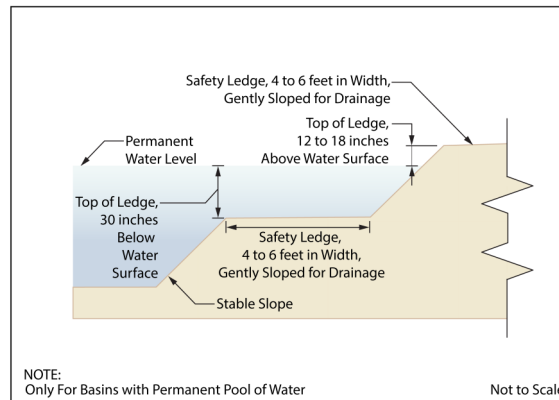
2021-03]

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This section applies to any new stormwater management BMP.
- B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in §§ 110-169.6C(1), 110-169.6C(2), and 110-169.6C(3) for trash racks, overflow grates, and escape provisions at outlet structures.
- C. Requirements for trash racks, overflow grates and escape provisions.
 - (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the Stormwater management BMP to ensure proper functioning of the BMP outlets in accordance with the following:
 - (a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
 - (b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
 - (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
 - (d) The trash rack shall be constructed of rigid, durable, and corrosion resistant material and designed to withstand a perpendicular live loading of 300 pounds per square foot.
 - (2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
 - (3) Stormwater management BMPs shall include escape provisions as follows:
 - (a) If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to § 110-169.6C, a free-standing outlet structure may be exempted from this requirement;
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than 2 1/2 feet. Safety ledges shall be comprised

of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one to 1 1/2 feet above the permanent water surface. See § 110-169.6E for an illustration of safety ledges in a stormwater management BMP; and,

- (c) In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.
- D. Variance or exemption from safety standard. A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.
- E. Safety ledge illustration.

Elevation View - Basin Safety Ledge Configuration



§ 110-169.7. Requirements for a site development stormwater plan. [Added 2-8-2021 by Ord. No. 2021-03]

- A. Submission of site development stormwater plan.
 - (1) Whenever an applicant seeks municipal approval of a development subject to this article, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 110-169.7C below as part of the submission of the application for approval.
 - (2) The applicant shall demonstrate that the project meets the standards set forth in this article.
 - (3) The applicant shall submit 12 copies of the materials listed in the checklist for site development stormwater plans in accordance with § 110-169.7C of this article.
- B. Site development stormwater plan approval. The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this article.

C. Submission of site development stormwater plan. The following information shall be required:

- (1) Topographic base map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
- (2) Environmental site analysis. A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
- (3) Project description and site plans. A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.
- (4) Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of § 110-169.1 through § 110-169.3 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- (5) Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - (a) Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - (b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
- (6) Calculations.
 - (a) Comprehensive hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in § 110-169.2 of this article.
 - (b) When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high-water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil

pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

- (7) Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 110-169.8.
- (8) Waiver from submission requirements. The municipal official or board reviewing an application under this article may, in consultation with the municipality's review engineer, waive submission of any of the requirements in § 110-169.7C(1) through § 110-169.7C(6) of this article when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 110-169.8. Maintenance and repair. [Added 2-8-2021 by Ord. No. 2021-03]

- A. Applicability. Projects subject to review as in § 110-168C of this article shall comply with the requirements of § 110-169.8B and 110-169.8C.
- B. General maintenance.
 - (1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
 - (2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.
 - (3) If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
 - (4) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
 - (5) If the party responsible for maintenance identified under § 110-169.8B(3) above is not a public agency, the maintenance plan and any future revisions based on § 110-169.8B(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
 - (6) Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater

management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.

- (7) The party responsible for maintenance identified under § 110-169.8B(3) above shall perform all of the following requirements:
- (a) Maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
 - (b) Evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and,
 - (c) Retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by § 110-169.8B(6) and B(7) above.
- (8) The requirements of § 110-169.8B(3) and B(4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department. The party responsible for the maintenance and repair of the stormwater management measure, shall post a two-year maintenance guarantee in accordance with N.J.S.A. 40:55D-53. Maintenance and inspection guidance can be found on the Department's website at: https://www.njstormwater.org/maintenance_guidance.htm.
- (9) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
- C. Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§ 110-169.9. Penalties. [Added 2-8-2021 by Ord. No. 2021-03]

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this article shall be subject to the following penalties listed in § 110-256.

§ 110-169.10. Severability. [Added 2-8-2021 by Ord. No. 2021-03]

Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

§ 110-169.11. Effective date. [Added 2-8-2021 by Ord. No. 2021-03]

This article shall take effect immediately upon approval by the County review agency, or 60 days from the receipt of the ordinance by the County review agency if the County review agency should fail to act.

ARTICLE 43

Vegetation Preservation and Protection Standards**§ 110-170. Applicability.**

This article shall apply to all applications for development.

§ 110-171. Standards. [Amended 9-3-2013 by Ord. No. 2013-12]

The following standards shall be used to prepare and review any development plan:

- A. Vegetation preservation. To the greatest extent possible, existing vegetation on the tract in good health and condition shall be preserved. Particular consideration shall be given to individual trees with a diameter at breast height of four inches or greater, stands of trees and mature shrubs and hedgerows located within yard setback and buffer areas and greater than 10 feet from a building foundation. The placement of buildings, driveways, parking lots and other improvements shall take into consideration the location of existing vegetation and attempt to preserve such wherever possible.
- B. Dead vegetation. All dead or dying vegetation, either standing or fallen, shall be removed from the tract, unless such are located in a preserved stand of trees greater than one acre in area.
- C. Vegetation protection. Existing vegetation to be preserved shall be protected during the period of construction as follows:
 - (1) No staging, storage or stockpiling areas for construction materials or soil shall be located under the dripline of existing trees to be preserved, wherever possible, but in no case shall such areas be located within 10 feet of an existing tree to be preserved, whether such tree is located on the tract or adjacent properties. No such areas shall be located within five feet of existing shrubs or a hedgerow to be preserved.
 - (2) A protective barrier consisting of snow or silt fencing a minimum of four feet high shall be installed around all existing vegetation to be preserved prior to the commencement of any site work or construction. Such protective barrier shall be freestanding and sturdy, not supported in any way by the vegetation such is protecting, and shall remain in place until construction is completed.
 - (3) Where more than three inches of fill is proposed to be placed around an existing tree to be preserved, such tree shall be protected by an air well measuring six feet in diameter, or as otherwise needed, around the trunk to prevent the intrusion of soil. The design of such air well shall be as specified in "Protection and Care of the Urban Forest," published by NJDEP.

ARTICLE 44

Buffering and Screening Guidelines and Standards**§ 110-172. Applicability.**

This article shall apply to all site plan applications.

§ 110-173. Guidelines.

The following guidelines shall be used to prepare and review buffering and screening for any development plan. The provision of buffer areas and screening within such areas shall take into account the opportunities and constraints of existing conditions on the site, such as existing vegetation to be preserved, critical views into and out of the site, the days and hours of operation, intensity of use of the proposed development, potential off-site impacts and other such issues.

§ 110-174. General standards.

The following standards shall be used to prepare and review screening devices required in this article:

- A. Evergreen trees or hedges. Where an evergreen screen is utilized, such plantings shall be sufficiently dense so as to provide a minimum of 75% of the required screening at time of planting. Arrangement of plantings shall be in a continuous row and may be overlapped or staggered within such row. Placement of such plantings shall provide maximum protection to existing vegetation to be preserved located in the buffer area and on adjacent properties.
- B. Walls and fences. Where a masonry wall or solid wooden fence is utilized, the design of such shall be architecturally compatible with the style, materials, colors and details of the building(s) on the site. Where such wall or fence fronts toward or is visible from a public right-of-way, foundation plantings shall be planted along the base of all visible portions of the wall or fence.
- C. Earth berms. Where an earth berm is utilized, it shall be designed to have a maximum side slope of one increment high to two increments wide or a ratio of one high to two wide (1:2). The minimum width of the top of a berm shall be four feet. Berms shall be composed of a soil type sufficient to sustain the growth of plantings it will support. Berms shall be landscaped with combinations of evergreen and deciduous trees and shrubs and ground cover.

§ 110-175. Specific standards.

The following standards shall be used to prepare buffering and screening for any development plan:

- A. Residential uses and districts. Any residential use and district shall be suitably buffered and screened from all uses other than single- and two-family dwellings in order to minimize the impacts of noise, glare, vibration, vehicular traffic, pedestrian activity and other potential nuisances. The width of buffering and height of screening shall be provided based on the type of use that is being buffered and the district in which it is located, as follows:

Type of Use/Location	Width of Buffering (feet)	Height of Screening (feet)
Conditional uses in residential districts	10	6
Permitted residential uses other than single- and two-family dwellings	5	6
Permitted nonresidential uses	10	6
Permitted light industrial uses	25	10
All nonconforming uses	As deemed appropriate by the Board	

- B. Driveways and parking lots. All driveways and parking lots shall be suitably buffered and screened to minimize the impacts of noise, lighting and glare, exhaust fumes, views of parked vehicles and other nuisances. Buffering and screening shall minimize such impacts both within the site itself, as well as from adjacent and nearby properties and public rights-of-way as follows:
- (1) Buffering shall consist of a minimum five-foot-wide area surrounding all sides of a parking lot exposed to view. Where such parking area is located on a tract adjacent to a residential use or district, such buffering shall consist of a minimum ten-foot-wide area surrounding all sides of a parking lot exposed to view.
 - (2) Screening shall consist of a minimum four-foot-high visually impervious screen to be located within the buffering area. Where such parking area is located on a tract adjacent to a residential use or district, such screening shall consist of a minimum six-foot-high visually impervious screen. The height of any required screen shall decrease to a maximum of three feet in height where driveways approach sidewalks or walkways, in order to provide adequate visibility of pedestrians from motor vehicles.
- C. Loading areas. All loading areas, including loading dock areas of buildings and driveways providing access to the same, shall be suitably buffered and screened to minimize the impacts of noise, loading and unloading activities, lighting and glare, exhaust fumes, views of loading and unloading vehicles and other nuisances. Buffering and screening shall minimize such impacts both within the site itself, as well as from adjacent and nearby properties and public rights-of-way, as follows:
- (1) Buffering shall consist of a minimum ten-foot-wide area surrounding all sides of a loading area exposed to view. Where such loading area is located on a tract adjacent to a residential use or district, such buffering shall consist of a minimum twenty-five-foot-wide area surrounding all sides of a parking lot exposed to view.
 - (2) Screening shall consist of a minimum ten-foot-high visually impervious screen. If such screen consists of a wall or fence, the buffer area between the wall or fence and the lot line shall be a minimum of 10 feet in width and shall also be extensively planted with both deciduous and evergreen trees.
- D. Disposal and collection areas. All areas used for solid waste disposal and recyclable collection facilities shall be suitably buffered and screened to minimize the impacts of noise, odors, disposal and collection activities and views of collection bins and dumpsters. Buffering and screening shall

minimize such impacts both within the site itself, as well as from adjacent and nearby properties and public rights-of-way.

- (1) Buffering shall consist of a minimum four-foot-wide area surrounding all sides of such facility exposed to view. If such facility is located on a site adjacent to a residential use or district, such buffering shall consist of a minimum ten-foot-wide area surrounding all sides of such facility exposed to view.
 - (2) Screening shall consist of a minimum six-foot-high masonry wall, solid wooden fence or accessory building with gates or doors and ramped access to facilitate the movement of bins or dumpsters. The base of such screen shall be planted with a minimum four-foot-high evergreen hedge along the sides and rear of same.
- E. HVAC equipment and utility service boxes. All ground level HVAC equipment and utility service boxes shall be suitably buffered and screened to minimize views of the same from both within the site itself, as well as from adjacent and nearby properties and public rights-of-way, as follows:
- (1) Buffering shall consist of a minimum three-foot-wide area surrounding all sides of HVAC equipment and utility storage boxes exposed to view.
 - (2) Screening shall consist of a minimum four-foot-high evergreen hedge along all sides of the same.
- F. Screening for wireless communications facilities. Such facilities shall be screened from view from all adjacent properties and public rights-of-way in order that a six-foot tall person, with an eye level from grade of approximately 5 1/2 feet, is not able to see the lowest 20% of the total antenna height from a distance of 25 feet from the lot line containing such antenna. In no instance, however, shall such screening be less than six feet in height; however, any fence greater than six feet in height shall require a variance from the provisions of this subsection. Such screening may utilize a solid wooden fence, earth berms, closely spaced evergreen plantings or some combination of those devices. If evergreen plantings are utilized, such shall be sufficiently dense as to achieve 75% of the required screening at planting. **[Added 6-16-1997 by Ord. No. 97-8]**

ARTICLE 45

Landscaping Design Guidelines and Standards**§ 110-176. Applicability.**

This article shall apply to any site plan application.

§ 110-177. Guidelines and general standards.

A. The following guidelines shall be used to prepare and review landscaping for any development plan. The landscaping plan shall be prepared by a New Jersey certified landscape architect.

- (1) Landscaping. The entire development shall be extensively landscaped in accordance with a plan conceived as a complete pattern and style throughout the total site. All areas of the site not occupied by buildings and other improvements shall be intensively planted with trees, shrubs, hedges, ground cover and perennials and annuals. Landscaping shall be provided to achieve the following:
 - (a) Preservation and enhancement, to the greatest extent possible, of existing natural features on the site, including vegetation, land forms and bodies of water.
 - (b) Assistance in adapting a site to its proposed development.
 - (c) Mitigation and control of environmental and community impacts from a development.
 - (d) Creation of an attractive appearance for the development, as viewed from both within the site itself and the surrounding area.
 - (e) Enhancement of the habitability of a development.
 - (f) Definition of yard areas and other open space.
 - (g) Energy conservation and micro-climatic control.
 - (h) Maintenance of a desirable ecological balance on a developed site.
- (2) Other site design elements. The development plan shall incorporate landscaping with other functional and ornamental site design elements, where appropriate, such as the following:
 - (a) Courtyards, plazas, alleys and similar public and semipublic open spaces.
 - (b) Active recreation areas and facilities.
 - (c) Ground paving materials.
 - (d) Paths and walkways.
 - (e) Berms and other earth forms.
 - (f) Ponds, fountains and other water features.
 - (g) Trellises, pergolas, gazebos and other accessory structures.
 - (h) Fences, walls and other screens.
 - (i) Street or site furniture.

(j) Art and sculpture.

B. General standards. The following general standards shall be used to prepare and review landscaping for any development plan:

- (1) Plant species. The selection of plant species to be used shall be appropriate in terms of function and size and shall be hardy for the climatic zone in which the Borough is located. Consideration shall be given to soil conditions, availability of water, exposure to sunlight and other existing conditions. Plantings shall be selected from the recommended Borough plant list.
- (2) Planting sizes. Deciduous trees shall have a minimum caliper of three inches at time of planting. Evergreen trees shall be a minimum of six feet in height at time of planting. Low-growing evergreen shrubs shall be a minimum of 2 1/2 feet in height at time of planting. Size of other plantings shall depend on setting and type of plant material.
- (3) Planting specifications. Only nursery-grown plant material shall be utilized. All trees, shrubs and ground cover shall be planted according to accepted horticultural standards and the Borough's approved planting specifications. All grass shall be planted in accordance with the New Jersey State Soil Conservation Committee's Standards for Soil Erosion and Sedimentation Control in New Jersey, current edition.
- (4) Mulch. Trees and other vegetation that have been removed may be reduced to chips and used as mulch in landscaped areas.
- (5) Maintenance. Plantings shall be watered regularly and in a manner appropriate for the specific plant material through the first growing season. All landscaped areas shall be well maintained and kept free of all debris, rubbish, weeds, tall grass, other overgrown conditions and the storage of any equipment or materials.
- (6) Replacement of dead plantings. The developer shall be required to replace dead or dying plant material for a period of two years from the date of issuance of a final zoning permit for occupancy and shall post a maintenance guaranty for such pursuant to Article 58 of this chapter. If plant material is dead or dying during a planting season, it shall be replaced that same season. If plant material is dead or dying during a nonplanting season, it shall be replaced as soon as is reasonably possible at the start of the next planting season.

§ 110-178. Specific standards. [Amended 9-12-2022 by Ord. No. 2022-16]

The following standards shall be used to prepare and review landscaping on any development plan:

- A. Parking lots. The interior area of all parking lots shall be landscaped to provide visual relief from the undesirable and monotonous appearance of extensive parking areas and to provide shading that will reduce solar heat gain to both the surface of the parking lot and vehicles parked thereon. Such landscaped areas shall be provided in protected planting islands or peninsulas within the perimeter of the parking lot and shall be placed so as not to obstruct the vision of motorists. The area and types of plantings shall be provided based on the number of parking spaces in the lot, as follows:
 - (1) For parking lots with 10 spaces or less, no such interior landscaping shall be required if the Board determines there is adequate landscaping directly surrounding the perimeter of the parking lot. If the Board finds that such landscaping is inadequate, then the requirements of Subsection A(2) below shall apply.
 - (2) For parking lots with 11 or more spaces, a minimum of 5% of the interior area of the parking lot

shall be landscaped with a minimum of one deciduous tree planted for every five parking spaces. The remainder of any such interior planting areas not containing trees shall be planted with low-growing evergreen shrubs. If all of the above required trees can not all be located within such interior planting areas, then such remaining trees shall be planted in locations directly surrounding the perimeter of the parking lot.

- B. Foundation plantings. The base of all sides of a building shall be planted with foundation plantings consisting of evergreen and deciduous shrubs. Such plantings shall be a minimum of two feet tall at time of planting and spaced an average of three feet on center. To avoid monocultures, the following species diversity shall be used: where up to 10 plants are proposed, not more than 1/2 proposed plants shall be of any one species; where 11 to 30 plantings are proposed, not more than 1/3 of the proposed plantings shall be of any one species; and where greater than 30 plantings are proposed, not more than 1/4 of the proposed plantings shall be of any one species. A planting bed containing extensive flower and ground cover shall extend a minimum of two feet in front of the foundation plantings along the entire facade facing a street.
- C. Slope plantings. All cut and fill areas, terraces, earth berms and roadway embankments with slopes steeper than one increment vertical to three increments horizontal (1 to 3) shall be sufficiently landscaped to prevent erosion.
- D. Drainage facilities. Detention basins, headwalls, outlet structures, concrete flow channels, riprap channels and other drainage facilities shall be suitably planted with shrubs and trees. Detention basin embankments shall be extensively landscaped with wet-site-tolerant plantings.
- E. Energy conservation. Landscaping shall be designed to conserve energy, such as the planting of evergreen windbreaks to provide shielding from northwesterly winds during the winter and deciduous shade trees to reduce solar heat gain during the summer.
- F. Street or site furniture. Benches, trash receptacles, kiosks, phone booths and other street or site furniture shall be located and sized in accordance with the functional need of such. Selection of such furniture shall take into consideration issues of durability, maintenance and vandalism. All such furniture shall be architecturally compatible with the style, materials, colors and details of buildings on the site.

ARTICLE 46
Tree Standards¹⁰²

§ 110-179. Applicability.

This article shall apply to all applications for development.

§ 110-180. Street trees.

The following standards shall be used to prepare and review any development plan:

- A. Location and spacing. Street trees shall be provided at intervals of approximately 30 to 35 feet along each side of all streets, public or private, existing or proposed. In addition, the approving authority may also require additional street trees to be massed at critical points along the street, such as the visual termination of a curve in the roadway. On streets where healthy and mature street trees currently exist and are being preserved, such may count toward the requirement.
- B. Planting placement. Street trees shall be planted a minimum of 3 1/2 feet inside the sidewalk, on or near the right-of-way line or, if such location is not possible, in the planting strip, between the curb and the sidewalk (or where same would be located if they existed). On streets where existing street trees are consistently located at a certain location so as to form a line parallel to the street, street trees may be placed to continue this pattern. The placement and type of street trees shall be such so as not to interfere with below-grade utilities, roadways, sidewalks or streetlights.
- C. Corner lots and driveways. No street tree shall be planted in a planting strip, between the curb and the sidewalk, within 25 feet of the intersecting curblines (or edges of pavement where no curbs exist) of an intersection or within 10 feet of a driveway apron.
- D. Type. The species of street trees planted shall be selected from the recommended Borough street tree list, latest edition.
- E. Size. Street trees shall be planted at a minimum size of three inches in caliper at time of planting.
- F. Borough Shade Tree Commission. In determining the number, location and type of proposed street trees, the Borough Shade Tree Commission may act in an advisory capacity to the approving authority.
- G. If the approving authority determines that some or all of the street trees cannot be accommodated on or along the front of the subject premises, the applicant shall pay to the Shade Tree Commission the sum of \$500 per street tree required, to be used by the Shade Tree Commission for the planting of trees on public lands in the Borough.
- H. Newly planted street trees shall be monitored for a period of one year to ensure the health of the trees. If the street trees die within the one-year period, the developer/applicant shall replace the dead tree(s). The developer/applicant shall remain liable to replace trees, notwithstanding that the subject premises may have been conveyed to another person or entity.

§ 110-181. (Reserved)

102.Editor's Note: Former Article 47, Wall and Fence Design Standards, as amended, was repealed 9-3-2013 by Ord. No. 2013-12.

§ 110-181.1. Tree removal and replacement.

Each application to the Planning Board or Zoning Board of Adjustment for approval of a major or minor subdivision or site plan that requires the removal of trees, including street trees, shall include an application for a tree removal permit. In the event that any tree sought to be removed is within the line of any street, a copy of the application shall be filed with the Borough Clerk. The application and development proposal shall conform to the following provisions:

- A. Application form. The application form may be obtained from the Zoning Officer and shall include the following information:
 - (1) Name and address (street, lot and block) of the owner of the premises and status of legal entity (individual, partnership, corporation, etc.);
 - (2) Description of the premises where removal is to take place, including lot and block numbers, street address as assigned;
 - (3) A list of all trees to be removed with a caliper equal to or greater than six inches, identified by size and species, including the total number of each species to be removed;
 - (4) Purpose for tree removal (new construction, street or roadway, driveway, utility easement, recreation areas, parking lot, etc.);
 - (5) Proof that there are no delinquent property taxes or assessments due on the property for which the application is submitted; and
 - (6) Such other information as may be deemed necessary in order to effectively process and decide such application.
- B. Landscape plan. A landscape plan prepared by a registered landscape architect or registered professional engineer encompassing the property subject to the application for development shall be submitted with the application for tree removal.
 - (1) The following base information shall be included on the landscape plan:
 - (a) Location of existing tree canopy within the property boundaries.
 - (b) Location of individual trees with a caliper equal to or greater than six inches, identified by size and species, within the area of development/limit of disturbance.
 - (c) Location of individual existing trees with a caliper equal to or greater than six inches, identified by size and species, beyond the area of development/limit of disturbance.
 - (d) Location of individual existing trees and their driplines noted for preservation within the area of development/limit of disturbance, identified by size and species. Where clusters of trees exist on the site or are contiguous with adjacent sites, fragmentation of the cluster shall be avoided where possible.
 - (e) Proposed location of all replacement trees required pursuant to § 110-181.2.
 - (f) Clear labeling of the areas intended for tree/vegetation removal.
 - (g) Tree protection measures and material details and limit of disturbance line.
 - (h) Location of existing and proposed building structures.

- (i) All bodies of water and wetlands, including water retention and detention areas.
- (j) Location of all existing driveways and parking areas.
- (2) Design requirements.
 - (a) Only those trees necessary to permit the construction of buildings, structures, streets, driveways, infrastructure and other authorized improvements shall be removed. Existing vegetation shall be preserved to the greatest extent feasible.
 - (b) No more than 60% of existing tree canopy within the property boundaries shall be removed. The location of the remaining 40% of the tree canopy to be preserved shall be noted on the landscape plan.
 - (c) No more than 10% of the existing trees with a caliper equal to or greater than 10 inches within the area of development/limit of disturbance shall be removed unless the applicant shall replant trees removed in accordance with the Tree Replacement Schedule provided in § 110-181.2. Calculations that result in a fractional number shall be rounded to the nearest whole number.
 - (d) Input from the Shade Tree Commission shall be requested for recommended areas of tree preservation.
 - (e) (Reserved)
 - (f) The approving authority may require a conservation easement to protect any or all trees or tree canopy areas to remain on-site.

C. Site protection.

- (1) Tree protection measures and the limit of disturbance line shown on the landscape plan shall be provided in the field with snow fencing or other durable materials and verified by the Zoning Officer or other designated official prior to soil disturbance.
- (2) Protective barriers shall not be supported by the plants they are protecting but shall be self-supporting. Barriers shall be a minimum of four feet high and shall last until the construction is complete.
- (3) Chain-link fencing may be required for tree protection if warranted by site conditions and relative rarity of the plant.
- (4) Snow fencing used for tree protection shall be firmly secured along the dripline but shall be no less than six feet from the trunk.
- (5) The grade of the land located within the dripline shall not be raised or lowered more than six inches unless compensated by welling or retaining wall methods; and in no event shall welling or retaining wall methods be less than six feet from the trunk of a tree.
- (6) No soil stockpiling, storage of building materials, construction equipment or vehicles shall be permitted within the dripline or within six feet of any remaining trees, whichever is greater.
- (7) Any clearing within the dripline, or within six feet of the trunk of a remaining tree, whichever is greater, shall be done by hand-operated equipment.
- (8) Where a tree that has been noted for preservation is severely damaged and unable to survive,

tree replacement shall occur as provided in § 110-181.2.

(9) No tree within any street line shall be removed unless the removal is approved by the Borough.

§ 110-181.2. Tree replacement and reforestation.

A. Where trees are proposed to be removed in accordance with § 110-112.7E or § 110-181.1, the replacement of such trees shall occur as prescribed in the following table:

Tree Replacement Schedule	
Caliper of Existing Tree Removed (inches)	Number of Replacement Trees (3-inch caliper)
Less than 6	1
From 6 to less than 12	3
From 12 to less than 18	4
From 18 to less than 24	5
From 24 to less than 30	7
From 30 to less than 36	10
36 or greater	The equivalent of 3-inch caliper trees or greater needed to equal the caliper of the tree removed

Where street trees are proposed to be removed and has been approved by the Borough in accordance with § 110-181.1C(9) as part of an application to the Planning Board or Zoning Board of Adjustment, replacement shall be required at 150% of the above schedule.

- B. Replacement trees(s) shall be of nursery-grade quality, balled and burlapped and located on-site. If the approving authority or the Shade Tree Commission determines that some or all of the replacement trees required by § 110-181.2 cannot be accommodated on or along the front of the subject premises, the applicant shall pay to the Shade Tree Commission the sum of \$500 per replacement tree required, to be used by the Shade Tree Commission for the planting of trees on public lands in the Borough.
- C. The type of replacement tree(s) shall be the same as the species removed from the site or other species as approved by the Zoning Officer as follows:
- (1) Flowering and evergreen trees shall constitute as 0.75 replacement trees.
 - (2) Arborvitae at least six feet tall at time of planting shall constitute as 0.33 replacement trees.
 - (3) Tree replacement calculations that result in a fractional number shall be rounded to the nearest whole number.
 - (4) Not more than 1/3 of the total number of replacement trees shall consist of flowering and evergreen trees and arborvitae.
- D. The planting of all replacement trees shall be done by or supervised by a person with horticultural training in tree care and planting methods.

- E. Newly planted replacement trees shall be monitored for a period of one year to ensure the health of the trees. If the replacement trees die within the one-year period, the developer/applicant shall replace the dead tree(s). The developer/applicant shall remain liable to replace trees, notwithstanding that the subject premises may have been conveyed to another person or entity.

§ 110-181.3. Review standards.

In accordance with the design requirements provided in this article, unless otherwise indicated herein, a tree removal permit may only be granted for the following reasons and under the following terms and conditions:

- A. The area proposed for tree removal is to be occupied by a building or other structure; a street or roadway; a parking area; a patio; a swimming pool; a recreation area; a power, drainage, sewerage or any other utility line, easement, or right-of-way; or the area of tree removal is 20 feet or less from either side of or around the perimeter of any of the foregoing, whichever is applicable.
- B. In areas proposed for tree removal which are not to be occupied by any of the uses or facilities set forth in Subsection A of this section:
- (1) The continued presence of such tree or trees is likely to cause danger to persons or property upon the property for which removal is sought or upon adjoining or nearby property.
 - (2) The area where such tree or trees are located has a cut, depression or fill of land, or the topography of the land is such a character as to be injurious or dangerous to such tree or trees or to tree or trees located nearby.
 - (3) The removal of trees is for the purpose of conducting forestry activities, which activities include, but are not limited to, the harvesting of trees in accordance with a forest management plan and the thinning out of a heavily wooded area, with some trees to be removed and other trees to remain.
- C. Upon an express finding by the approving authority, the proposed removal of any or all of the trees or shrubs will not result in or cause, increase or aggravate, on the property of the applicant or upon adjacent property, soil erosion, sedimentation and dust, drainage or sewerage problems, dangerous or hazardous conditions and depression in the land value of the subject property and properties in the neighboring area.
- D. The approving authority shall have the power to affix reasonable conditions to the granting of the permit for the removal of trees and/or the application for development.

§ 110-181.4. Protection of trees.

Whenever an application for tree removal is granted under the terms and conditions of this article, the following protective measures shall be observed:

- A. No materials or temporary soil deposits shall be placed within the dripline of any existing tree to be preserved.
- B. Except while engaged in tree removal, no equipment shall be operated within six feet of any tree protected by this article nor shall such equipment be operated at any time in such a manner as to break, tear, bruise, decorticate or otherwise injure any living or dormant tree. Except while engaged in tree removal, all requirements of § 110-181.6 shall be observed.

§ 110-181.5. Duration of permits.

Permits granted for the removal of trees under the terms and conditions of this article shall run with the land and shall remain in force and effect for the following periods of time, and not thereafter. Once the permit has expired, a new application must be submitted for review and a new permit issued.

- A. If granted for a lot or parcel of land for which site plan approval from the Planning/Zoning Board is required as a condition precedent to obtaining a building permit, until expiration of the site plan approval.
- B. If granted for a lot or parcel of land for which minor subdivision is sought, one year from the date of perfection of such minor subdivision.
- C. If granted for a lot or parcel of land for which preliminary approval of a major subdivision is sought, until expiration of such approval.

§ 110-181.6. Inspection.

- A. Prior to taking final action upon any application for tree removal, an inspection of the site shall be made by the Zoning Officer, or such other officer as may be designated by the approving authority.
- B. Prior to any tree removal, all trees must be marked and areas to be cleared identified for inspection by a municipal representative.
- C. The Zoning Officer shall periodically inspect the site throughout the duration of the construction in order to ensure compliance with this article. Such inspection shall be made of the site referred to in the application, and of contiguous and adjoining land, as well as of the lands in the vicinity of the application, for the purpose of determining drainage conditions and physical conditions existing thereon.

§ 110-181.7. Notice of commencement of tree removal.

- A. The holder of a tree removal permit shall notify the Zoning Officer in writing at least four business days in advance of when the tree removal activity will commence.
- B. The notice shall include information as to the manner of disposal of the removed trees.
- C. In the case of the removal of dead or diseased trees, the dead or diseased trees shall not be turned into mulch and applied to the site but shall be disposed of in a manner so as not to disease other trees on site.

§ 110-181.8. Fees.

A review fee of \$200 shall accompany the application for tree removal.

§ 110-182. Violations and penalties.

- A. When regulated trees are removed without a tree removal permit or in violation of an approved tree removal permit, the affected areas shall be replanted in accordance with the schedule set forth in § 110-181.2 within 30 days of receipt of a notice of violation.
- B. Any person or persons or corporation violating any provision of this article shall be subject to a fine not exceeding \$1,000, or by a period of imprisonment not exceeding 30 days, or by a period of

community service not exceeding 30 days.

ARTICLE 47
(Reserved)

§ 110-183. (Reserved)

ARTICLE 48

Sign Regulations

[Amended in entirety 9-9-2024 by Ord. No. 2024-20. History includes: 9-15-1997 by Ord. No. 97-20; 6-21-2004 by Ord. No. 2004-9; 7-16-2018 by Ord. No. 2018-15]

§ 110-184. Purpose and intent; applicability; general provisions. [Added 9-9-2024 by Ord. No. 2024-20]

- A. Purpose and intent. Signs perform an important function in identifying and promoting properties, residences, businesses, services, events, and other matters of interest to the public. The purpose and intent of this section is to regulate the use of signs so that they are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and to preserve the aesthetic character of the Borough of Metuchen. These standards are designed to protect and promote the public health, safety, morals, and general welfare by:
- (1) Providing clear and uniform standards controlling the type, number, and physical dimensions of signs, and establishing reasonable limits on the time, place, and manner of sign display.
 - (2) Preventing the disruptions, obstructions, and hazards to pedestrian and vehicular traffic that signs may cause.
 - (3) Avoiding excessive conflicts from large or multiple signs to minimize clutter, unsightliness, and confusion.
 - (4) Establishing a clear and flexible permitting process for the review and approval of signs.
- B. Applicability. Any sign erected, altered, or maintained after the effective date of this article shall conform to the standards contained herein.
- C. Permits. No sign shall be constructed or displayed unless a zoning permit has been approved by the Zoning Official and a construction permit has been approved by the Construction Code Official, where applicable, except that zoning permits shall not be required for signs for single- and two-family dwellings, temporary signs, and exempt signs, provided that such signs conform to the standards contained herein.
- D. Site plan applications. If any sign is included in an application for site plan review, all signs shall be approved by the Board as part of the site plan application prior to the issuance of permits for signs.
- E. Site plan exemptions. If any sign requires a deviation from certain requirements of this article, as more specifically defined in § 110-7.1, such sign may be exempt from obtaining site plan approval in accordance with the procedures established in § 110-7.1. All other deviations from this article shall be subject to site plan review.
- F. Maintenance. Signs shall be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated. All signs, together with all supports, braces, anchors, and other parts, shall be kept in continual repair, including cleaning, painting, replacing of defective parts, and otherwise maintaining a presentable condition. Lack of proper maintenance shall be considered a violation of the applicable regulations of Chapter 140, Property Maintenance, and the sign shall be repaired, painted, cleaned, or otherwise returned to a presentable condition or removed upon notification by the Zoning Official or Construction Code Official, in accordance with the procedures established in Chapter 140, Property Maintenance.

- G. Replacements or alterations. If any sign is altered, except for any change in the message on the sign for an existing business or for the purposes of minor and customary maintenance and/or repairs, the sign shall thereafter conform to the standards contained herein.
- H. Nonconforming signs. Any lawfully nonconforming sign may be re-lettered or repaired. However, nonconforming signs shall not be rebuilt, enlarged, changed, or altered in size, location, or appearance unless such sign is made to conform to the standards contained herein.
- I. Computation of sign area. For the purposes of this article, the size of any sign shall be computed as follows:
- (1) The size of any sign shall be computed by determining the total area of any sign board, sign face, or sign background at its largest horizontal and vertical dimensions, not including framing, trim, molding, or other supporting and decorative elements incidental to the display itself.
 - (2) Where any sign is mounted, affixed, applied, or painted directly on a wall, window, awning, canopy, or other surface without a defined sign area, the size of such sign shall be computed by determining the total area as measured by the largest horizontal and vertical dimensions of a related group of letters, numbers, symbols, other characters, logos, or images.
 - (3) Any sign having two sign faces shall have a total area consisting of the area of only one side of the sign, but both sides may be used, and shall be considered as one sign.
 - (4) In the case of any sign, other than a sandwich board sign, having two sign faces with an interior angle of 15° or greater, such sign shall be considered as two separate signs.
- J. Illuminated signs. For purposes of this article, the illumination of signs shall be regulated as follows:
- (1) External illumination.
 - (a) Signs that are externally illuminated by spotlights shall be permitted, provided that the light source is diffused, shielded, projected primarily on the sign, and not directly visible from the street. Such lighting may include but is not limited to ground-mounted spotlights lighting freestanding signs and gooseneck-type light fixtures lighting wall-mounted signs.
 - (2) Internal illumination.
 - (a) Box-type or cabinet signs that are internally illuminated shall not be permitted.
 - (b) Signs with individually fabricated and mounted front-lit channel letters, numbers, symbols, other characters, logos, or images shall be permitted, provided that the light source is not directly visible. In the case where such channel letters are affixed to a raceway or wireway, such raceway or wireway shall be the same color as the surface upon which it is affixed.
 - (c) Signs with individually fabricated and mounted back-lit channel letters, numbers, symbols, other characters, logos, or images shall be permitted, provided that the light source is directed to the surface upon which it is affixed and is not directly visible. In the case where such channel letters are affixed to a raceway or wireway, such raceway or wireway shall be the same color as the surface upon which it is affixed.
 - (d) LED, neon, or similar signs placed inside a window or display case shall not be permitted.
 - (e) Electronic message center (EMC), digital, video display, or similar signs shall not be

permitted.

§ 110-185. Design standards and guidelines. [Added 9-9-2024 by Ord. No. 2024-20]

The following standards and guidelines shall be applicable to any project subject to site plan or subdivision review, site plan exemption, and zoning permits.

- A. Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition, materials, colors, and details of the building, as well as with other signs used on the building or its vicinity.
- B. Signs shall fit within the existing facade features, shall be mounted so that the method of installation is concealed, and shall not interfere with windows, doors, and other openings, conceal architectural details, or obscure the composition of the facade where they are located.
- C. The permitted materials for signs shall be wood, composite board, finished metal, masonry, and other similar types of materials, provided that they are of durable, high-quality, and weather-resistant materials or finishes. Signs using wood shall use only high-quality exterior grade wood with suitable grade finishes. Banner and similar types of vinyl signs shall not be permitted as primary signs, but may be used as temporary signs pursuant to the applicable standards contained herein.
- D. The permitted materials for applied letters shall be wood, finished metal, acrylic, foam density board, and similar types of materials provided that they are of durable, high-quality, and weather-resistant materials or finishes.

§ 110-186. Permitted signs for ground-floor businesses. [Added 9-9-2024 by Ord. No. 2024-20]

Ground-floor businesses in any business, downtown development, and gateway development district shall be permitted to have any one or combination of the following types of signs:

- A. Freestanding signs. A maximum of one freestanding sign shall be permitted on the property, subject to the following standards:
 - (1) Maximum size of the sign shall not exceed 16 square feet in area.
 - (2) Maximum height from ground level to the uppermost portion of the sign shall not exceed five feet.
 - (3) Maximum height of the sign shall not exceed four feet.
 - (4) Maximum width of the sign shall not exceed six feet.
 - (5) Maximum thickness of the sign shall not exceed six inches.
 - (6) Maximum height of letters, numbers, symbols, other characters, logos, or images on the sign shall not exceed 18 inches.
 - (7) No portion of such sign shall be located within five feet from any lot line. No portion of such sign shall project or extend over sidewalks, walkways, driveways, or parking lots.
 - (8) Such sign may be externally illuminated but shall not be internally illuminated. Where such sign is externally illuminated, no such illumination shall be permitted after 10:00 p.m.
- B. Wall-mounted signs. A maximum of one wall-mounted sign shall be permitted for each business,

subject to the following standards:

- (1) Maximum size of the sign shall not exceed 24 square feet in area.
 - (2) Maximum height from ground level to the uppermost portion of the sign shall not exceed the top of the wall to which it is affixed in the case of single-story buildings or the bottom of any second story window in the case of multistory buildings.
 - (3) Maximum height of the sign shall not exceed three feet.
 - (4) Maximum width of the sign shall not exceed 12 feet.
 - (5) Maximum thickness of the sign, together with any raceway or wireway, shall not exceed eight inches.
 - (6) Maximum height of letters, numbers, symbols, other characters, logos, or images on the sign shall not exceed two feet.
 - (7) Such sign shall be located directly along the frontage of the business.
 - (8) Such sign may be either externally illuminated or internally illuminated.
- C. Blade signs. A maximum of one blade sign shall be permitted for each business, subject to the following standards:
- (1) Maximum size of the sign shall not exceed 10 square feet in area.
 - (2) Maximum height from ground level to the uppermost portion of the sign shall not exceed the top of the wall to which it is affixed in the case of single-story buildings or the bottom of any second story windows in the case of multistory buildings. Minimum height from ground level to the lowermost portion of the sign shall be eight feet.
 - (3) Maximum height of the sign shall not exceed four feet.
 - (4) Maximum width of the sign shall not exceed four feet.
 - (5) Maximum projection of the sign shall not exceed five feet. Such sign shall be permitted to project or extend over a public sidewalk within a public right-of-way, provided that such sign shall be no closer than two feet from the face of curb in the B-1 and D-1 districts and five feet from the face of curb in all other districts.
 - (6) Maximum height of letters, numbers, symbols, other characters, logos, or images on the sign shall not exceed two feet.
 - (7) Such sign shall be located directly along the frontage of the business/such sign shall be located no closer than eight feet from another blade sign.
 - (8) Such sign may be either externally illuminated or internally illuminated. Where such sign is externally illuminated, such illumination shall be from above or beside the sign, directly attached to the supporting element, and located no greater than one foot from the sign.
- D. Awning/canopy signs. A maximum of three awning/canopy signs shall be permitted for each business, subject to the following standards:
- (1) Maximum size of all such signs, taken together, shall not exceed a total of four square feet in

area.

- (2) Maximum height from ground level to the uppermost portion of the sign shall not exceed the top of the wall to which it is affixed in the case of single-story buildings or the bottom of any second story windows in the case of multistory buildings. Minimum height from ground level to the lowermost portion of the sign shall be eight feet.
 - (3) Maximum height of each sign shall not exceed one foot.
 - (4) Maximum width of each sign shall not exceed 12 feet.
 - (5) In the case of canopy signs, maximum thickness of each sign, together with any raceway or wireway, shall not exceed eight inches.
 - (6) Maximum height of letters, numbers, symbols, other characters, logos, or images on each sign shall not exceed one foot.
 - (7) Such signs shall be located directly along the frontage of the business. In the case of awning signs, such signs shall be located on the valance of the awning only.
 - (8) In the case of awning signs, such signs may be externally illuminated but shall not be internally illuminated. Where such signs are externally illuminated, such illumination shall be from above the awning. In the case of canopy signs, such signs shall not be externally illuminated but may be internally illuminated.
 - (9) In the case of awning signs, such signs shall be heat-pressed, silk-screened, or sewn on the awning. No such signs shall be painted onto or taped to the awning.
- E. Window signs. Any number of window signs shall be permitted for each business, subject to the following standards:
- (1) Maximum size of all such signs, taken together, shall not exceed a total of 15% of the total area of ground-floor windows, including window portions of doors, and the maximum size of any individual sign shall not exceed eight square feet in area.
 - (2) Maximum height of each sign shall not exceed four feet.
 - (3) Maximum width of each sign shall not exceed four feet.
 - (4) Maximum height of letters, numbers, symbols, other characters, logos, or images on each sign shall not exceed two feet.
 - (5) Such signs shall be located directly along the frontage of the business. Any signs located inside the business and within three feet of the window or door shall constitute window signs.
 - (6) No such signs shall be illuminated.
 - (7) Such signs shall be stenciled, etched, silk-screened, hand-painted, or applied on the interior of the window or door. No such signs shall be taped to the window or door.
- F. Sandwich board signs. A maximum of one sandwich board sign shall be permitted for each business, subject to the following standards:
- (1) Maximum size of the sign shall not exceed six square feet in area.

- (2) Maximum height from ground level to the uppermost portion of the sign shall not exceed four feet.
- (3) Maximum height of the sign shall not exceed three feet.
- (4) Maximum width of the sign shall not exceed three feet.
- (5) Maximum thickness of the sign shall not exceed two inches.
- (6) Maximum height of letters, numbers, symbols, other characters, logos, or images on the sign shall not exceed one foot.
- (7) Such sign shall be located directly along the frontage of the business. Such sign shall be permitted to be displayed during the hours of the business only, shall be removed from the sidewalk, and stored inside the business upon the close of business each day. No such sign shall interfere with pedestrian or vehicular circulation on a public space, pedestrian walkway, sidewalk, alley, driveway, parking area, or street.
- (8) No such sign shall be illuminated.
- (9) Such sign shall be constructed of wood, composite board, chalkboard and/or finished metal. Letters, numbers, symbols, other characters, logos, or images shall be handwritten, painted, or printed. Plastic signs or signs with individual changeable letters shall not be permitted.

G. Additional signs.

- (1) Ground-floor businesses located on corner lots, therefore having a second facade fronting on a public street, shall be permitted to have one additional wall-mounted sign, one additional blade sign, and/or three additional awning/canopy signs on the facade of the building facing the side street, provided that such signs conform to the standards contained herein. In the case where the additional sign faces a residential district, no such sign shall be illuminated.
- (2) Ground-floor businesses having a side or rear facade facing a public space, pedestrian walkway, sidewalk, alley, driveway, or parking area shall be permitted to have one additional wall-mounted sign, one additional blade sign, and/or three additional awning/canopy signs on the facade of the building facing the public space, pedestrian walkway, sidewalk, alley, driveway, or parking area, provided that such signs conform to the standards contained herein. In the case where the additional sign faces a residential district, no such sign shall be illuminated.
- (3) Ground-floor barbershops shall be permitted to have one traditional barber pole, provided that the minimum height from ground level to the lowermost portion of the barber pole shall be eight feet, and the maximum projection of the sign shall not exceed three feet.
- (4) Ground-floor eating and drinking establishments shall be permitted to have one wall-mounted menu board or display case, subject to the following standards:
 - (a) Maximum size of the menu board or display case shall not exceed four square feet in area.
 - (b) Maximum height from ground level to the uppermost portion of the menu board or display case shall not exceed six feet.
 - (c) Maximum height of the menu board or display case shall not exceed three feet.
 - (d) Maximum width of the menu board or display case shall not exceed three feet.

- (e) Maximum thickness of the menu board or display shall not exceed six inches.
- (f) Maximum height of letters, numbers, symbols, other characters, logos, or images on the sign shall not exceed one foot.
- (g) Such menu board or display case shall be located within five feet of the main entrance to the business.
- (h) No such menu board or display shall be illuminated.
- (i) Such menu board or display case shall be constructed of wood, composite board, or finished metal, with the menu clearly visible through a glass or Plexiglass front.

§ 110-187. Permitted signs for other nonresidential uses. [Added 9-9-2024 by Ord. No. 2024-20]

The following signs shall be permitted, pursuant to the following standards based on the type of use, location of use, and district such use is located in:

- A. Signs for buildings containing multiple ground-floor businesses and/or any upper-story business in any business, downtown development, and gateway development district shall be permitted to have a maximum of one freestanding sign or wall-mounted sign serving as a directory of multiple ground-floor businesses and/or any upper-story business, subject to the following standards:
 - (1) In the case of a freestanding directory sign, such sign shall constitute as the only permitted freestanding sign located on the property and shall be subject to the following standards:
 - (a) Maximum size of the sign shall not exceed six square feet in area, within which the primary name panel and each individual tenant panel shall not exceed two square feet in area.
 - (b) Maximum height from ground level to the uppermost portion of the sign shall not exceed five feet.
 - (c) Maximum height of the sign shall not exceed three feet.
 - (d) Maximum width of the sign shall not exceed three feet.
 - (e) Maximum thickness of the sign shall not exceed six inches.
 - (f) Maximum height of letters, numbers, symbols, other characters, logos, or images on the sign shall not exceed six inches.
 - (g) No portion of such sign shall be located within five feet from any lot line. No portion of such sign shall project or extend over sidewalks, walkways, driveways, or parking areas.
 - (h) Such sign may be externally illuminated but shall not be internally illuminated. Where such sign is externally illuminated, no such illumination shall be permitted after 10:00 p.m.
 - (2) In the case of a wall-mounted directory sign, such sign shall be in addition to any permitted wall-mounted signs located on the building and shall be subject to the following standards:
 - (a) Maximum size of the sign shall not exceed six square feet in area, within which the primary name panel and each individual tenant panel shall not exceed two square feet in area.

- (b) Maximum height from ground level to the uppermost portion of the sign shall not exceed the top of the wall to which it is affixed in the case of single-story buildings or the bottom of any second story window in the case of multistory buildings.
 - (c) Maximum height of the sign shall not exceed three feet.
 - (d) Maximum width of the sign shall not exceed three feet.
 - (e) Maximum thickness of the sign shall not exceed four inches.
 - (f) Maximum height of letters, numbers, symbols, other characters, logos, or images on the sign shall not exceed six inches.
 - (g) No such sign shall be illuminated.
- B. Signs for any use in the LI Light Industrial district: a maximum of (1) freestanding sign and one wall-mounted sign shall be permitted, subject to the applicable standards contained in § 110-186, and provided that no such sign shall be illuminated after 10:00 p.m.
 - C. Signs for institutional uses located in any district: a maximum of one freestanding sign and one wall-mounted sign shall be permitted, subject to the applicable standards contained in § 110-186, and provided that no such sign shall be illuminated after 10:00 p.m.
 - D. Signs for business uses located in any residential district: a maximum of one freestanding sign or wall-mounted sign shall be permitted, subject to the applicable standards contained in § 110-186, and provided that the maximum size of the sign shall not exceed three square feet in area and that no such sign shall be illuminated.

§ 110-188. Permitted primary signs for residential developments. [Added 9-9-2024 by Ord. No. 2024-20]

Apartments, townhouses, and other multifamily residential developments shall be permitted to have any one or combination of the following types of signs:

- A. Residential development identification sign. A maximum of one freestanding sign or wall-mounted sign identifying the residential development shall be permitted, provided that the maximum size of such sign shall not exceed 12 square feet in area.
- B. Building identification sign. A maximum of two wall-mounted signs identifying each building within the residential development shall be permitted, provided that the maximum size of each sign shall not exceed two square feet in area.
- C. Management office identification sign. A maximum of one wall-mounted sign identifying the location of the management office shall be permitted, provided that the maximum size of such sign shall not exceed two square feet in area.

§ 110-189. Temporary signs. [Added 9-9-2024 by Ord. No. 2024-20]

The following signs are authorized without a zoning permit, so long as such signs conform to the standards contained herein.

- A. Temporary window advertising signs. Ground-floor businesses in any business, downtown development, and gateway development district shall be allowed to have any number of temporary window advertising signs, subject to the following standards:

- (1) Maximum size of all such signs, taken together, shall not exceed a total of 25% of the total area of ground-floor windows, including window portions of doors, and the maximum size of any individual sign shall not exceed eight square feet in area.
 - (2) Such signs shall be located directly along the frontage of the business. Any temporary sign located inside the business and within three feet of the window or door shall constitute a temporary window sign.
 - (3) No such sign shall be illuminated.
 - (4) Such signs may be constructed of paper, cardboard, or plastic affixed or applied on the interior of the window or door. No such sign shall be taped to the window or door.
 - (5) Such signs shall be allowed to be displayed for a period not to exceed 30 days and shall clearly indicate the date of their posting.
- B. Temporary special promotion signs. Ground-floor businesses in any business, downtown development, and gateway development district shall be allowed to have any number of temporary special promotion signs advertising the opening of a new ground-floor business or change in ownership of an existing ground-floor business, subject to the following standards:
- (1) Maximum size of all such signs, taken together, shall not exceed 16 square feet in area, exclusive of pennants, banners, balloons, and similar types of displays which shall be permitted under this section only, provided that such displays do not contain signage.
 - (2) No such sign shall be illuminated.
 - (3) Such signs may be constructed of paper, cardboard, or plastic affixed or applied on the interior of the window or door. No such sign shall be taped to the window or door.
 - (4) Such signs shall be allowed to be displayed for a period not to exceed 30 days and shall clearly indicate the date of their posting.
- C. Temporary wall-mounted banner signs. Ground-floor businesses in any business, downtown development, and gateway development district shall be allowed to utilize a maximum of one temporary wall-mounted banner sign pending the installation or repair of a permanent wall-mounted sign, subject to the following standards:
- (1) Maximum size of the sign shall not exceed 16 square feet in area.
 - (2) No such sign shall be illuminated.
 - (3) Such sign shall be affixed at all corners to the exterior wall so as to prevent any disruptions, obstructions, and hazards to pedestrian and vehicular traffic that such banner sign may cause.
 - (4) Such signs shall be allowed to be displayed for a period not to exceed 30 days and shall clearly indicate the date of their posting; however, such may be extended for one additional thirty-day period subject to the issuance of a zoning permit. Notwithstanding the above, such sign shall be removed immediately after installation or repair of a permanent wall-mounted sign.
- D. Temporary construction signs. Any active construction site in any district shall be allowed to have a maximum of one temporary construction sign, subject to the following standards:
- (1) Maximum size of the sign shall not exceed 16 square feet in area.

- (2) Maximum height from ground level to the uppermost portion of the sign shall not exceed five feet.
- (3) In the case of a freestanding construction sign, no portion of such sign shall be located within 10 feet from any lot line. No portion of such sign shall project or extend over sidewalks, walkways, driveways, or parking lots.
- (4) No such sign shall be illuminated.
- (5) Such sign shall be allowed to be displayed for a period not to exceed six months and shall clearly indicate the date of their posting; however, such may be extended for one additional six-month period subject to the issuance of a zoning permit. Notwithstanding the above, such sign shall be removed immediately after issuance of a certificate of approval or a certificate of occupancy.

§ 110-190. Exempt signs. [Added 9-9-2024 by Ord. No. 2024-20]

The following signs are authorized without a zoning permit, so long as such signs conform to the standards contained herein.

- A. Official traffic signs.
- B. Public or regulatory signs installed, required, or authorized by local, state, or federal governments, agencies, or utilities, including, but not limited to, traffic, utility, safety, railroad crossing, and identification or directional signs for public facilities.
- C. Lamppost banners or overhead banners spanning a street or roadway advertising public functions or fundraising events for charitable, or religious, civic, philanthropic, or educational organization installed, required, or authorized by local government.
- D. Historical tablets, cornerstones, plaques, and markers installed, required, or authorized by local, state, or federal governments, agencies, or utilities, provided that such are noncommercial in nature, and are not internally illuminated. Such signs shall not exceed three square feet in area.
- E. Art and murals, provided that such are noncommercial in nature, and are not internally illuminated.
- F. Holiday and seasonal displays.
- G. Personal expression signs, provided that such are noncommercial in nature, and are not illuminated. There shall be a maximum of three such signs on each property and the maximum size of all such signs, taken together, shall not exceed six square feet in area.
- H. Street address signs, provided that such are noncommercial in nature, and are not illuminated. There shall be a maximum of one such sign on each property. Within residential districts, such sign shall not exceed three square feet in area. Within nonresidential districts, such sign shall not exceed five square feet in area.
- I. Security and warning signs, provided that such signs are noncommercial in nature, and are not illuminated. Within residential districts, such signs shall not exceed two square feet in area. Within nonresidential districts, there shall be a maximum of one larger sign not to exceed five square feet in area and all other signs shall not exceed two square feet in area.
- J. Private roadway, driveway, or premises signs, provided that such signs are noncommercial in nature, and are not illuminated. Within residential districts, such signs shall not exceed two square feet in area. Within nonresidential districts, there shall be a maximum of one larger sign not to exceed five

square feet in area and all other signs shall not exceed two square feet in area.

- K. Directional, loading zone, entrance, and exit signs, provided that such signs are noncommercial in nature, and are not illuminated. Such signs shall not exceed three square feet in area and shall not exceed three feet in height.
- L. Signs which are an integral part of vending machines, including gasoline pumps, provided that each sign does not exceed two square feet in area.
- M. Garage sale signs in accordance with Chapter 98.

§ 110-191. Prohibited signs. [Added 9-9-2024 by Ord. No. 2024-20]

The following signs are specifically prohibited in any district, including, but not limited to, the following:

- A. Signs which obstruct any window, door, or other opening used as a regular means of ingress and egress, to provide required light and ventilation or for emergency access and escape.
- B. Signs located within any public right-of-way, including placed on any sidewalk, street, curb, fire hydrant, lamppost, utility pole, fence, railroad right-of-way, or fixtures of the fire alarm or police communication system of the Borough or any public building or structure. This provision shall not apply to signs specifically permitted to be located within any public right-of-way pursuant to applicable standards contained herein.
- C. Signs affixed to any tree on public or private property.
- D. Signs maintained at any location where, by reason of color, illumination, position, size, shape, or design, they may obstruct, impair, obscure, or be confused with any traffic control sign, signal, or device or other official parking, directional, warning, or information sign or where they may interfere with traffic visibility or safety or mislead or confuse vehicular traffic.
- E. Feather flag signs, moving, fluttering, or rotating signs, interactive, flashing, blinking, or animated signs or signs lighted by such methods.
- F. Signs located on vacant or unimproved land, unless the sign exclusively specifies the sale, lease, transfer, hire or approved development of the vacant property as permitted herein.
- G. Billboards.
- H. Signs located within any clear sight triangle.
- I. Signs located on motor vehicles shall be permitted pursuant to motor vehicle and traffic laws of New Jersey, except that no such motor vehicle bearing a sign shall be parked continuously in one location in excess of 24 hours, where there is direct visibility from a public right-of-way.
- J. (Reserved)
- K. (Reserved)
- L. Pennants, banners, balloons, and similar types of displays, except as permitted herein.
- M. Signs attached to or erected on the roof of any building.
- N. All signs not specifically permitted under any provision in this article are hereby prohibited

ARTICLE 49

Miscellaneous Design Standards**§ 110-192. through § 110-194. (Reserved)¹⁰³****§ 110-195. Outdoor displays of retail merchandise. [Added 9-15-1997 by Ord. No. 97-20; amended 12-20-2004 by Ord. No. 2004-17]**

Outdoor display of merchandise shall be permitted in the B-1 and D-1 Zoning Districts and in those portions of the B-2 and B-3 Zoning Districts which front on Main Street, subject to the following regulations:

- A. The display of merchandise shall be restricted to the regular business hours of the store's operation and shall be removed at the close of business each day, with the area swept clean each day.
- B. No portion of the display shall project more than three feet from the building facade.
- C. The display of merchandise shall not be located beyond the width of the street frontage occupied by the business. For a business located on a corner lot, the display may occupy a single frontage, which shall be the narrower of the frontages, and shall not extend along the frontage of the other street.
- D. The retail merchandise shall not be displayed in cardboard boxes, but rather shall be placed either on the sidewalk itself or upon a display table or rack as appropriate to the nature of the merchandise. Display tables or racks shall be of such design as to be compatible with the architectural character, materials, color and details of the storefront and building to which such relate.
- E. The merchandise may contain additional signage indicating the product(s) displayed and its price. Each additional sign shall not be larger than one square foot, and the total additional signage associated with the outdoor display shall consist of no more than three square feet for each business.
- F. The display shall be maintained in a neat and orderly manner at all times.
- G. Any business with an outdoor display of merchandise shall have canvas awnings on all windows along the frontage upon which the display takes place. If the Zoning Officer determines that awnings are not appropriate for such storefront or building, the Zoning Officer may require planters with landscaping or other similar improvements as a condition of outdoor display of merchandise.
- H. The business shall first obtain a permit from the Zoning Officer. The permit shall set forth applicable conditions. Denial or revocation of the permit shall be appealed to the Zoning Board of Adjustment.

§ 110-195.1. Sidewalk cafes. [Added 9-3-2013 by Ord. No. 2013-12]

Use of the public sidewalk to service customers for permitted retail shops and stores and eating and drinking establishments shall be permitted in the B-1 and D-1 Zoning Districts and in those portions of the B-2 and B-3 Zoning Districts which front on Main Street, subject to the following regulations:

- A. There shall be maintained at all times at least six feet of right-of-way for pedestrian use. Tables shall not exceed 36 inches in diameter or square. All furniture shall conform to Borough design guidelines. The area to be utilized shall be cordoned off from the sidewalk, if required.

103.Editor's Note: Former § 110-192, Swimming pools, tennis courts and racquetball courts, as amended; § 110-193, Accessory structures; and § 110-194, Antennas, as amended, were repealed 9-3-2013 by Ord. No. 2013-12.

- B. The sidewalk shall be kept completely clean and free of debris at all times.
- C. Only sidewalks immediately fronting on a street-level retail shop and store and eating and drinking establishments shall be used; retail shops and stores shall be limited to a maximum of one table and two chairs; eating and drinking establishments shall have no limit.
- D. Use of the sidewalk shall be subject to the observance of all health and safety regulations and a valid certificate of occupancy for the use within the immediately adjacent structure and shall be subject to the rights of the County of Middlesex to regulate uses within the right-of-way of any county road, if applicable.
- E. Any business utilizing the public sidewalk shall maintain public liability insurance in the amount of \$500,000 single limit coverage, naming the Borough of Metuchen as additional insured. A certificate of insurance shall be filed with the Borough Clerk and Zoning Officer prior to the use of the sidewalk.

Part V
Organization, Powers And Procedures

ARTICLE 50
Planning Board

§ 110-196. Establishment; membership.

There is hereby established, pursuant to N.J.S.A. 40:55D-23, a Planning Board consisting of nine members of the following four classes and two alternate members as hereinafter provided:

- A. Class I: The Mayor of the Borough.
- B. Class II: One of the officials of the Borough, other than a member of the Borough Council, to be appointed by the Mayor. The member of the Environmental Commission who is also a member of the Planning Board shall be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV or alternate members of the Planning Board.
- C. Class III: A member of the Borough Council to be appointed by the same.
- D. Class IV: Six other citizens of the Borough to be appointed by the Mayor. The members of Class IV shall hold no other Borough office or position, except that any member may be a member of the Borough Historic Preservation Commission, one member may be a member of the Zoning Board of Adjustment and one member may be a member of the Board of Education. The member of the Environmental Commission who is also a member of the Planning Board shall be a Class IV Planning Board member unless there be among the Class IV or alternate members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be the Class II member of the Planning Board.
- E. Alternate members: Not more than two alternate members of the Planning Board to be appointed by the Mayor. Such alternate members shall be designated by the Mayor as "Alternate No. 1" and "Alternate No. 2." Alternate members may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member of any class. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. Alternate members shall meet the qualifications pertaining to Class IV members of the Planning Board.

§ 110-197. Terms; vacancies.

The terms of members of the Planning Board and the procedure to be followed in order to fill vacancies shall be in accordance with this section.

- A. Terms.
 - (1) Class I: The term of the member composing Class I shall correspond with his or her official tenure.
 - (2) Class II: The term of the member composing Class II shall be for one year or terminate at the completion of his or her term of office, whichever occurs first, unless the Class II member is also a member of the Environmental Commission, in which case his or her term shall be for three years or terminate at the completion of his or her term of office as a member of the

Environmental Commission, whichever occurs first.

- (3) Class III: The term of the member composing Class III shall be for one year or terminate at the completion of his or her term of office.
 - (4) Class IV: The terms of members composing Class IV shall be for four years, running from January 1 of the year of their respective appointments except as otherwise provided herein. The term of a member composing Class IV who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his or her term of office as a member of the Environmental Commission, whichever occurs first. The term of a member composing Class IV who is also a member of the Board of Adjustment or the Board of Education shall terminate at the completion of his or her term of office as a member of such other body or at the completion of his or her Class IV term, whichever occurs first.
 - (5) Alternate members: The terms of alternate members shall be for two years, provided that the term of not more than one alternate member shall expire in any given year.
- B. Vacancies. If a vacancy in any membership class shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term the same as provided in Subsection A above.

§ 110-198. Organization of Board.

The Planning Board shall annually elect a Chairperson and a Vice-Chairperson from the regular Class IV members and select a Secretary, who may be either a member of the Planning Board or a municipal employee designated by the Planning Board.

§ 110-199. Board Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation for the Planning Board Attorney, who shall be an attorney other than the Borough Attorney.

§ 110-200. Powers and duties.

The Planning Board shall have the following powers and duties:

- A. To prepare and adopt, and from time to time amend, a Master Plan for the development of the Borough, pursuant to N.J.S.A. 40:55D-28.
- B. To review and act on applications for development for the following:
 - (1) Minor subdivisions.
 - (2) Major subdivisions.
 - (3) Minor site plans.
 - (4) Site plans.
 - (5) Conditional uses.
 - (6) PURDs.
- C. When reviewing applications for development under its jurisdiction, to act to the same extent and

subject to the same restrictions as the Zoning Board of Adjustment, on the following matters, pursuant to N.J.S.A. 40:5D-60:

- (1) Variances, pursuant to N.J.S.A. 40:55D-70c.
 - (2) Requests for the issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the Official Map, pursuant to N.J.S.A. 40:55D-34.
 - (3) Requests for the issuance of a permit for a building or structure not related to a street pursuant to N.J.S.A. 40:55D-35.
- D. To administer the applicable provisions of this chapter, the Master Plan and the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).
- E. To participate in the preparation and review of programs or plans required by county, state or federal laws or regulations.
- F. To assemble and analyze data on a continuing basis as part of a continuous planning process.
- G. To consider and make a report to the Borough Council, within 35 days after referral, on any proposed development regulation submitted to the Planning Board pursuant to the provisions of N.J.S.A. 40:55D-26(a) and also to review any matters which may be specifically referred to the Planning Board by the Borough Council pursuant to the provisions of N.J.S.A. 40:55D-26(b), including but not limited to the following:
- (1) Acquisition by the Borough, through purchase, lease or otherwise, of buildings and land.
 - (2) Sale of Borough-owned buildings and land.
 - (3) Vacation of Borough or other public rights in streets, alleys and other public rights-of-way.
 - (4) Creation of Borough parks and other recreational areas and facilities.
- H. To annually prepare a program of municipal capital improvement projects projected over a term of six years and amendments thereto and recommend the same to the Borough Council, if authorized to do so by the same.
- I. To perform such other advisory duties as are assigned by ordinance or by resolution of the Borough Council for the aid and assistance of the same or other Borough agencies or officials.

ARTICLE 51
Zoning Board of Adjustment

§ 110-201. Establishment; membership. [Amended 12-5-1994 by Ord. No. 94-29; 1-17-2024 by Ord. No. 2024-01]

There is hereby established, pursuant to N.J.S.A. 40:55-69, a Zoning Board of Adjustment consisting of seven regular members and four alternate members as hereinafter provided.

- A. Regular members: Seven residents of the Borough who shall be nominated by the Mayor subject to confirmation, following advice and consent, by the Borough Council in the manner provided for other appointments under the Borough Act, as set forth at N.J.S.A. 40A:60-5(g) and N.J.S.A. 40A:60-6(d). Regular members shall serve for a term of four years.
- B. Alternate members: Not more than four alternate members to be appointed by the Mayor. Such alternate members shall be designated by the Mayor as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4." Alternate members may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote, then Alternate No. 2, etc. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. Alternate members shall meet the qualifications pertaining to regular members of the Zoning Board of Adjustment. Alternate members shall serve for a term of two years, except that the terms of no more than two alternate members shall expire in any one year.

§ 110-202. Terms; vacancies.

The terms of members of the Zoning Board of Adjustment and the procedure to be followed in order to fill vacancies shall be in accordance with this section.

- A. Terms.
 - (1) Regular members: The terms of regular members shall be for four years, running from January 1 of the year of their respective appointment.
 - (2) Alternate members: The terms of alternate members shall be for two years, running from January 1 of the year of their respective appointments. The term of not more than one alternate member shall expire in any given year.
- B. Vacancies. If a vacancy in membership shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term the same as provided in Subsection A above.

§ 110-203. Organization of Board.

The Zoning Board of Adjustment shall annually elect a Chairperson and Vice-Chairperson from among its regular members and select a Secretary who may be either a member of the Zoning Board of Adjustment or a Borough employee designated by the Zoning Board of Adjustment.

§ 110-204. Board Attorney.

There is hereby created the office of Zoning Board of Adjustment Attorney. The Zoning Board of Adjustment may annually appoint, fix the compensation of or agree upon the rate of compensation for the Zoning Board of Adjustment Attorney, who shall be an attorney other than the Borough Attorney.

§ 110-205. Powers and duties.

The Zoning Board of Adjustment shall have the following powers and duties:

- A. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or determination made by the Zoning Officer or any other Borough official in the administration or enforcement of any provision of this chapter. Such appeal shall be made pursuant Article 54 of this chapter.
- B. To hear and decide requests for interpretations of the Zoning Map¹⁰⁴ or any provision or regulation of this chapter. In such cases, the Zoning Board of Adjustment shall refer to the Planning Board, for its review and comment, an informational copy of such request. Such referral to the Planning Board shall not extend the one-hundred-twenty-day time for action by the Zoning Board of Adjustment. Failure of the Zoning Board of Adjustment to make such informational copy available to the Planning Board shall not invalidate any such request, hearing or proceeding.
- C. Pursuant to N.J.S.A. 40:55D-70c, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or by reason of other extraordinary and exceptional situations uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any zoning regulation contained in Part III of this chapter would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application, so as to relieve such difficulties or hardship; or, where in an application or appeal relating to a specific piece of property the purposes of this chapter would be advanced by a deviation from the zoning requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from zoning regulations; provided, however, that no variance shall be granted under this section to allow a structure or use in a district restricted against such structure or use pursuant to Article 17 of this chapter; and further provided that the proposed development does not require an approval by the Planning Board in conjunction with which the Planning Board shall review the request for variance.
- D. Pursuant to N.J.S.A. 40:55D-70d, in particular cases and for special reasons, grant a variance to allow departure from the requirements of Article 17 of this chapter, including but not limited to allowing a structure or use in a district restricted against such structure or use; an expansion of a nonconforming use; deviation from a general or specific condition pertaining to a conditional use, as specified in §§ 110-86 and 110-87 of this chapter; an increase in the permitted floor area ratio, if specified in § 110-64; or, an increase in the permitted density, as specified in § 110-64, except as applied to the minimum lot area for a lot or lots for single- or two-family dwellings, which lot or lots are either isolated undersized lots or lots resulting from minor subdivision. No variance may be granted under the provisions of this subsection unless the Board first finds that such variance may be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and this chapter. Any variance granted under the provisions of this subsection shall require the affirmative vote of at least five members of the Zoning Board of Adjustment.
- E. To review and act on requests for the issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the Official Map, pursuant to N.J.S.A. 40:55D-34.
- F. To review and act on requests for the issuance of a permit for a building or structure not related to a

104. Editor's Note: The Zoning Map is included in the pocket at the end of this Code or on file in the Borough offices.

street, pursuant to N.J.S.A. 40:55D-35.

- G. Whenever the Board of Adjustment is reviewing an application for approval of a variance pursuant to Subsection D above, to review and act on development plans for subdivisions, site plans and conditional uses to the same extent and subject to the same restrictions as the Planning Board; provided, however, that the exercise of such power shall be limited to that lot or lots for which a variance is requested or upon which a proposed variant use, structure or condition is to be situated. Whenever the Zoning Board of Adjustment shall exercise such power, it shall follow the same procedures required of the Planning Board by the terms of this chapter unless otherwise specified. Whenever the Zoning Board of Adjustment has jurisdiction over an application for a variance pursuant to Subsection D above, the developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a development plan and/or conditional use. The separate approval of the variance shall be conditioned upon the grant of all required subsequent approvals by the Zoning Board of Adjustment, and no such subsequent approvals shall be granted unless such approvals can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning requirements of this chapter. The number of votes required to grant any such subsequent approvals shall be as provided in this chapter for the same approvals by the Planning Board.
- H. Issue certificates certifying that a use or structure was lawfully existing prior to the adoption of the ordinance that rendered such use or structure nonconforming. In such cases, the applicant shall have the burden of proof.

ARTICLE 52

Provisions Applicable to Both the Planning Board and the Zoning Board of Adjustment**§ 110-206. Meetings.**

The Board shall hold meetings according to the following provisions:

- A. Regular meetings. The Board shall schedule regular meetings not less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications to process or for lack of a quorum.
- B. Special meetings. At the request of the Chairperson or at the request of any two Board members, a special meeting shall be held, provided that notice of such meeting is given to the Board members and the public in accordance with all applicable legal requirements.
- C. Quorum. No action shall be taken at any meeting without a quorum being present.
- D. Public meetings. All regular and special meetings shall be open to the public with notice of all such meetings given, in accordance with the requirements of the Open Public Meetings Act.¹⁰⁵
- E. Rules. A hearing shall be held on each application for development. The Board shall adopt rules governing the conduct of such hearings, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or this chapter. Said rules and regulations may include the further definition of a complete application beyond the contents of this chapter and shall provide that the Board review, on the record, the reports and recommendations of each Borough official or agency with respect to each application for development referred to them pursuant to this chapter. In the issuance of subpoenas, administration of oaths and taking testimony, the provisions of the County and Municipal Investigations Law shall apply.¹⁰⁶
- F. Maps and documents. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days prior to the date of the hearing during normal business hours in the office of the Borough Clerk. The applicant may produce other documents, records or testimony at the hearing to substantiate, clarify or supplement the previously filed maps and documents.
- G. Oaths. The acting Chairperson presiding at the meeting or the Board Attorney shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the applicant and other interested parties.
- H. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the Acting Chairperson and to reasonable limitations as to time and number of witnesses.
- I. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

¹⁰⁵.Editor's Note: See N.J.S.A. 10:4-6 et seq.

¹⁰⁶.Editor's Note: See N.J.S.A. 2A:67A-1 et seq.

§ 110-207. Records.

Each Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party, at the party's expense, provided that the charge shall not be more than the maximum permitted in N.J.S.A. 2A:11-15. Said transcript shall be certified, in writing, by the transcriber to be accurate.

§ 110-208. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Board Secretary. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party shall be charged a fee for reproduction of the minutes for his or her use.

§ 110-209. Conflicts of interest.

No member or alternate member of the Board shall act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself or herself from acting on a particular matter, such member shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion relating thereto.

§ 110-210. Absence from meeting.

Any member of the Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his or her absence from one or more of the meetings; provided, however, that such member has available to him or her the transcript or recording of all of the hearing from which such member was absent and certifies, in writing, to the Board that he or she has read such transcript or listened to such recording.

§ 110-211. Resolutions.

Any decision of the Board or when acting upon any application for development, including an action of denial resulting from the failure of a motion to be approved, shall be reduced to a written resolution memorializing the action, pursuant to § 110-34. Said resolution shall be adopted within 45 days of the date on which the action was taken by a vote of a majority of the members of the Board whose vote resulted in the action previously taken. Any member of the Board who did not vote on the action previously taken shall not vote on the resolution memorializing such action. The vote on such resolution shall be deemed to be a memorialization of an action and not an action of the Board, and the date of adoption of such resolution shall constitute the date of decision for purposes of all mailings, filings and publications required pursuant to §§ 110-35 and 110-36.

§ 110-212. Experts and staff. [Amended 9-15-1997 by Ord. No. 97-20]

The Board may employ or contract for the services of experts and such other staff and services as it deems necessary, the cost of which shall not exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 110-213. Referral of applications for development.

The Board shall refer one informational copy of all applications for development to the Borough Environmental Commission. Failure of the Board to make such informational copy of any application available to the Environmental Commission shall not invalidate any hearing or proceeding. The Board may also refer, for review and comment, informational copies of all applications for development to the Borough Engineer, Borough Planner and any other Borough officials and agencies.

ARTICLE 53

Development Review Committee (DRC)

[Amended 11-1-1993 by Ord. No. 93-23; 5-2-1994 by Ord. No. 94-4; 9-3-2013 by Ord. No. 2013-12; 2-11-2019 by Ord. No. 2019-01; 2-18-2020 by Ord. No. 2020-05¹⁰⁷]

§ 110-214. Development Review Committee established.

A Development Review Committee ("DRC") shall be established for development or requests for review, except as set forth in § 110-217, intended to be presented to the Planning Board or the Board of Adjustment.

§ 110-215. Members.

The DRC shall have the following members:

- A. The Borough Administrator, who shall serve as Chairperson or designate another Borough official to serve as Chairperson.
- B. The Planning Board Engineer.
- C. The Planning Board Planner.
- D. The Construction Official.
- E. The Zoning Officer, who shall serve as Secretary.
- F. Any other Borough employee or official, such as a Police Traffic Officer, Fire Official or Subcode Official, as may be requested by the Chairperson whose particular expertise may be required on a specific application.

§ 110-216. (Reserved)**§ 110-217. Duties.**

The DRC shall have the following duties:

- A. To acquaint the applicant with the substantive and procedural requirements of this chapter.
- B. To provide for an exchange of information regarding the proposed development plan and applicable elements of the Master Plan, this chapter and other development requirements.
- C. To advise the applicant of any public sources of information that may aid the application.
- D. To otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.
- E. To review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences.
- F. To permit input into the general design of the project.
- G. To assist in determining the completeness of an application.

107.Editor's Note: This ordinance also amended the title of this article, which was formerly Technical Review Committee (TRC).

- H. To solicit and review comments from Borough officials and agencies.
- I. To act only in an advisory capacity with no power to approve, deny or modify any portion of any other type of application for development.
- J. To informally review all applications for development, except for variances pursuant to § 110-205D and N.J.S.A. 40:55D-70(d) (as to which applications the DRC shall review subdivision plans, site plans and design), and individual lot applications for detached one- or two-dwelling-unit buildings. The Zoning Officer, after consultation with the Chairperson of the DRC, may waive DRC review where requested by the applicant and where the Zoning Officer finds that the nature or lack of complexity of an application does not warrant DRC review.
- K. To review minor site plan applications, except for variances pursuant to § 110-205C and N.J.S.A. 40:55D-70(c) as well as § 110-205D and N.J.S.A. 40:55D-70(d), and make written recommendations to the Planning Board regarding formal action on such applications.

§ 110-218. Meetings.

The DRC Chairperson shall schedule regular meetings not less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications to review. Special meetings may be held with the consent of a majority of the members of the DRC. Meetings shall be held in executive session with the applicant present.

ARTICLE 54

Appeals to Zoning Board of Adjustment**§ 110-219. Applicability.**

Any interested party may appeal an order, requirement, decision, determination or refusal made by the Zoning Officer, based on or made in the administration or enforcement of this chapter, to the Zoning Board of Adjustment, pursuant to § 110-205A.

§ 110-220. Procedure.

Such appeal shall be taken within 20 days of the date of the contested order, requirement, decision, determination or refusal made by the Zoning Officer, pursuant to the following provisions:

- A. A notice of appeal shall be filed with the Zoning Officer, together with 10 copies of said notice to the Board Secretary. Said notice of appeal shall specify the grounds for such appeal. The Zoning Officer shall immediately thereafter transmit to the Board all the papers constituting the record upon which the action being appealed was taken.
- B. An appeal, once filed as prescribed in Subsection A, stays all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the Zoning Officer certifies to the Board, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certification, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by order of the Superior Court of New Jersey upon notice to the Zoning Officer and on due cause shown.
- C. In exercising its power to hear and decide appeals, the Zoning Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made and, to that end, have all the powers of the Zoning Officer.

§ 110-221. Time period for action.

The Board shall conclude a review of the record and take action on such matter within 120 days of the date such appeal was filed pursuant to § 110-220A. Failure of the Board to take action within such time period, or within such further time as may be consented to by the appellant, shall constitute a decision favorable to the appellant.

ARTICLE 55
Appeals to the Borough Council

§ 110-222. Applicability.

Any interested party may appeal any final decision of the Zoning Board of Adjustment approving an application for development pursuant to § 110-205D and N.J.S.A. 40:55D-70(d) to the Borough Council.

§ 110-223. Procedure.

Such appeal shall be taken within 10 days of the date of publication of such final decision, pursuant to § 110-36, pursuant to the following provisions and all applicable provisions of N.J.S.A. 40:55D-1, et seq.:

- A. The appellant shall, within five days of service of the notice of the appeal, arrange for a transcript of the hearings of the decision under appeal for use by the Borough Council. Such transcript shall be pursuant to § 110-207, and the appellant shall pay a deposit of \$5,000 or the estimated cost of such transcript, whichever is less, to the Borough Clerk or, within 35 days of service of notice of appeal, submit a transcript as otherwise arranged, or such appeal may be dismissed for failure to prosecute.
- B. In addition to the transcript of the hearings on the application, the record on appeal to the Borough Council shall include the minutes of any meeting at which the application was discussed, the reports and recommendations of each Borough official or agency to which the application was referred and a copy of the resolution of action or resolution memorializing such action on the decision under appeal.
- C. Notice of the Borough Council meeting to hear and decide such appeal shall be given by the Borough Council by personal service or certified mail to the appellant, to those persons entitled to copies of a resolution of action or a resolution memorializing an action, pursuant to § 110-35, and to the Zoning Board of Adjustment, at least 10 days prior to the date of such meeting.
- D. The parties involved may submit oral and written argument on the record at such Borough Council meeting, and the Borough Council shall provide for verbatim recording and transcripts of such meeting pursuant to § 110-207.

§ 110-224. Action by the Borough Council.

The Borough Council shall conclude a review of the record below not later than 95 days from the date of publication of such final decision, pursuant to § 110-36, unless the appellant consents, in writing, to an extension of such period. Failure of the Borough Council to hold a hearing, conclude its review of the record and render a decision within the above specified time period shall constitute a decision affirming the action of the Zoning Board of Adjustment.

Part VI
Inspections, Improvements, Guaranties And Agreements

ARTICLE 56
Inspections

§ 110-225. Inspection required.

All required improvements and utility installations shall be inspected during the time of their installations under the supervision of the Borough Engineer or other authorized persons to ensure satisfactory completion. The cost of said inspections shall be the responsibility of the developer, who shall agree, in writing, to pay all reasonable costs for such inspections, pursuant to §§ 110-226 and 110-227.

§ 110-226. Fees.

Prior to the issuance of a zoning permit, the developer shall deposit with the Borough Treasurer an inspection fee, which shall be a sum equal to up to 5% of the estimated cost of improvements, the specific percentage to be established by the Borough Engineer at the time of final approval based on the anticipated number and costs of inspections involved. The Borough Treasurer shall, in turn, deposit such funds in an interest-bearing account. In the event that the established inspection fee exceeds \$5,000, the developer may make an initial deposit with the Borough which need not exceed \$5,000. The remainder shall be deposited in increments of at least \$1,000, whenever the account balance falls below \$1,000, until such time as all of the established inspection fee is paid. Failure on the part of the developer to replenish the account within 30 days of notice that the account is due shall entitle the Borough to revoke construction permits, issue a stop-work order or take such legal action as may be necessary to secure the remaining inspection fee.

§ 110-227. Costs of inspections.

The Borough shall assess the cost of each inspection against the developer's account, established pursuant to § 110-226 above. The cost for Borough personnel shall include direct salary costs, plus payroll, fringe benefits, travel expenses and materials costs. Inspections by persons other than Borough personnel, as well as other expenses directly related to inspections, shall be charged at the actual cost to the Borough.

§ 110-228. Occupancy; return of fees.

No zoning permit for occupancy, temporary or permanent, shall be issued unless the full inspection fee is paid. All sums not utilized for the inspection of improvements shall be returned to the developer within 30 days of the date of the issuance of a zoning permit for occupancy.

ARTICLE 57

Installation of Improvements or Performance Guaranty**§ 110-229. Installation prior to subdivision approval.**

Prior to the recording of a final major subdivision plat, the applicant shall install, under the inspection of the Borough Engineer or other authorized persons, all of the improvements required by the approved preliminary plan, unless the applicant has furnished to the Borough a performance guaranty, pursuant to § 110-231, to assure installation on or before a date approved by the Borough Engineer.

§ 110-230. Installation prior to final site plan approval.

As a condition of final site plan approval, the applicant shall install, under the inspection of the Borough Engineer or other authorized persons, all of the on-tract or on-site improvements required by the approved preliminary plan which are determined by the Borough Engineer to have an impact on the health, safety and welfare of the Borough, unless the applicant has furnished to the Borough a performance guaranty, pursuant to § 110-231, to assure installation on or before a date approved by the Borough Engineer. Applicable improvements shall include but not be limited to the following:

- A. Detention and retention facilities.
- B. Drainage structures, including those carrying off-site or off-tract stormwater runoff.
- C. Soil erosion and sediment control improvements.
- D. All landscape screening in buffer areas.

§ 110-231. Performance guaranty requirements.

A performance guaranty shall be in an amount satisfactory to the Borough Engineer and shall be equal to 120% of the estimated cost of outstanding improvements as established in § 110-232. The performance guaranty shall be in favor of the Borough. At least 10% of the performance guaranty may, at the discretion of the Borough Clerk, be required to be in cash or a certified check made payable to the Borough of Metuchen. The guaranty shall be in a form acceptable to the Borough Attorney and shall include a provision whereby both the obligor and the surety shall be liable, in the event of any action by the Borough to enforce the terms hereof, for reasonable legal fees incurred by the Borough.

§ 110-232. Estimate.

An estimate of the cost of such improvements shall be prepared and submitted by the applicant's engineer to the Borough Engineer. After reviewing such estimate, the Borough Engineer shall make the final determination of the estimated cost of such improvements.

§ 110-233. Term of guaranty.

The performance guaranty shall run for a term not to exceed 18 months from the date of final approval or six months from the date a building permit is issued, whichever is later. The time allowed for the completion of the improvements for which a performance guaranty is posted may be extended by resolution of the Borough Council. As a condition or as part of any such extension, the amount of any performance guaranty shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation of the remaining improvements as established at the time of the passage of the resolution of extension.

§ 110-234. Inspections.

Upon substantial completion of all required appurtenant utility improvements and connection of the same to the public system, and upon completion of each of the other required improvements, the obligor of the performance guaranty shall notify the Borough Council, in writing, by certified mail addressed in care of the Borough Clerk, of the completion or substantial completion of such improvements and shall send a copy thereof to the Borough Engineer. Thereupon, the Borough Engineer shall, within 14 days of notification, conduct a full inspection of the specified improvements, file a detailed report, in writing, with the Borough Council indicating either his or her approval, partial approval or rejection of the inspected improvements and giving the reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth and certified.

§ 110-235. Release.

The Borough Council, by resolution, shall either approve, partially approve or reject the inspected improvements on the basis of the report of the Borough Engineer and shall notify the obligor, in writing, by certified mail, of the contents of said report and the action of the Borough Council with relation thereto, not later than 65 days after receipt of the notice from the developer of the completion or substantial completion of the improvements. Where partial approval is granted, the developer shall be released from all liability pursuant to the performance guaranty, except for 120% of the cost of the outstanding improvements or 30% of the amount of the original performance guaranty, whichever is greater, to ensure completion of all remaining improvements. Failure of the Borough Council to send or provide such notification to the developer within 65 days shall be deemed to constitute approval of the improvements, and the developer and surety, if any, shall be released from all liability pursuant to the performance guaranty for the inspected improvements.

§ 110-236. As-built plans.

Prior to acceptance by the Borough of any improvements installed in or as part of any development, the developer shall furnish to the Borough Engineer a set of as-built surveys, plans and profiles, drawn on Mylar base sheets not larger than 24 inches by 36 inches, for the following:

- A. Roads.
- B. Surface and stormwater drainage facilities.
- C. Sanitary sewers, including individual lot connections and cleanouts.
- D. Water mains, gas mains and underground electric, telephone and cable television conduits.

§ 110-237. Requirements for occupancy.

A zoning permit for occupancy, temporary or permanent, shall not be issued for any building or lot prior to the following:

- A. In the case of a site plan for residential development or a subdivision, installation of the following improvements reasonably required for such building or lot shall have been completed, inspected and approved by the Borough Engineer:
 - (1) Streets, curbs and sidewalks, except the wearing course of the pavement section.
 - (2) Drainage facilities and grading.

(3) All utilities.

- B. In the case of a site plan for nonresidential development, the Borough Engineer or other authorized persons shall have certified that all site improvements have been properly completed. For good cause shown, a temporary zoning permit for occupancy may be issued where final grading and landscaping have not been completed, provided that such improvements are completed within 90 days, and further provided that a performance guaranty is posted to ensure the completion of the outstanding work.

§ 110-238. Approval in sections.

Whenever final approval is obtained for a section of a development, all of the improvements for such section shall be completed and inspected and approved by the Borough Engineer or other authorized persons, prior to the issuance of any zoning permit for occupancy for any building or lot in any succeeding section of the development.

ARTICLE 58
Maintenance Guaranty

§ 110-239. Required.

A maintenance guaranty covering all improvements installed pursuant to Article 57 of this chapter shall be posted with the Borough Council for a period of two years after approval and/or acceptance of such improvements. The amount of such guaranty shall not exceed 15% of the total cost of such improvements. In the event that other governmental agencies or public utilities will automatically own the utilities to be installed or the improvements are covered by a maintenance guaranty to another governmental agency, no maintenance guaranty shall be required by the Borough for such utilities or improvements.

§ 110-240. Use of guaranty.

The Borough Council shall approve the maintenance guaranty after it is reviewed by the Borough Engineer and the Borough Attorney as to its form, sufficiency and execution. The maintenance guaranty shall be expressly conditioned on the repair, correction of defects, replacement or restoration of an improvement or any part thereof, whenever defects appear during the period of obligation for maintenance, regardless of whether the defects arise from faulty materials, poor workmanship or from natural causes. Maintenance shall also include the plowing of snow on streets or portions of streets not yet accepted by the Borough in order that vehicular access is at all times provided to buildings or lots for which zoning permits for occupancy have been issued.

ARTICLE 59

On-Tract and On-Site Improvements**§ 110-241. Subdivisions and site plans.**

Prior to the granting of final approval, the applicant shall have installed or furnished a performance guaranty, pursuant to Article 57 of this chapter, for the on-tract improvements specified in Subsections A through M below. All such improvements shall be subject to approval and inspection by the Borough Engineer or other authorized persons, who shall be notified by the developer at least two weeks prior to the start of construction of any such improvements and at least 48 hours prior to the completion of any phase of an installation. No underground installation shall be covered until inspected and approved. Applicable improvements shall include but not be limited to the following:

- A. Streets, curbs and sidewalks.
- B. Street signs.
- C. Underground electric, gas, telephone and cable television service lines.
- D. Surface and stormwater drainage.
- E. Grading.
- F. Streetlights.
- G. Sanitary sewers.
- H. Shade trees.
- I. Screening and buffering.
- J. Topsoil and seeding.
- K. Monuments.
- L. Test borings, if required.
- M. Other improvements as required.

§ 110-242. Site plans.

Prior to the granting of final approval, the applicant shall have installed or furnished a performance guaranty, pursuant to Article 57 of this chapter, for the on-site improvements, as specified in Subsections A through G below, prior to the issuance of a zoning permit for buildings. All such improvements shall be subject to approval and inspection by the Borough Engineer or other authorized persons and the posting of a maintenance guaranty pursuant to Article 58 of this chapter. Applicable improvements shall include but not be limited to the following:

- A. Driveway and parking lot pavement.
- B. Lighting.
- C. Driveway and parking lot curbing.
- D. Walkways.

- E. Landscaping.
- F. Retaining walls, guardrails, safety fencing and traffic barricades.
- G. Other improvements as required.

ARTICLE 60
Off-Tract Improvements

§ 110-243. Responsibility of developer.

In cases where the need for an off-tract improvement is created by the proposed development and where no other property owners receive a special benefit thereby, the Board may recommend that the Borough Council require the applicant, as a condition of approval, to acquire lands at the applicant's expense outside of the tract to be developed and improve and dedicate such lands to the Borough in the manner provided hereafter and as otherwise provided by law, as if such improvement was an on-tract improvement, or, in lieu thereof, require the developer to deposit with the Borough a sum of money sufficient to allow the Borough to acquire and improve such lands.

§ 110-244. Other improvements.

In cases where the need for an off-tract improvement is created by the proposed development and where the Board determines that properties outside the development will also be benefited by the improvement, the following procedure shall be followed:

- A. The Board shall forthwith forward to the Borough Council a description of such improvement, together with its request that the Borough Council determine and advise the Board of the procedure to be followed in the construction or installation thereof. The Board shall defer final action upon the application for development until receipt of the Borough Council's determination in accordance with Subsection B below or until the expiration of 45 days after the forwarding of such description to the Borough Council without such determination having been made, whichever occurs first.
- B. The Borough Council, within 45 days after receipt of said description, shall determine and advise the Board whether:
 - (1) Such improvement is to be constructed or installed by the Borough:
 - (a) As a general improvement, the cost of which is to be borne at general expense, except as hereinafter otherwise provided as to the contribution thereto by the developer; or
 - (b) As a local improvement, all or part of the cost of which is to be specially assessed against properties benefited thereby in proportion to benefits conferred by the improvement in accordance with N.J.S.A. 40:56 et seq., except as hereinafter otherwise provided as to a contribution thereto by the developer.
 - (2) Such improvement is to be constructed or installed by the developer under a formula for partial reimbursement as hereinafter set forth.
- C. If the Borough Council shall determine that such improvement shall be constructed or installed pursuant to Subsection B(1)(a) above, the Board shall estimate, with the aid of the Borough Engineer or such other persons with pertinent information or expertise, the amount, if any, by which the total cost thereof will exceed the total amount by which all properties, including the tract to be developed, will be specially benefited thereby, and the developer shall be liable to the Borough for such excess. Further, the Borough Council shall adopt an ordinance authorizing and providing for the financing of the improvement in a manner consistent with the obligation of the developer for any excess of total cost over total benefits conferred as set forth above.
- D. If the Borough Council shall determine that such improvement shall be constructed or installed

pursuant to Subsection B(1)(b) above, the Board shall, as provided in Subsection C above, estimate the difference between the total costs to be incurred and the total amount by which all properties to be benefited thereby, including the tract to be developed, will be specially benefited by the improvement, and the developer shall be liable to the Borough therefor, as well as for the amount of any special assessments against the tract to be developed for benefits conferred by the improvement. Further, the Borough Council shall adopt an ordinance authorizing and providing for the financing of the improvement and the assessment of benefits arising therefor in a manner consistent with the obligation of the developer with respect thereto, and proceedings under said ordinance shall be in accordance with N.J.S.A. 40:56 et seq., except to the extent modified by the obligation of the developer for any excess of total cost over total benefits conferred, as set forth above.

- E. If the Borough Council shall determine that such improvement is to be constructed or installed by the developer pursuant to Subsection B(2) above, the Board shall, in like manner, estimate the amount of such excess, and the applicant shall be liable to the Borough therefor, as well as for the amount of any special assessments against the tract to be developed for benefits conferred by the improvement. However, the developer shall be entitled to be reimbursed by the Borough for the amount of any special assessments against property other than the tract to be developed for benefits conferred by the improvement, if and when the special assessments against such other properties are received by the Borough. Further, the Borough Council shall adopt an ordinance authorizing and providing for the assessment against all properties, including the tract to be developed, of benefits conferred by the improvement, and proceedings under said ordinance shall be in accordance with N.J.S.A. 40:56. However, any such assessment against the tract to be developed shall be marked paid and satisfied in consideration of the construction or installation of the improvement by the developer.
- F. If the Borough Council fails to adopt such ordinance or resolution within the forty-five-day time period, the final subdivision or site plan shall be designed accordingly, and the Board shall thereupon grant or deny final approval.
- G. If the Borough Council adopts such ordinance or resolution within the requisite time period, the developer shall, prior to the issuance of a zoning permit, agree, in writing, to the contribution established by the Borough Council. Nothing herein shall be construed to limit the developer's rights, pursuant to N.J.S.A. 40:55D-42.

§ 110-245. Performance guaranty.

The developer shall be required to provide, as a condition of final approval, a performance guaranty, pursuant to Article 57 of this chapter and as follows:

- A. If the improvement is to be constructed by the applicant pursuant to § 110-243 or § 110-244B(2) above, a performance guaranty with surety in an amount equal to 120% of the estimated cost of the improvement, or, if any part of said improvement is to be acquired or installed by the Borough pursuant to § 110-244 above, a cash deposit equal to 120% of the estimated cost of such acquisition or installation by the Borough.
- B. If the improvement is to be constructed by the Borough as a general improvement under § 110-244B(1)(a) above, a cash deposit equal to 120% of the amount of the excess of the estimated cost of the improvement over the estimated total amount by which all properties, including the tract to be developed, will be specially benefited thereby.
- C. If the improvement is to be constructed by the Borough as a local improvement under § 110-244B(1)(b) above, a cash deposit equal to the amount referred to in Subsection B above, plus

an amount equal to 120% of the estimated amount by which the tract to be developed will be specially benefited by the improvement.

§ 110-246. Expiration.

In any case where a developer shall deposit money with the Borough for the completion of an improvement that is to be constructed by the Borough pursuant to this article, the Borough Council shall have enacted an ordinance authorizing the improvement within five years after the date all other development improvements are completed, or said money shall be transferred to the Borough capital improvements fund.

§ 110-247. Deposit of funds.

All moneys paid by a developer pursuant to this article shall be deposited with the Borough Treasurer, who shall provide a suitable depository therefor. Such funds shall be used only for the improvement for which such were deposited or an alternate improvement serving the same purpose.

§ 110-248. Reassessment.

Upon completion of an off-tract improvement pursuant to this article, the developer's liability hereunder shall be recalculated in accordance with the actual, as compared with the estimated, cost of improvements. To the extent that such recalculation shall increase the amount of any cash deposit to be made by the developer, the developer shall forthwith pay the amount of such increase to the Borough. To the extent that such shall decrease the amount thereof, the Borough shall forthwith refund the amount of such decrease to the developer. In cases where improvements are specially assessed against all benefited properties, recalculation shall be made by the Borough Tax Assessor in the course of the special assessment proceedings. In other cases, it shall be made by the Borough Engineer.

ARTICLE 61
Agreements

§ 110-249. Types.

The following agreements shall be provided by the developer for review, comment and approval by the Board. These agreements shall be required for final approvals of any subdivision or site plan, where applicable.

- A. Developer's agreement. The applicant shall prepare a developer's agreement in a form acceptable to the Borough Attorney. This agreement shall set forth the bonding and inspection fee requirements, the period required for the completion of public improvements and any conditions set in the resolution of preliminary and final approval.
- B. Deeds/easements. For property to be transferred to the Borough and for all easements shown on the site plan and required by the Board, the applicant shall prepare all necessary deeds of transfer of title and/or easements in a form acceptable to the Borough Attorney. These deeds in the development shall be based on a percentage of the dwelling units sold and/or occupied, together with assurances in the bylaws that the organization shall have the maintenance responsibilities for all lands to which they hold title in accordance with the approved application.
- C. Maintenance agreement. Any subdivision or site plan which incorporates common elements, such as open space, land in common ownership, private streets or other common land or improvements entirely owned by the individuals, partnership or corporation (other than a homeowners', cooperative or condominium association) shall enter into a maintenance agreement with the Borough subject to the conditions set forth below:
 - (1) There shall be established an organization to maintain such common elements, in accordance with law. Such organization shall not be dissolved, nor shall it sell or otherwise dispose of said common elements, except to another organization which is conceived and established to own and maintain said common land elements.
 - (2) In the event that the owner of such organization shall fail to maintain the common elements in reasonable order and condition, the Borough Council may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization or owners have failed to maintain the common elements in reasonable condition and demanding that any deficiencies be cured within 35 days. This notice shall also state the date and the place of a hearing thereon, which shall be held within 15 days of the date of the notice. At such hearing, the Borough Council may modify the terms of the original notice as to deficiencies and may give an extension of time not to exceed 65 days, within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be corrected within 35 days of the date of the notice or within the period of any extension granted, the Borough, in order to preserve the open space or common elements and maintain the same for a period of one year, may enter upon such land and maintain such common elements. Said entry and maintenance shall not vest in the public any rights to use the common elements, except when the same is voluntarily dedicated to the public by the organization or owners. Before the expiration of said year, the Borough Council shall, upon the request of the organization theretofore responsible for the maintenance of the common elements, call a public hearing, upon 15 days' notice to such organization, to be held by the Borough Council, at which such organization shall, at the discretion of the Borough Council, continue for a succeeding year. If the Borough Council shall determine that such organization is ready and able to maintain

such open space or common elements in reasonable condition, the Borough shall cease to maintain said open space or common elements at the end of said year. If the Borough Council shall determine that such organization is not ready and able to maintain said open space or common elements in a reasonable condition, the municipality may, in its discretion, continue to maintain said open space or common elements during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. The decision of the Borough Council in any such case shall constitute a final administrative decision, subject to judicial review.

- (3) The cost of such maintenance by the Borough shall be assessed pro rata against the properties within the development that have a right of enjoyment or use of the common elements, in accordance with their assessed values at the time of imposition of the lien, and shall become a tax lien on said properties to be added to and become a part of the taxes to be levied and assessed thereon and enforced and collected with interest by the Borough Tax Collector in the same manner as other taxes. The Borough, at the time of entering upon said open space or common elements for the purpose of maintenance, shall file a notice of such lien in the office of the Middlesex County Clerk upon the properties affected by such lien within the development, and the same shall be discharged by the Borough upon payment as with other liens.

Part VII
Administration, Enforcement, Violations And Penalties

ARTICLE 62
Administration and Enforcement

§ 110-250. Administration.

The rules, regulations provisions and standards contained in this chapter shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough. The administration of this chapter shall be pursuant to N.J.S.A. 40:55D-1 et seq.

§ 110-251. Enforcement officer.

No structure or lot shall be used in violation of this chapter. It shall be the duty of the Zoning Officer to administer and enforce the provisions of this chapter and, in so doing, to inspect periodically the structures and land in the Borough, to investigate violations of the ordinance coming to his or her attention, to serve notice upon property owners to abate any condition found to exist in violation of any provision of this chapter, to sign complaints where justified and to cooperate with other Borough officials in the prosecution of violators. The enumeration herein of the duties of the Construction Code Official shall not mean that other officials and employees shall be relieved of their obligation to enforce this chapter. The Construction Code Official or other Borough employees authorized by the Borough Administrator shall have the right to inspect any lot or building at reasonable times for the purpose of investigating possible violations of this chapter.

§ 110-252. Permits for development.

- A. No construction, enlargement, alteration, demolition or change of use or occupancy for which a construction permit is required pursuant to the Uniform Construction Code of the State of New Jersey, N.J.A.C. 5:23-2.5(a), shall be undertaken until a zoning permit is obtained from the Zoning Officer.
- B. It shall be the duty of the Zoning Officer to keep a record of all applications for construction permits, whether issued or denied, with notations of any special conditions involved, and to file and safely keep copies of all plans and specifications submitted with each application. Such data shall form a part of the Borough public records.
- C. At the time of issuance of any construction permit, the Construction Code Official will provide written instruction on proper disposal and recycling of construction and demolition waste and furnish a notification of construction/demolition activity form that must be filled out by the permittee and faxed to the Middlesex County Division of Solid Waste Management (MCDSWM) within 48 hours of the issuance of a municipal permit. [Added 12-17-2007 by Ord. No. 2007-11]

§ 110-253. Permits for occupancy.

- A. It shall be unlawful to occupy or use or change the occupancy or use the same of any land, structure or building, or building part(s) thereof, until an approved zoning permit for occupancy shall have been issued by the Zoning Officer. It shall be the duty of the Zoning Officer to issue a zoning permit for occupancy certifying that any use of land, structure or building or any part(s) thereof conforms to all provisions of this chapter.

- B. Unless additional time is agreed upon by the applicant, in writing, a zoning permit of occupancy shall be granted or denied, in writing, within 21 days from the date that a written notification is filed with the Zoning Officer.
- C. For good cause shown, a temporary zoning permit for occupancy may be issued for any structure or use for which development plan approval has been granted, although not all conditions of said approval have been met. Such temporary zoning permits shall be issued only in extenuating circumstances and only with the approval of the Board which approved the development plan, which Board may establish specific terms and conditions for the issuance of a temporary zoning permit, including the posting of a performance guaranty in accordance with Part VI of this chapter for any improvements not yet completed.
- D. Upon notice being served of any condition found to exist in violation of any provision(s) of this chapter with respect to any land use, the zoning permit for such use shall thereupon, without further notice, be null and void, and a new zoning permit shall be required for any further use of such structure or land.

§ 110-254. Conditions of approval.

- A. Conditions binding. All conditions of any preliminary and final approval shall be binding upon all present and future owners, tenants, occupants, lessors, lessees, heirs, assignees, developers, contractors and subcontractors, and the same shall be set forth in a developer's agreement in recordable form and approved by the Borough Council.
- B. Failure to maintain. All persons receiving development approval for property or their successors in title shall be responsible for installing, maintaining and properly utilizing on-site, off-site and off-tract improvements required by the Board, including but not limited to parking arrangements, buffer zones, drainage facilities, exterior lighting plans and other requirements of the Board as reflected on the plans and in the Board minutes. Failure of the property owner to install, maintain and/or utilize improvements as provided by the site plan approval shall constitute a violation of this chapter and shall be subject to the enforcement procedures set forth herein.

ARTICLE 63
Violations and Penalties

§ 110-255. Violations.

In case any building or structure is erected, constructed, reconstructed, altered, moved or converted or any building, structure or land is used in violation of or contrary to any provision of this chapter, the Borough may institute an action to enjoin or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use. However, nothing in this chapter shall be construed to restrict the right of any party to obtain a review by a court of competent jurisdiction according to law.

§ 110-256. Penalties.

- A. Any owner, agent, person or corporation who violates any of the provisions of this chapter or who fails to comply with any of the requirements thereof or who erects, raises, moves, extends, enlarges, alters or demolishes any structure in violation of any detailed statement or plan submitted hereunder or who puts into use any lot or premises in violation of any detailed statement or plans submitted hereunder or who refuses reasonable opportunity to inspect any premises shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be liable for one or more of the following: a fine of not more than \$1,000, a term of community service not to exceed 90 days, or imprisonment for a term of not more than 90 days, as such court in its discretion may impose.
[Amended 9-15-1997 by Ord. No. 97-20]
- B. Each day during or on which a violation occurs or continues shall be deemed a separate offense.

§ 110-257. Liability. [Amended 9-15-1997 by Ord. No. 97-20]

The owner of any structure, lot of land or part thereof, and/or the tenant or occupant of any building or structure, lot of land or part thereof where anything in violation of this chapter is placed or exists and any architect, builder, developer, contractor, agent, person or corporation engaged or employed in connection therewith who assists in the commission of such violation shall each be guilty of a separate offense and, upon conviction thereof, shall each be liable to the fine or community service or imprisonment specified in § 110-256.

ARTICLE 64

Selling Land Before Final Subdivision Approval**§ 110-258. Violations and penalties.**

If, before final subdivision approval has been obtained, any person transfers or sells, or agrees to transfer or sell as owner or agent, any land which forms part of a subdivision on which the Board is required to act in accordance with the provisions of this chapter, except pursuant to an agreement expressly conditioned on final subdivision approval, such person shall be subject to a fine not to exceed \$1,000, and each parcel, plot or lot so disposed of shall be deemed a separate violation in accordance with the provisions of N.J.S.A. 40:55D-55.

§ 110-259. Civil remedies.

In addition to the foregoing, the Borough may institute and maintain a civil action:

- A. For injunctive relief.
- B. To set aside and invalidate any conveyance made pursuant to such contract of sale, if a certificate of compliance has not been issued in accordance with the provisions of N.J.S.A. 40:55D-56.

§ 110-260. Lien.

In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the subdivider, or his or her assigns or successors, to secure the return of any deposit made or purchase price paid and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within six years, if unrecorded.

Part VIII
Stormwater Management; Storm Sewers; Riparian Zones

ARTICLE 65
Improper Disposal of Waste
[Added 11-21-2005 by Ord. No. 2005-19]

§ 110-261. Purpose.

The purpose of this article is to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the Borough of Metuchen, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 110-262. Definitions and word usage.

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 not inconsistent with the context, words used in the present tense include the fixture, 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) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Metuchen or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORMWATER — 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.

§ 110-263. Prohibited conduct.

The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system operated by the Borough of Metuchen is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

§ 110-264. Exceptions to prohibition.

Exceptions to prohibition include:

- A. Water line flushing and discharges from potable water sources.
- 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 noncontact cooling water).
- 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.
- I. Flows from rinsing of the following equipment with clean water: beach maintenance equipment immediately following their use for their intended purposes and 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. 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.

§ 110-265. Enforcement.

This article shall be enforced by the Zoning Officer of the Borough of Metuchen.

§ 110-266. 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 penalty as stated in § 110-256 of this chapter.

§ 110-267. (Reserved)**§ 110-268. (Reserved)**

ARTICLE 66

Illicit Connection**[Added 11-21-2005 by Ord. No. 2005-20]****§ 110-269. Purpose.**

The purpose of this article is to prohibit illicit connections to the municipal separate storm sewer systems operated by the Borough of Metuchen, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 110-270. Definitions and word usage.

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 not inconsistent 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. The definitions below are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

DOMESTIC SEWAGE — Waste and wastewater from humans or household operations.

ILLICIT CONNECTION — Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the Borough of Metuchen unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES Permit Number NJ0141852). Nonphysical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

INDUSTRIAL WASTE — Nondomestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act [33 U.S.C. § 1317(a), (b), or (c)].

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Metuchen or other public body, and is designed and used for collecting and conveying stormwater.

NJPDES PERMIT — 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.

NONCONTACT COOLING WATER — 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. Noncontact cooling water may however contain algaecides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PROCESS WASTEWATER — 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, by-product, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

STORMWATER — 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.

§ 110-271. Prohibited conduct.

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

§ 110-272. Enforcement.

This article shall be enforced by the Zoning Officer of the Borough of Metuchen.

§ 110-273. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed \$1,250.

ARTICLE 67

Private Storm Drain Inlet Retrofitting
[Added 6-1-2009 by Ord. No. 2009-7]**§ 110-274. 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 Borough of Metuchen so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 110-275. Definitions.

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 not inconsistent 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) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Metuchen or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORM DRAIN INLET — An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams and bodies of surface- or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 110-276. Prohibited conduct.

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:

- A. Already meets the design standard below to control passage of solid and floatable materials; or
- B. Is retrofitted or replaced to meet the standard in § 110-277 below prior to the completion of the project.

§ 110-277. Design standard.

Storm drain inlets identified above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For

exemptions to this standard see § 110-277C below.

A. Grates.

- (1) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - (a) The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - (b) A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inch across the smallest dimension.
- (2) Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-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.

B. Whenever design engineers use a curb-opening inlet, the clear space in that 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 square inches, or be no greater than two inches across the smallest dimension.

C. This standard does not apply.

- (1) Where the Municipal Engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- (2) Where flows are conveyed through any device (e.g., end-of-pipe netting facility, 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:
 - (a) A rectangular space $4 \frac{5}{8}$ inches long and $1 \frac{1}{2}$ wide (This option does not apply for outfall netting facilities.); or
 - (b) A bar screen having a bar spacing of 0.5 inch.
- (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars; or
- (4) Where the New Jersey Department of Environmental Protection 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 this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register-listed historic property.

§ 110-278. Enforcement.

This article shall be enforced by the Zoning Officer of the Borough of Metuchen.

§ 110-279. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article, after being duly notified, shall be subject to a penalty as stated in § 110-256 for each storm drain inlet that is not retrofitted to meet the design standard.

ARTICLE 68

Riparian Zones**[Added 4-4-2011 by Ord. No. 2011-4¹⁰⁸]****§ 110-280. Intent and purpose.**

- A. The governing body of the Borough of Metuchen finds that riparian lands adjacent to streams, lakes, or other surface water bodies that are adequately vegetated provide an important environmental protection and water resource management benefit. It is necessary to protect and maintain the beneficial character of riparian areas by implementing specifications for the establishment, protection, and maintenance of vegetation along the surface water bodies within the jurisdiction of the Borough of Metuchen, consistent with the interest of landowners in making reasonable economic use of parcels of land that include such designated areas. The purpose of this article is to designate riparian zones, and to provide for land use regulation therein in order to protect the streams, lakes, and other surface water bodies of the Borough of Metuchen; to protect the water quality of watercourses, lakes, and other significant water resources within the Borough of Metuchen; to protect the riparian and aquatic ecosystems of the Borough of Metuchen; to provide for the environmentally sound use of the land resources of the Borough of Metuchen, and to complement existing state, regional, county and municipal stream corridor protection and management regulations and initiatives.
- B. The specific purposes and intent of this article are to:
- (1) Restore and maintain the chemical, physical, and biological integrity of the water resources of the Borough of Metuchen;
 - (2) Prevent excessive nutrients, sediment, and organic matter, as well as biocides and other pollutants, from reaching surface waters by optimizing opportunities for filtration, deposition, absorption, adsorption, plant uptake, biodegradation, and denitrification, which occur when stormwater runoff is conveyed through vegetated buffers as stable, distributed flow prior to reaching receiving waters;
 - (3) Provide for shading of the aquatic environment so as to moderate temperatures, retain more dissolved oxygen, and support a healthy assemblage of aquatic flora and fauna;
 - (4) Provide for the availability of natural organic matter (leaves and twigs) and large woody debris (trees and limbs) that provide food and habitat for aquatic organisms (insects, amphibians, crustaceans, and small fish), which are essential to maintain the food chain;
 - (5) Increase stream bank stability and maintain natural fluvial geomorphology of the stream system, thereby reducing stream bank erosion and sedimentation and protecting habitat for aquatic organisms;
 - (6) Maintain base flows in streams and moisture in wetlands;
 - (7) Control downstream flooding; and
 - (8) Conserve the natural features important to land and water resources, e.g., headwater areas, groundwater recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands,

108. Editor's Note: This ordinance also provided that the requirements set forth in this article are consistent with those found in the New Jersey's Stormwater Management Rules, N.J.A.C. 7:8, the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, and the Water Quality Management Planning Rules, N.J.A.C. 7:15.

and prime wildlife habitats.

§ 110-281. Statutory authority.

The municipality of the Borough of Metuchen is empowered to regulate land uses under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., which authorizes each municipality to plan and regulate land use in order to protect public health, safety and welfare by protecting and maintaining native vegetation in riparian areas. The Borough of Metuchen is also empowered to adopt and implement this article under provisions provided by the following legislative authorities of the State of New Jersey.

- A. Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- B. Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.
- C. Spill Compensation and Control Act, N.J.S.A. 58:10-23 et seq.
- D. Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
- E. Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.

§ 110-282. Definitions.

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

ACID-PRODUCING SOILS — Soils that contain geologic deposits of iron sulfide minerals (pyrite and marcasite) which, when exposed to oxygen from the air or from surface waters, oxidize to produce sulfuric acid. Acid-producing soils, upon excavation, generally have a pH of 4.0 or lower. After exposure to oxygen, these soils generally have a pH of 3.0 or lower. Information regarding the location of acid-producing soils in New Jersey can be obtained from local Soil Conservation District offices.

ADMINISTRATIVE AUTHORITY — The Planning Board, Zoning Board of Adjustment or Construction Office with all of the powers delegated, assigned, or assumed by them according to statute or ordinance.

APPLICANT — A person, corporation, government body or other legal entity applying to the Planning Board, Zoning Board of Adjustment or the Construction Office proposing to engage in an activity that is regulated by the provisions of this article, and that would be located in whole or in part within a regulated riparian zone.

CATEGORY ONE WATERS or C1 WATERS — Shall have the meaning ascribed to this term by the Surface Water Quality Standards, N.J.A.C. 7:9B, for purposes of implementing the antidegradation policies set forth in those standards, for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, and other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources.

CATEGORY TWO WATERS or C2 WATERS — Those waters not designated as outstanding natural resource waters or Category One waters in the Surface Water Quality Standards, N.J.A.C. 7:9B, for purposes of implementing the antidegradation policies set forth in those standards.

FLOODWAY — Shall have the meaning ascribed to this term by the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., and regulations promulgated thereunder published at N.J.A.C. 7:13 et seq., and any supplementary or successor legislation and regulations from time to time enacted or promulgated.

INTERMITTENT STREAM — A surface water body with definite bed and banks in which there is

not a permanent flow of water and shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a special water resource protection area (SWRPA) pursuant to the stormwater management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

LAKE, POND or RESERVOIR — Any surface water body shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a special water resource protection area (SWRPA) pursuant to the stormwater management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys, that is an impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water. This excludes sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater.

PERENNIAL STREAM — A surface water body that flows continuously throughout the year in most years and shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a special water resource protection area (SWRPA) pursuant to the stormwater management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

RIPARIAN ZONE — The land and vegetation within and directly adjacent to all surface water bodies, including, but not limited to, lakes, ponds, reservoirs, perennial and intermittent streams, up to and including their point of origin, such as seeps and springs, as shown on the New Jersey Department of Environmental Protection's GIS hydrography coverages or, in the case of a special water resource protection area (SWRPA) pursuant to the stormwater management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

RIPARIAN ZONE MANAGEMENT PLAN — A plan approved by the Engineer or the Borough of Metuchen. The plan shall be prepared by a professional engineer, landscape architect or other qualified professional, and shall evaluate the effects of any proposed activity/uses on any riparian zone. The plan shall identify existing conditions, all proposed activities, and all proposed management techniques, including any measures necessary to offset disturbances to any affected riparian zone.

SPECIAL WATER RESOURCE PROTECTION AREA or SWRPA — A three-hundred-foot area provided on each side of a surface water body designated as a C1 water or tributary to a C1 water that is a perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein and shown on the USGS quadrangle map or in the County Soil Surveys within the associated Hydrologic Unit Code (HUC) 14 drainage, pursuant to the stormwater management rules at N.J.A.C. 7:8-5.5(h).

SURFACE WATER BODY(IES) — Any perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein. In addition, any regulated water under the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-2.2, or state open waters identified in a letter of interpretation issued under the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-3 by the New Jersey Department of Environmental Protection Division of Land Use Regulation shall also be considered surface water bodies.

THREATENED OR ENDANGERED SPECIES — A species identified pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq. or the Endangered Plant Species List, N.J.A.C. 7:5C-5.1, and any subsequent amendments thereto.

TROUT MAINTENANCE WATER — A section of water designated as trout maintenance in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

TROUT PRODUCTION WATER — A section of water identified as trout production in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

§ 110-283. Establishment of riparian zones.

- A. Riparian zones adjacent to all surface water bodies shall be protected from avoidable disturbance and shall be delineated as follows:
- (1) The riparian zone shall be 300 feet wide along both sides of any Category One water (C1 water), and all upstream tributaries situated within the same HUC 14 watershed. This includes special water resource protection areas or SWRPAs as identified herein and shown on the USGS quadrangle map or in the County Soil Surveys within the associated HUC 14 drainage, pursuant to the stormwater management rules at N.J.A.C. 7:8-5.5(h).
 - (2) The riparian zone shall be 150 feet wide along both sides of the following waters not designated as C1 waters:
 - (a) Any trout production water and all upstream waters (including tributaries);
 - (b) Any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the surface water body;
 - (c) Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the surface water body for survival, and all upstream waters (including tributaries) within one linear mile as measured along the length of the surface water body; and
 - (d) Any segment of a surface water body flowing through an area that contains acid-producing soils.
 - (3) For all other surface water bodies, a riparian zone of 50 feet wide shall be maintained along both sides of the water.
- B. The portion of the riparian zone that lies outside of a surface water body is measured landward from the top of bank.
- (1) If a discernible bank is not present along a surface water body, the portion of the riparian zone outside the surface water body is measured landward as follows:
 - (a) Along a linear fluvial or tidal water, such as a stream or swale, the riparian zone is measured landward of the feature's center line;
 - (b) Along a nonlinear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface limit;
 - (c) Along a nonlinear tidal water, such as a bay or inlet, the riparian zone is measured landward of the mean high-water line; and
 - (d) Along an amorphously shaped feature such as a wetland complex, through which water flows but which lacks a definable channel, the riparian zone is measured landward of the feature's center line.
 - (2) Where slopes (in excess of 15%) are located within the designated widths, the riparian zone shall be extended to include the entire distance of this sloped area to a maximum of 300 feet.
 - (3) For areas adjacent to surface water bodies for which the floodway has been delineated per the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3 or the state's adopted floodway

delineations, the riparian zone shall cover the entire floodway area, or the area described in § 110-283A(1) or (2) above, whichever area has the greatest extent. Requests for alterations to the adopted delineations can be provided to the New Jersey Department of Environmental Protection for consideration if site-specific information is available.

- C. A riparian zone is an overlay to the existing zoning districts. The provisions of the underlying district shall remain in full force except where the provisions of the riparian zone differ from the provisions of the underlying district, in which case the provision that is more restrictive shall apply. These provisions apply to land disturbances resulting from or related to any activity or use requiring application for any of the following permits or approvals:
- (1) Building permit.
 - (2) Zoning variance.
 - (3) Special exception.
 - (4) Conditional use.
 - (5) Subdivision/land development approval.
- D. A map of the riparian zones of the entire municipality of the Borough of Metuchen, including all land and water areas within its boundaries, which designates surface water bodies, is included as part of this article, and is appended as Figure No. 1.¹⁰⁹ Maps of the municipality on which these designations have been overlain shall be on file and maintained by the office of the Clerk of the Borough of Metuchen. This map conforms to all applicable laws, rules and regulations applicable to the creation, modification and promulgation of Zoning Maps.
- E. It shall be the duty of the Engineer of the Borough of Metuchen, every second year after the adoption of this article, to propose modifications to the map delineating riparian zones required by any naturally occurring or permitted change in the location of a defining feature of a surface water body occurring after the initial adoption of the Riparian Zone Map, to record all modifications to the Riparian Zone Map required by decisions or appeals under § 110-290, and by changes made by the New Jersey Department of Environmental Protection in surface water classifications or floodway delineations.
- F. The applicant or designated representative shall be responsible for the initial determination of the presence of a riparian zone on a site, and for identifying the area on any plan submitted to the Borough of Metuchen in conjunction with an application for a construction permit, subdivision, land development, or other improvement that requires plan submissions or permits. This initial determination shall be subject to review and approval by the municipal engineer, governing body, or its appointed representative, and, where required, by the New Jersey Department of Environmental Protection.
- G. Exemptions. Instead of the riparian zone protection requirements above, the applicant must demonstrate compliance with one of the following:
- (1) The proposed project or activity is not in the riparian zone established at § 110-283A above;
 - (2) The proposed disturbance in a riparian zone is for a linear development with no feasible alternative route. If the riparian zone is associated with Category One waters, the linear

109.Editor's Note: The figure is on file in the Borough offices.

development must also meet the requirements for special water resource protection areas under the stormwater management rules at N.J.A.C. 7:8-5.5(h);

- (3) The proposed disturbance in a riparian zone is in accordance with a stream corridor restoration or stream bank stabilization plan or project approved by the New Jersey Department of Environmental Protection;
- (4) The proposed disturbance of a riparian zone is necessary to provide for public pedestrian access or water dependent recreation that meets the requirements of the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, or the Coastal Zone Management Rules, N.J.A.C. 7:7E;
- (5) The proposed disturbance of a riparian zone is required for the remediation of hazardous substances performed with New Jersey Department of Environmental Protection or federal oversight pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq. or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq.;
- (6) The proposed disturbance is for redevelopment that does not exceed the limits of existing impervious surfaces;
- (7) The proposed disturbance would prevent extraordinary hardship on the property owner peculiar to the property; or prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment; and/or
- (8) Demonstrate through site plans depicting proposed development and topography that new disturbance is not located in areas with a twenty-percent-or-greater slope, except as allowed under Subsection G(6) or (7) above.

§ 110-284. Uses permitted.

- A. For riparian zones in Category One waters (C1 waters), permitted uses are governed by the stormwater management rules at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, unless otherwise exempt.
- B. Any other riparian zone area shall remain in a natural condition or, if in a disturbed condition, including agricultural activities, at the time of adoption of this article may be restored to a natural condition. There shall be no clearing or cutting of trees and brush, except for removal of dead vegetation and pruning for reasons of public safety or for the replacement of invasive species with indigenous species. There shall be no altering of watercourses, dumping of trash, soil, dirt, fill, vegetative or other debris, regrading or construction. The following uses are permitted either by right or after review and approval by the municipality in riparian zones. No new construction, development, use, activity, encroachment, or structure shall take place in a riparian zone, except as specifically authorized in this section. The following uses shall be permitted within a riparian zone:
 - (1) Open space uses that are primarily passive in character shall be permitted by right to extend into a riparian zone, provided near-stream vegetation is preserved. These uses do not require approval by the Zoning Enforcement Officer or compliance with an approved riparian zone management plan. Such uses include wildlife sanctuaries, nature preserves, forest preserves, fishing areas, game farms, fish hatcheries and fishing reserves, operated for the protection and propagation of wildlife, but excluding structures. Such uses also include passive recreation areas

of public and private parklands, including unpaved hiking, bicycle and bridle trails, provided that said trails have been stabilized with pervious materials.

- (2) Fences, for which a permit has been issued by the Construction Code Office, to the extent required by applicable law, rule or regulation.
- (3) Crossing by farm vehicles and livestock, recreational trails, roads, railroads, stormwater lines, sanitary sewer lines, waterlines and public utility transmission lines, provided that the land disturbance is the minimum required to accomplish the permitted use, subject to approval by the Zoning Enforcement Officer, provided that any applicable state permits are required, and provided that any disturbance is offset by buffer improvements in compliance with an approved riparian zone management plan, as described in § 110-289, and that the area of the crossing is stabilized against significant erosion due to its use as a crossing.
- (4) Stream bank stabilization or riparian reforestation, which conform to the guidelines of an approved riparian zone management plan, as described in § 110-289, or wetlands mitigation projects that have been approved by the New Jersey Department of Environmental Protection, subject to approval by the Zoning Enforcement Officer and subject to compliance with an approved riparian zone management plan.

§ 110-285. Performance standards.

- A. All encroachments proposed into riparian zones in C1 waters shall comply with the requirements of the stormwater management rule at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, and shall be subject to review and approval by the New Jersey Department of Environmental Protection, unless exempt.
- B. For all other riparian zones, the following conditions shall apply:
 - (1) All new major and minor subdivisions and site plans shall be designed to provide sufficient areas outside of the riparian zone to accommodate primary structures, any normal accessory uses appurtenant thereto, as well as all planned lawn areas.
 - (2) Portions of lots within the riparian zone must be permanently restricted by deed or conservation easement held by the Borough of Metuchen, its agent, or another public or private land conservation organization which has the ability to provide adequate protection to prevent adverse impacts within the riparian zone. A complete copy of the recorded conservation restriction that clearly identifies the deed book and pages where it has been recorded in the office of the Clerk of the applicable county or the registrar of deeds and mortgages of the applicable county must be submitted to the municipality. The applicant shall not commence with the project or activity prior to making this submittal and receiving actual approval of the plan modification and receipt of any applicable permits from the New Jersey Department of Environmental Protection. The recorded conservation restriction shall be in the form approved by the municipality and shall run with the land and be binding upon the property owner and the successors in interest in the property or in any part thereof. The conservation restriction may include language reserving the right to make de minimus changes to accommodate necessary regulatory approvals upon the written consent of the municipality, provided such changes are otherwise consistent with the purpose and intent of the conservation restriction. The recorded conservation restriction shall, at a minimum, include:
 - (a) A written narrative of the authorized regulated activity, date of issuance, and date of expiration, and the conservation restriction that, in addition, includes all of the prohibitions

set forth at N.J.S.A. 13:8B-2b(1) through (7);

- (b) Survey plans for the property as a whole and where applicable, for any additional properties subject to the conservation restrictions. Such survey plans shall be submitted on the surveyor's letterhead, signed and sealed by the surveyor, and shall include metes and bounds descriptions of the property, the site, and the areas subject to the conservation restriction in New Jersey State Plane Coordinates, North American Datum 1983, and shall depict the boundaries of the site and all areas subject to the conservation restriction as marked with flags or stakes on site. All such survey plans shall be submitted on paper and in digital CAD or GIS file on a media and format defined by the Borough of Metuchen. The flags or stakes shall be numbered and identified on the survey plan; and
 - (c) A copy or copies of deeds for the property as a whole that indicate the deed book and pages where it has been recorded in the office of the Middlesex County Clerk or the Middlesex County Registrar of Deeds and Mortgages.
- (3) Any lands proposed for development which include all or a portion of a riparian zone shall as a condition of any major subdivision or major site plan approval, provide for the vegetation or revegetation of any portions of the riparian zone which are not vegetated at the time of the application or which were disturbed by prior land uses, including for agricultural use. Said vegetation plan shall utilize native and noninvasive tree and plant species to the maximum extent practicable in accordance with an approved riparian zone management plan, described in § 110-289.
 - (4) For building lots which exist as of the date of adoption of this article, but for which a building permit or a preliminary site plan approval has not been obtained or is no longer valid, the required minimum front, side, and rear setbacks may extend into the riparian zone, provided that a deed restriction and/or conservation easement is applied which prohibits clearing or construction in the riparian zone.
 - (5) All stormwater shall be discharged outside of but may flow through a riparian zone and shall comply with the standard for off-site stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. (See N.J.A.C. 2:90-1.3.)
 - (6) If stormwater discharged outside of and flowing through a riparian zone cannot comply with the standard for off-site stability cited in § 110-285B(5), then the proposed stabilization measures must meet the requirements of the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-10.2 et seq., and have an approved flood hazard area permit.

§ 110-286. Nonconforming structures and uses.

Nonconforming structures and uses of land within the riparian zone are subject to the following requirements:

- A. Legally existing but nonconforming structures or uses may be continued.
- B. Any proposed enlargement or expansion of the building footprint within the riparian zone of a C1 water shall comply with the standards in the stormwater management rules at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.
- C. For all other riparian zones:

- (1) Encroachment within the riparian zone shall only be allowed where previous development or disturbance has occurred and shall be in conformance with the stormwater management rules, N.J.A.C. 7:8, and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.
- (2) Existing impervious cover shall not be increased within the riparian zone as a result of encroachments where previous development or disturbances have occurred.
- (3) Discontinued nonconforming uses may be resumed any time within one year from such discontinuance but not thereafter when showing clear indications of abandonment. No change or resumption shall be permitted that is more detrimental to the riparian zone, as measured against the intent and purpose under § 110-280, than the existing or former nonconforming use. This one-year time frame shall not apply to agricultural uses that are following prescribed best management practices for crop rotation. However, resumption of agricultural uses may be strictly to the extent of disturbance existing at the time of adoption of this article.

§ 110-287. Use prohibited.

- A. Any use within a riparian zone of a C1 water shall comply with the standards in the stormwater management rules at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.
- B. For other riparian zones, any use or activity not specifically authorized in § 110-284 or § 110-286 shall be prohibited within the riparian zone. By way of example, the following activities and facilities are prohibited:
 - (1) Removal or clear-cutting of trees and other vegetation or soil disturbance such as grading, except for selective vegetation removal for the purpose of stream or riparian area stabilization or restoration projects that require vegetation removal or grading prior to implementation.
 - (2) Storage of any hazardous or noxious materials.
 - (3) Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Soil Conservation District.
 - (4) Roads or driveways, except where permitted in compliance with § 110-284.
 - (5) Motor or wheeled vehicle traffic in any area, except as permitted by this article.
 - (6) Parking lots.
 - (7) Any type of permanent structure, except structures needed for a use permitted by § 110-284.
 - (8) New subsurface sewage disposal systems areas. The expansion and replacement of existing subsurface sewage disposal system areas for existing uses is permitted.
 - (9) Residential grounds or lawns, except as otherwise permitted pursuant to this article.

§ 110-288. Requests for exemptions; hardship variances.

- A. For riparian zones in C1 waters, requests for exemptions must be authorized by the New Jersey Department of Environmental Protection, as per the stormwater management rules at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.
- B. For other riparian zones, hardship variances may be granted by the Zoning Board of Adjustment in

cases of a preexisting lot (existing at the time of adoption of this article) when there is insufficient room outside the riparian zone for uses permitted by the underlying zoning and there is no other reasonable or prudent alternative to placement in the riparian zone, including obtaining variances from setback or other requirements that would allow conformance with the riparian zone requirements, and provided the following demonstrations are made:

- (1) An applicant shall be deemed to have established the existence of an extreme economic hardship, if the subject property is not capable of yielding a reasonable economic return if its present use is continued or if it is developed in accordance with provisions of this article and that this inability to yield a reasonable economic return results from unique circumstances peculiar to the subject property which:
 - (a) Do not apply to or affect other property in the immediate vicinity.
 - (b) Relate to or arise out of the characteristics of the subject property because of the particular physical surroundings, shape or topographical conditions of the property involved, rather than the personal situations of the applicant; and are not the result of any action or inaction by the applicant or the owner or his predecessors in title.
 - (c) The necessity of acquiring additional land to locate development outside the riparian zone shall not be considered an economic hardship unless the applicant can demonstrate that there is no adjacent land that is reasonably available or could be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity.
 - (2) An applicant shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts that one of the following applies:
 - (a) The proposed project will serve an essential public health or safety need;
 - (b) The proposed use is required to serve an existing public health or safety need; or
 - (c) There is no alternative available to meet the established public health or safety need.
 - (3) A variance can only be granted if it is shown that the activity is in conformance with all applicable local, state and federal regulations, including, but not limited to, the stormwater management rules, N.J.A.C. 7:8, and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, and that the exception granted is the minimum relief necessary to relieve the hardship.
- C. If such an exception is granted, the applicant shall rehabilitate an environmentally degraded riparian zone area within or adjacent to the same site, and at least equivalent in size to the riparian zone reduction permitted, or, if not possible, rehabilitate or expand a riparian zone area at least equivalent in size within a nearby site and, if available, within the same watershed. Rehabilitation shall include reforestation, stream bank stabilization and removal of debris, in accordance with a riparian zone management plan, as described in § 110-289 below.

§ 110-289. Riparian zone management plan.

- A. Within any riparian zone, no construction, development, use, activity, or encroachment shall be permitted unless the effects of such development are accompanied by preparation, approval, and implementation of a riparian zone management plan.
- B. The landowner, applicant, or developer shall submit to the Borough Engineer, or its appointed representative, a riparian zone management plan prepared by an environmental professional,

professional engineer or other qualified professional which fully evaluates the effects of any proposed uses on the riparian zone.

- (1) The riparian zone management plan shall identify the existing conditions including:
 - (a) Existing vegetation;
 - (b) Field-delineated surface water bodies;
 - (c) Field-delineated wetlands;
 - (d) The one-hundred-year floodplain;
 - (e) Flood hazard areas, including floodway and flood-fringe areas, as delineated by the New Jersey Department of Environmental Protection;
 - (f) Soil classifications as found on soil surveys;
 - (g) Existing subdrainage areas of site with HUC 14 designations;
 - (h) Slopes in each subdrainage area segmented into sections of slopes less than 15%; above 15% but less than 20%; and steep slopes greater than 20%.
 - (2) The proposed plan shall describe all proposed uses/activities, and fully evaluate the effects of all proposed uses/activities in a riparian zone, and all proposed management techniques, including proposed vegetation and any other measures necessary to offset disturbances to the riparian zone. A discussion of activities proposed as well as management techniques proposed to offset disturbances and/or enhance the site to improve the riparian zone's ability to function effectively as a riparian zone shall also be included with the riparian zone management plan submittal to the Borough of Metuchen.
- C. The plan shall be reviewed and must be approved by the Engineer of the Borough of Metuchen, in consultation with the Environmental Commission, as part of the subdivision and land development process.
- D. The riparian zone management plan must include management provisions in narrative and/or graphic form specifying:
- (1) The manner in which the area within the riparian zone will be owned and by whom it will be managed and maintained.
 - (2) The conservation and/or land management techniques and practices that will be used to conserve and protect the riparian zone, as applicable.
 - (3) The professional and personnel resources that are expected to be necessary, in order to maintain and manage the riparian zone.
 - (4) A revegetation plan, if applicable, that includes three layers of vegetation, including herbaceous plants that serve as ground cover, understory shrubs, and trees that when fully mature, will form an overhead canopy. Vegetation selected must be native, noninvasive species, and consistent with the soil, slope and moisture conditions of the site. The revegetation plan shall be prepared by a qualified environmental professional, landscape architect, or professional engineer, and shall be subject to the approval of the Borough Engineer, in consultation with the Environmental Commission. Dominant vegetation in the riparian zone management plan shall consist of plant

species that are suited to the riparian zone environment. The Borough Engineer may require species suitability to be verified by qualified experts from the Soil Conservation District, Natural Resources Conservation Service, New Jersey Department of Environmental Protection, United States Fish and Wildlife Service and/or state or federal forest agencies.

- E. A riparian zone management plan is not required where the riparian zone is not being disturbed and conservation easements/deed restrictions are applied to ensure there will be no future clearing or disturbance of the riparian zone.
- F. Performance of the riparian zone management plan shall be guaranteed for two years by a surety, such as a bond, cash or letter of credit, which shall be provided to the Borough of Metuchen prior to the Borough of Metuchen issuing any permits or approving any uses relating to the applicable use or activity.

§ 110-290. Boundary interpretation; appeals procedures; inspections; conflicts; severability.

- A. When a landowner or applicant disputes the boundaries of a riparian zone, or the defined bank-full flow or level, the landowner or applicant shall submit evidence to the Borough Engineer that describes the riparian zone, presents the landowner or applicant's proposed riparian zone delineation, and presents all justification for the proposed boundary change, including but not limited to, a verification issued under the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-6, or an approval from the New Jersey Department of Environmental Protection to encroach within the special water resource protection area (SWRPA) of a C1 water pursuant to the stormwater management rules at N.J.A.C. 7:8-5.5(h)1ii.
- B. Within 45 days of a complete submission of § 110-290A above, the Borough Engineer, or appointed representative, shall evaluate all material submitted and shall make a written determination, a copy of which shall be submitted to the Zoning Officer and the landowner or applicant. Failure to act within the forty-five-day period shall not be interpreted to be an approval of the proposed boundary change.
- C. Any party aggrieved by any such determination or other decision or determination under § 110-290B may appeal to the Zoning Officer under the provisions of this article. The party contesting the location of the riparian zone boundary shall have the burden of proof in case of any such appeal.
- D. Any party aggrieved by any determination or decision of the Borough Engineer or Zoning Officer under this article may appeal to the Mayor and Council of the Borough of Metuchen. The party contesting the determination or decision shall have the burden of proof in case of any such appeal.
- E. Inspections:
 - (1) Lands within or adjacent to an identified riparian zone shall be inspected by the Borough Engineer, Zoning Official or appointed representative when:
 - (a) A subdivision or land development plan is submitted;
 - (b) A building permit is requested;
 - (c) A change or resumption of a nonconforming use is proposed;
 - (d) A discontinued nonconforming use is resumed more than a year later, as described in § 110-286.
 - (2) The riparian zone may also be inspected periodically by representatives from the Borough of

Metuchen if excessive or potentially problematic erosion is present, other problems are discovered, or at any time when the presence of an unauthorized activity or structure is brought to the attention of municipal officials or when the downstream surface waters are indicating reduction in quality.

- F. Conflicts. All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this article are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this article apply.
- G. Severability.
 - (1) Interpretation. This article shall be so construed as not to conflict with any provision of New Jersey or federal law.
 - (2) Notwithstanding that any provision of this article is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the article shall continue to be of full force and effect.
 - (3) The provisions of this article shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

§ 110-291. Enforcement; violations and penalties.

A prompt investigation shall be made by the appropriate personnel of the Borough of Metuchen, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this article is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this article shall be construed to preclude the right of the Borough of Metuchen, pursuant to N.J.S.A. 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this article shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this article. Each day a violation continues shall be considered a separate offense.

- A. Any person who violates any provision of this article shall be fined for each offense not more than \$100.
- B. Any person who willfully or knowingly violates any provision of this article shall be fined for each offense a sum of not less than \$100 and not more than \$1,000.
- C. Each day of violation of any provision of this article shall constitute a separate offense.

METUCHEN CODE

Chapter 115

LIBRARY

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Ch. 13 of the 1966 Code. Amendments noted where applicable.]

§ 115-1. Definitions.

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

LIBRARY — The Metuchen Free Public Library.

§ 115-2. Failure to return library materials.

No person shall detain or fail to return any book or article borrowed from the library, contrary to the rules and regulations of the library, after thirty days has elapsed from the date of posting, by certified mail, return receipt requested, of a notice demanding return thereof, addressed to such person at the last address furnished to the library.

§ 115-3. Defacing or destroying library property.

No person shall willfully or maliciously cut, tear, deface, disfigure, damage or destroy any book or other article or any part thereof which is owned by, or is in the custody of, the library.

§ 115-4. False registration; using library card of another.

No person with intent to defraud shall register or furnish a false name or address or use any card other than the one issued to such person for the purpose of borrowing any book or other article from the library.

§ 115-5. Violations and penalties. [Amended 10-16-1978 by Ord. No. 78-26]

Any person violating any of the provisions of this chapter shall be punished as provided in Chapter 1, General Provisions, Article 1.

Chapter 116**LIMITS ON CAMPAIGN CONTRIBUTIONS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 4-17-2006 by Ord. No. 2006-6. Amendments noted where applicable.]

§ 116-1. Prohibition on awarding public contracts to certain contributors.

- A. Any other provision of law to the contrary notwithstanding, the municipality or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other consulting services, from any professional business entity, for \$5,000 or more in any one calendar year, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to the Borough of Metuchen, municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to the Borough of Metuchen or Middlesex County party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties in excess of the thresholds specified in Subsection D within one calendar year immediately preceding the date of the contract or agreement.
- B. No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof or of its independent authorities for the rendition of professional, banking or insurance coverage services or any other consulting services shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to the Borough of Metuchen, municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to the Borough of Metuchen or Middlesex County party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties between the time of first communications between that business entity and the Borough regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.
- C. For purposes of this chapter, a "professional business entity" seeking a public contract means an individual, including the individual's spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a "business entity" includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.
- D. Any individual meeting the definition of "professional business entity" under this section may annually contribute a maximum of \$300 each for any purpose to any candidate, for Mayor or Council, or \$300 to the Borough of Metuchen or Middlesex County party committee, or to a PAC referenced in this chapter, without violating Subsection A of this section. However, any group of individuals meeting the definition of "professional business entity" under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to the Borough of Metuchen candidates and officeholders with ultimate responsibility for the award of the contract, and to Borough of Metuchen or Middlesex County political parties and PACs referenced in this chapter combined, without violating Subsection A of this section.

- E. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:
- (1) The Borough of Metuchen Council and the Mayor of the Borough of Metuchen, if the contract requires approval or appropriation from the Council.
 - (2) The Mayor of the Borough of Metuchen, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

§ 116-2. Contributions made prior to effective date.

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or municipal or county party committee or PAC referenced in this chapter shall be deemed a violation of this section, nor shall an agreement for property, goods, or services of any kind whatsoever be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this section.

§ 116-3. Contribution statement by professional business entity.

- A. Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any professional business entity, the Borough or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offeror has not made a contribution in violation of § 116-1 of this chapter.
- B. The professional business entity shall have a continuing duty to report any violations of this chapter that may occur during the negotiation or duration of a contract. The certification required under this section shall be made prior to entry into the contract or agreement with the Borough and shall be in addition to any other certifications that may be required by any other provision of law.

§ 116-4. Return of excess contributions.

A professional business entity or Borough candidate or officeholder or municipal or county party committee or PAC referenced in this chapter may cure a violation of § 116-1 of this chapter if, within 30 days after contribution, the professional business entity notifies the Borough Council in writing and seeks and receives reimbursement of a contribution from the Borough candidate or municipal or county political party or PAC referenced in this chapter.

§ 116-5. Violations and penalties.

- A. It shall be a breach of the terms of the Borough of Metuchen professional service agreement for a business entity to:
- (1) Make or solicit a contribution in violation of this chapter;
 - (2) Knowingly conceal or misrepresent a contribution given or received;
 - (3) Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
 - (4) Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of the Borough of Metuchen;

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LIMITS ON CAMPAIGN CONTRIBUTIONS

- (5) Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this chapter;
 - (6) Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
 - (7) Engage in any exchange of contributions to circumvent the intent of this chapter; or
 - (8) Directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this chapter.
- B. Furthermore, any professional business entity that violates Subsection A(1) through (8) shall be disqualified from eligibility for future Borough of Metuchen contracts for a period of four calendar years from the date of the violation.

§ 116-6. Severability and effectiveness clause.

- A. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this chapter.
- B. Any ordinance inconsistent with the terms of this chapter is hereby repealed to the extent of such inconsistency.

Chapter 118**LITTERING**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Art. 3 of Ch. 10 of the 1966 Code. Amendments noted where applicable.]

§ 118-1. Title.

This chapter shall be known and may be cited as the "Metuchen Anti-Litter Ordinance."

§ 118-2. Definitions. [Amended 7-20-1970 by Ord. No. 70-25]

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

AIRCRAFT — Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

AUTHORIZED PRIVATE RECEPTACLE — A litter storage and collection receptacle as required and authorized by this chapter.

COMMERCIAL HANDBILL — Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:

- A. Which advertises for sale any merchandise, product, commodity or thing; or
- B. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- C. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit, but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order, provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state or under any provision of this Code or other ordinance of the borough; or
- D. Which, while containing reading matter other than advertising matter, is predominantly and essential an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER — Garbage, refuse and rubbish, as defined herein, all other waste material which, if thrown or deposited as prohibited by this chapter, tends to create a danger to public health, safety and welfare, and shall also include any construction material, equipment, scaffolding and other related items used or usable

in the erection, construction, alteration or demolition of any building which is stored or left on any premises contrary to any other law, code or ordinance of the borough.

NEWSPAPER — Any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service, in accordance with federal statute or regulation and any newspaper filed and recorded with and recording officer as provided by general law; and, in addition thereto, "newspaper" shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

NONCOMMERCIAL HANDBILL — Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

PARK — A park, reservation, playground, recreation center or any other public area in the borough, owned or used by the borough and devoted to active or passive recreation.

PRIVATE PREMISES — Any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and such term shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE — All streets, sidewalks, boulevards, alleys or other public ways and all public parks, squares, spaces, grounds and buildings.

REFUSE — All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, loose earth, street cleanings, dead animals, abandoned, wrecked or disabled automobiles, bicycles, boats or other transportation conveyances, and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, household and commercial appliances, tires, crockery, junk scrap and other similar materials.

VEHICLE — Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

§ 118-3. Depositing in public places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the borough except in public receptacles or in authorized private receptacles for collection or in official borough dumps.

§ 118-4. Placement in receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place.

§ 118-5. Removal of litter from private property.

No person shall sweep into or deposit in any gutter, street or other public place within the borough the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

§ 118-6. Removal of litter from business properties.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the borough the accumulation of litter from any building or lot or from any public or private driveway or sidewalk. Persons owning or occupying places of business within the borough shall keep the sidewalk in front of their business premises free of litter.

§ 118-7. Throwing litter from vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the borough.

§ 118-8. Vehicle load; substances deposited from tires.

No person shall drive or move any truck or other vehicle within the borough unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the borough the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances or foreign matter of any kind.

§ 118-9. Parks.

No person shall throw or deposit litter in any park within the borough except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the persons responsible for its presence and properly disposed of elsewhere.¹¹⁰

§ 118-10. Bodies of water.

No person shall throw or deposit in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the borough.

§ 118-11. Occupied private property.

No person shall throw or deposit litter on any occupied private property within the borough, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

§ 118-12. Duty of property owners.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

110.Editor's Note: See Ch. 124, Parks and Recreation Areas.

§ 118-13. Vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the borough whether owned by such person or not.

§ 118-14. Handbills.

- A. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the borough, nor shall any person hand out or distribute or sell any commercial handbill in any public places; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the borough for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.
- B. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.
- C. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.
- D. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such bill directly to the owner, occupant or other person then present in or upon such private premises or, in the case of inhabited private premises which are not posted as further provided in this chapter and unless requested by anyone upon such premises not to do so, except by placing or depositing such handbill on the porch, door or other part of the entrance of the dwelling on such premises in such a way as to secure or prevent such handbill from being blown or drifted about such premises, sidewalks, streets or other public places and except that mail boxes may not be used when so prohibited by federal postal regulations. The provisions of this section shall not apply to the distribution of mail by the United States. [Amended 3-19-1973 by Ord. No. 73-4]
- E. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if required by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisements" or any similar notice indicating in any manner that the occupants of such premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left upon such premises.

§ 118-15. Posting notices on public structures.¹¹¹

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamp post, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

§ 118-16. Dropping objects from aircraft.

No person in an aircraft shall throw out, drop or deposit within the borough any litter, handbill or any other object.

111.Editor's Note: See Ch. 127, Peace and Good Order.

§ 118-17. Clearing of litter from vacant private property by borough.¹¹² [Amended 11-9-1987 by Ord. No. 87-19]

- A. Notice to owner to remove. The Health Officer or other enforcing officer is hereby authorized and empowered to notify the owner of any open or vacant private property within the borough or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by personal service, or by registered mail, addressed to such owner at his or her last known address.
- B. Action upon noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within ten days after receipt of written notice provided for in Subsection A above, or within 15 days after the date of such notice in the event the same is returned to the borough postal service because of its inability to make delivery thereof and provided that the same was properly addressed to the last-known address of such owner or agent, the Health Officer or other enforcing officer is hereby authorized and empowered to order its disposal by the borough.¹¹³
- C. Charge to be included in tax bill. When the borough has effected the removal of such dangerous litter, or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the borough, and such charge shall be due and payable by such owner at the time of payment of such bill.
- D. Lien. When the full amount due the borough is not paid by such owner within 30 days after the disposal of such litter, as provided for in Subsections A and B above, then, and in that case, the Health Officer or other enforcing officer shall cause to be filed in the tax collector's office of the borough a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which such work was done. The filing of such sworn statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection until final payment has been made. Such costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of 8% in the event same is not paid in full on or before the date the tax bill upon which such charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectable as provided by law.
- E. Removal at owner's request.
- (1) Special collection of residential garbage, refuse, litter exceeding the maximum allowance as provided in § 118-5(c) is hereby established.¹¹⁴
 - (2) All residential property owners may request additional garbage, refuse or litter removal as provided herein accompanied by the prepayment of the following fees:
 - (a) Minimum charge, includes pickup of two cubic yards of garbage/trash/debris: \$85.

112.Editor's Note: See N.J.S.A., §§ 40:48-2.13 and 40:48-2.14.

113.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

114.Editor's Note: See Ch. 160, Solid Waste.

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- (b) Additional charge per cubic yard (after initial two cubic yard pickup on the same property for the same order): \$70.

§ 118-18. Violations and penalties. [Amended 6-21-1971 by Ord. No. 71-12; 12-16-1974 by Ord. No. 74-32; 10-16-1978 by Ord. No. 78-26]

Any person violating any of the provisions of this chapter shall upon conviction be punished in accordance with the general penalty provision as set forth in Chapter 1, General Provisions, Article 1.

Chapter 120**MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 6-21-1999 by Ord. No. 99-11. Amendments noted where applicable.]

§ 120-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

MASSAGE, BODYWORK AND SOMATIC THERAPIES — Refers to systems of activity of structured touch which include, but are not limited to holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such applications may include but are not limited to the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, movement and neural myofascial education and education in self-care and stress management. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

MASSAGE, BODYWORK OR SOMATIC THERAPY ESTABLISHMENT — Any establishment or operation wherein massage, bodywork or somatic therapies are administered or are permitted to be administered when such therapies are administered for any form of consideration.

MASSAGE, BODYWORK AND SOMATIC THERAPIST — Any person, male or female, who administers massage, bodywork and/or somatic therapies for a form of consideration.

§ 120-2. Permits required.

- A. Business permit required. No person, firm or corporation shall operate any establishment or utilize any premises in the Borough of Metuchen in Middlesex County as or for a massage, bodywork or somatic therapy establishment unless or until there has first been obtained a permit for such establishment or premises from the Clerk of the Borough of Metuchen in accordance with the terms and provisions in this chapter.
- B. Massage, bodywork and somatic therapist permit required. No person shall practice massage or related therapies as a massage, bodywork and somatic therapist, employee or otherwise, unless he or she has a valid and subsisting massage, bodywork and somatic therapist's permit issued to him or her by the Borough of Metuchen pursuant to the provisions of this chapter.

§ 120-3. Application fees. [Amended 12-21-2009 by Ord. No. 2009-18; 2-22-2011 by Ord. No. 2011-1]

Every applicant for a permit to maintain, operate or conduct a massage, bodywork or somatic therapy establishment or outcall massage, bodywork or somatic therapy service shall file an application with the Borough Clerk upon a form provided by said Clerk and pay an annual fee of \$115.

§ 120-4. Application for permit.

Any person desiring a massage, bodywork or somatic therapy business permit shall file a written application with the Borough Clerk on a form to be furnished by the Borough Clerk. The applicant shall accompany the application with a tender of correct fee as hereinafter provided.

§ 120-5. Building requirements; inspections.

The Borough Clerk, upon receiving an application for a massage, bodywork or somatic therapy establishment permit, shall refer the application to the Building Department, the Fire Department, the Police Department, the Health Department and the Zoning Officer, which departments may inspect the premises proposed to be operated as a massage establishment and make written recommendations to the Borough Clerk concerning compliance with the codes that they administer. No massage, bodywork or somatic therapy establishment shall be issued a permit or be operated, established or maintained in the Borough unless an inspection by the Health Officer, Building Inspector and Fire Inspector reveals that the establishment complies with the minimum requirements of the Building and Health Codes for businesses operating in the Borough of Metuchen.

§ 120-6. Application requirements.

- A. To be eligible for a permit as a massage, bodywork and somatic therapist, an applicant shall submit satisfactory evidence of:
 - (1) Successful completion of a minimum of 300 hours in-class study in the field of massage, bodywork or somatic therapy; or
 - (2) Successful completion of the written examination offered by the National Certification Board for Therapeutic Massage and Bodywork.
- B. For up to one year (365 days) after the date procedures are established by this chapter for applying for a permit to conduct massage, bodywork or somatic therapy in the Borough of Metuchen, any person engaged in the full-time practice of massage, bodywork or somatic therapy for two years preceding the enactment of this chapter, or any person engaged in the part-time practice of massage, bodywork or somatic therapy for five years preceding the enactment of this chapter, or any person who has successfully completed 1,000 hours in the practice of massage, bodywork or somatic therapy with a minimum completion of 200 hours of education or training in massage preceding the enactment of this chapter, may acquire a permit to practice without satisfying the requirements in Subsection A. One year after the enactment of this chapter, any person wishing to be permitted as a massage, bodywork or somatic therapist in the Borough of Metuchen must fulfill the requirements listed in Subsection A.
- C. The following information concerning the applicant may also be required:
 - (1) The name, complete residence address and residence telephone number.
 - (2) The two previous addresses immediately prior to the present address of the applicant.
 - (3) Written proof of age.
 - (4) Height, weight, sex and color of hair and eyes.
 - (5) Two front-face portrait photographs taken within 30 days of the date of the application and at least two by two inches by two inches in size.
 - (6) The massage therapy or similar business history and experience, including but not limited to whether or not such person has previously operated in this or another city or state under a license or permit or has had such license or permit denied, revoked or suspended and the reason therefor and the business activities or occupations subsequent to such action or denial, suspension or revocation.

- (7) All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof. The applicant shall execute a waiver and consent to allow a fingerprint and criminal background check by the Police Department.
- (8) The names and addresses of three adult residents of the county who will serve as character references. These references must be persons other than relatives and business associates.

§ 120-7. Permit fee. [Amended 12-21-2009 by Ord. No. 2009-18; 2-22-2011 by Ord. No. 2011-1]

The applicant for a massage, bodywork and somatic therapist's license shall pay an annual permit fee of \$58, which permit fee shall become due on the first day of January each year.

§ 120-8. Display of permits.

The massage, bodywork or somatic therapy establishment shall display his/her permit and that of each and every massage, bodywork and somatic therapist employed in the establishment in an open and conspicuous place on the premises of the establishment.

§ 120-9. Operating requirements.

- A. Every portion of the massage, bodywork or somatic therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- B. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- C. All employees, including massage, bodywork or somatic therapists, shall be clean and wear clean, nontransparent outer garments.
- D. All massage, bodywork and somatic therapy establishments shall be provided with clean, laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in a sanitary manner.
- E. The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage, bodywork or somatic therapist.
- F. It shall be unlawful for any person knowingly, in a massage establishment, to place his or her hand upon or touch with any part of his or her body, to fondle in any manner or to massage a sexual or genital area of any other person.
- G. No massage, bodywork or somatic therapist, employee or operator shall perform or offer to perform any act which would require the touching of the patron's sexual or genital area.
- H. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet- and dry-heat rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.
- I. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be kept in clean, closed containers or cabinets.

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- J. Animals, except for Seeing-Eye dogs, shall not be permitted in the massage work area.
- K. Each massage, bodywork and somatic therapist shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage, bodywork or somatic therapy to each patron.

§ 120-10. Inspections.

The Department of Health and/or the Building Department and/or Zoning Officer shall, from time to time, at least once a year, make an inspection of each massage, bodywork or somatic therapy establishment granted a permit under the provisions of this chapter for the purpose of determining whether the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

§ 120-11. Sleeping quarters.

No part of any quarters of any massage, bodywork or somatic therapy establishment shall be used for or connected with any bedroom or sleeping quarters, nor shall any person sleep in such massage, bodywork or somatic therapy establishment except for limited periods incidental to and directly related to a massage, bodywork or somatic therapy treatment or bath. This provision shall not preclude the location of a massage, bodywork or somatic therapy establishment in separate quarters of a building housing a hotel or other separate businesses or clubs.

§ 120-12. Prohibited acts.

- A. No owner or manager of a massage, bodywork or somatic therapy establishment shall tolerate in his establishment any activity or behavior prohibited by the laws of the State of New Jersey, particularly but not exclusive of laws prescribing prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material; laws which relate to the commission of sodomy; relating to the commission of adultery; and prescribing fornication; nor shall any owner or manager tolerate in his or her establishment an activity or behavior which violates this chapter.
- B. Any conviction of any employee of a massage, bodywork or somatic therapy establishment of a violation of the aforementioned statutes and codes shall devolve upon the owner or manager of such club, it being specifically declared by that, following such a conviction of an employee, the owner or manager of the club shall be prosecuted as an accessory to such a violation and the required permits will be automatically revoked.

§ 120-13. Violations and penalties.

Any person violating the provisions of this chapter shall, upon conviction, be punished by imprisonment for a term not to exceed 90 days or by a fine not exceeding \$1,000, or both, in the discretion of the Court.

METUCHEN CODE

Chapter 124

PARKS AND RECREATION AREAS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Conduct and Use**[Adopted 12-19-1977 by Ord. No. 77-32]****§ 124-1. Prohibited acts.**

No person in a public park and recreation area shall:

- A. Willfully mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings or paving materials, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever either real or personal.
- B. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six years shall use the restrooms and washrooms designated for the opposite sex.
- C. Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials or make any excavation by tool, equipment, blasting or other means or agency.
- D. Construct or erect any building or structures of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.
- E. Damage, carve, transplant or remove any tree or plant or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas or in any other way injure the natural beauty or usefulness of any area.
- F. Climb any tree or walk, stand or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.
- G. Tie or hitch any animal to any tree or plant.
- H. Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird; nor shall he or she remove or have in his or her possession the young of any wild animal, or the eggs or nest or young of any reptile or bird. Exception to the foregoing is made in that snakes, known to be deadly poisonous, or deadly reptiles may be killed on sight.
- I. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary stream, storm sewer or drain flowing into such water any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters.
- J. Have brought in or shall dump in, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be placed in any waters or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.
- K. Drive any vehicle on any area except the paved park roads or parking areas or such areas as may on occasion be specifically designated as temporary areas by the Recreation Commission.

- L. Park a vehicle in other than an established or designated parking area and such shall be in accordance with posted directions thereat and with the instruction of any attendant who may be present.
- M. Leave a vehicle standing or parked at night in established parking areas or elsewhere in the park areas.
- N. Leave a bicycle in a place other than a bicycle rack when such is provided and there is space available.
- O. Ride a bicycle without reasonable regard to the safety of others.
- P. Leave a bicycle lying on the ground or paving or set against trees or in any place or position where other persons may trip over or be injured by them.
- Q. Swim, bathe or wade in any waters or waterways in or adjacent to any park.
- R. Carry or possess firearms of any description, or air rifles, spring guns, bows and arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden.
- S. Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.
- T. Violate the regulation that use of individual fireplaces together with tables and benches follows the generally accepted rule of first come, first served.
- U. Use any portion of the picnic area or any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such areas and facilities for an unreasonable time if the facilities are crowded.
- V. Leave a picnic area before the fire is completely extinguished and before all trash is placed in the disposal receptacles where provided. If no such trash receptacles are available, then trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.
- W. Set up tents, shacks or any other temporary shelter for the purpose of overnight camping; nor shall any person leave in a park, after closing hours, any movable structure or special vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon or the like except in those areas designated by the Park Commission for those purposes.
- X. Take part in or abet the playing of any games involving thrown or otherwise propelled objects, such as balls, stones, arrows, javelins, horseshoes, quoits or model airplanes except in those areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games, such as football, soccer, baseball, skateboarding and lacrosse is prohibited except on the fields and courts or areas specifically designed for such pastimes. Specifically, use of roller skates or skateboards or bicycle riding on tennis courts is prohibited.
- Y. Ride a horse except on designated bridle trails where permitted. Horses shall be thoroughly broken and properly restrained and ridden with due care and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub.

§ 124-2. Prohibited conduct.

While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly

manner, and, in particular, no person shall:

- A. Bring or possess alcoholic beverages with an intent to consume the same within the park, or consume alcoholic beverages. **[Amended 2-17-2009 by Ord. No. 2009-1]**
- B. Have in his or her possession, or set or otherwise cause to explode or discharge or burn, any firecrackers, torpedo rockets or other fireworks, firecrackers or explosives of inflammable material or discharge them or throw them into any such areas from lands or highways adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with an other substance or compound would be dangerous from any of the foregoing standpoints. At the discretion of the Recreation Commission, permits may be given for conducting properly supervised fireworks in designated park areas.
- C. Be responsible for the entry of a dog or other domestic animal into areas clearly marked by the Recreation Commission by signs bearing the words "Domestic Animals Prohibited in This Area." Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than six feet in length.
- D. Solicit alms or contributions for any purpose, whether public or private, without permission of Borough Council as required by ordinance.
- E. Build or attempt to build a fire except in such areas and under such regulations as may be designated by the Recreation Commission. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material within any park or on any highways, roads or streets abutting or contiguous thereto.
- F. Enter an area posted as "Closed to the Public," nor shall any person use or abet in the use of any area in violation of posted notices.
- G. Gamble, or participate in or abet any game of chance, except in such areas and under such regulations as may be designated by the Recreation Commission.
- H. Go onto the ice on any of the waters, except such areas as are designated as skating fields and provided that a safety signal is displayed.
- I. Sleep or protractedly lounge on the seats or benches or other areas or engage in loud, boisterous, threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.
- J. Fail to produce and exhibit any permit from the Recreation Commission he or she claims to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.
- K. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.
- L. Expose or offer for sale any article or thing, nor shall he or she station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Recreation Commission.
- M. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall

any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.

§ 124-3. Hours of operation.

- A. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during the designated hours. The opening and closing hours for each individual park shall be posted therein for public information and shall be determined from time to time by resolution of the Recreation Commission.
- B. Any section or part of any park may be declared closed to the public by the Recreation Commission at anytime and for any interval or time either temporary or at regular and stated intervals, daily or otherwise, and either entirely or merely to certain uses, as the Recreation Commission shall find reasonably necessary.

§ 124-4. Use permits.

Permits for special events in parks shall be obtained by application to the Recreation Commission in accordance with the following procedure:

- A. A person seeking issuance of a permit hereunder shall file an application with the Recreation Commission stating:
 - (1) The name and address of the applicant.
 - (2) The name and address of the person, persons, corporation or association sponsoring the activity, if any.
 - (3) The day and hours for which the permit is desired.
 - (4) The park or portion thereof for which such permit is desired.
 - (5) Any other information which the Recreation Commission shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder.
- B. Standards for issuance of a use permit by the Recreation Commission shall include the following findings:
 - (1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.
 - (2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
 - (3) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.
 - (4) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the Borough.
 - (5) That the facilities desired have not been reserved for other use at the date and hour requested in the application.
- C. Appeal.

- (1) Within five days after the receipt of an application, the Recreation Commission shall apprise an applicant in writing of its reasons for refusing a permit, and any aggrieved person shall have the right to appeal to the Borough Council by serving written notice thereof on the Borough Clerk within five days of the refusal.
 - (2) A copy of the notice shall also be served on the Recreation Commission within the same time and the Commission shall immediately forward the application and the reasons for its refusal to the Borough Council which shall consider the application under the standards set forth under Subsection B hereof and sustain or overrule the Recreation Commission's decision within ten days from the receipt of the appeal by the Borough Clerk. The decision of the Borough Council shall be final.
- D. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in the permits.
- E. The person or persons to whom the permit is issued shall be liable for all loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued. The Recreation Commission shall have the right to require any permittee to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined by the Commission prior to the commencement of any activity or issuance of any permit.
- F. Revocation. The Recreation Commission shall have the authority to revoke a permit upon a finding of violation of any rule, or ordinance, or upon good cause shown.

§ 124-5. Enforcement of article.

- A. The Recreation Commission and park attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.
- B. The Recreation Commission and any park attendant shall have the authority to eject from the park area any person or persons acting in violation of this article.
- C. The Recreation Commission and any park attendant shall have the authority to seize and confiscate any property, thing or device in the park used in violation of this article. **[Amended 9-15-1997 by Ord. No. 97-20]**
- D. This article shall also be enforced by the Police Department of the Borough.

§ 124-6. Vehicle parking.

No owner or driver shall cause or permit his or her vehicle to stand outside of designated parking spaces, except for a reasonable time to take up or discharge passengers or equipment. No motor vehicle shall be parked in the park areas from one half hour after sunset until sunrise, except as otherwise permitted.

§ 124-7. Agreement with Board of Education.

The Borough reserves the right with respect to any or all of the public park and recreation areas, and any facilities located therein, to enter into agreement with the Board of Education of the Borough concerning the control and use thereof; anything contained in this article to the contrary notwithstanding, any use of the premises or the facilities by the Board of Education pursuant to any agreement with the Borough Council or Recreation Commission heretofore or hereafter entered into shall be free and exclusive from any control

or supervision of or by the Recreation Commission.

§ 124-8. Violation and penalties. [Amended 9-15-1997 by Ord. No. 97-20]

Any person violating any of the provisions of this article or any rule or regulation promulgated pursuant hereto, shall upon conviction be subject to penalties as provided in Chapter 1, General Provisions, Art. 1.

§ 124-9. Regulations not in derogation.

This article is in addition to and not in derogation of any other ordinance involving or effecting any of the subject matters contained in the within article.

ARTICLE 2

Fences Adjacent to Public Property
[Adopted by 2-21-1988 by Ord. No. 88-6]**§ 124-10. Findings and purposes.**

The Borough of Metuchen is crisscrossed by properties used for railroad purposes, including the main line for Amtrak Service through the Northeast Corridor. High speed trains travel through the Borough immediately adjacent to municipally owned parklands heavily used by Borough residents, especially adolescents and children, for recreational purposes. Incidents have occurred, and the Borough Council believes will reoccur, where adolescents and children have been attracted and drawn to the railroad tracks which have remained accessible to them because the railroads have either declined to fence their property or because the gates erected in the fencing constructed are left unlocked or broken by maintenance personnel employed by the railroad entities. The express intent of this article is to make explicit and subject to enforcement by prosecution in the Municipal Court what the Council believes to be the already existing duty of the railroad to prevent its unfenced or broken-fenced boundary with municipal recreational space from continuing to be an attractive nuisance for adolescents and children using those playing fields with the evident harm from their walking in or near the railroad tracks.

§ 124-11. Fencing requirement.

It shall be unlawful for any owner of property used for railroad purposes which adjoins publicly owned property used for recreational purposes to fail to erect, construct and maintain a secure fence, at least six feet in height, across the entire boundary of its property with the recreational parklands and extending for an additional 100 feet beyond the boundary of the parkland or until the railroad intersects with a public street, whichever first occurs.

§ 124-12. Gates.

Any fence heretofore or hereafter erected by the railroad along the boundary with publicly owned parklands may be constructed with one or more gate apertures, so long as each gate remains locked except when maintenance personnel are performing work in the immediately adjacent right-of-way within that railroad property. The owner of the property used for railroad purposes shall provide the Chief of Police of the Borough with a duplicate set of keys to the locks in order to allow emergency access to Borough personnel.

§ 124-13. Maintenance of fences.

Any fence heretofore or hereafter erected along the boundary of the railroad property with publicly owned parklands shall be maintained and, if necessary, replaced promptly and in any event no later than 30 days following the receipt of a notice from the Construction Code Official or the Chief of Police of the Borough that describes the maintenance or replacement necessary to reach compliance with this article.

§ 124-14. Violations and penalties. [Amended 9-15-1997 by Ord. No. 97-20]

Failure to comply with the terms of this article shall constitute the maintenance of an attractive nuisance¹¹⁵ which, if unabated in accordance with the terms of § 124-13, shall render the individual(s) or entity violating the provisions of this article subject to arrest and to the imposition of any and all of the general

¹¹⁵Editor's Note: See Ch. 225, Nuisances.

penalties provided within Chapter 1, General Provisions, Article 1, as generally allowed by N.J.S.A. 40:49-5.

ARTICLE 3

Metuchen Town Plaza**[Adopted 7-16-2018 by Ord. No. 2018-16; amended in its entirety 7-10-2023 by Ord. No. 2023-21]****§ 124-15. Intent.**

The Town Plaza is a publicly owned space which is managed and operated by the Borough of Metuchen. It is the intent of the Borough that the Town Plaza is a welcoming, safe, flexible, public gathering space for residents and visitors to downtown Metuchen. The Borough promotes the use of the Plaza for events where all of the public is welcome to attend. Formal events as defined herein as "special events" require a use permit to be issued by the Borough of Metuchen as provided for herein. The Town Plaza is not available for private events where members of the public are excluded, or an admission is charged. The Town Plaza is not available for private events, including, but not limited to, weddings, birthday parties or any other private event. In order to preserve the ability of all members of the public to have free access to the Metuchen Town Plaza, the Metuchen Plaza is limited to the use for events by the Borough of Metuchen or Borough of Metuchen commission-/committee-/board-sponsored events, the Metuchen Downtown Alliance and the Metuchen Farmers Market. In addition to the requirements contained herein, the Metuchen commission-/committee-sponsored events, the Metuchen Downtown Alliance, and Metuchen Farmers Market seeking to conduct a special event at the Metuchen Town Plaza shall also comply with all of the requirements and conditions of Chapter 75 of the Code of the Borough of Metuchen.

§ 124-16. Hours of operation.

The Town Plaza shall be open daily to the public for informal and scheduled events from 7:00 a.m. to 10:00 p.m. All Town Plaza events, both scheduled and/or informal, must be open to the public, free of charge, and not on an invitation only or restricted basis. Access to and through the Plaza must be maintained at all times, including during setup and cleanup for an event. Sidewalk and tenant access must also be maintained at all times.

§ 124-17. Prohibited acts and conduct.

A. No person in the Town Plaza shall:

- (1) Willfully mark, deface, disfigure, injure, tamper with or displace or remove any tables, benches, pavings or paving materials, or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or Plaza property or appurtenances whatsoever either real or personal. Plaza tables and chairs should not be stacked on top of each other.
- (2) Dig or remove any soil, rock, sand, stones, pavers, trees, shrubs or plants or other wood or materials or make any excavation by tool, equipment, blasting or other means or agency.
- (3) Construct or erect any structures of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.
- (4) Damage, carve, transplant or remove any tree or plant or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas or in any other way injure the natural beauty or usefulness of any Plaza area.
- (5) Climb any tree or walk, stand or sit upon monuments, vases, planters, fountains, railings, fences

or upon any other property not designated or customarily used for such purposes.

- (6) Tie or hitch any animal or leash to any tree, plant or bench.
- (7) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, storm sewer or drain flowing into such water any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters.
- (8) Have brought in or shall dump in, deposit or leave any bottles, broken glass, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be left anywhere on the Plaza but shall be placed in the proper receptacles where these are provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the Plaza by the person responsible for its presence and properly disposed of elsewhere.
- (9) Leave a bicycle in a place other than a bicycle rack or dock when such is provided and there is space available.
- (10) Leave a bicycle lying on the ground or paving or set against trees or in any place or position where other persons may trip over or be injured by them.
- (11) Set up tents, canopies or any other temporary shelter unless specifically permitted to do so by the Borough as set forth in this chapter.
- (12) Take part in or abet the playing of any games involving thrown or otherwise propelled objects that could cause a risk or danger to other occupants of the Plaza, including handball or ball throwing.
- (13) Ride a bicycle, skateboard, scooter or horse, roller skate, roller blade and/or hoverboard through the Plaza. Walking a bicycle, skateboard, scooter, hoverboard through the Plaza is permitted. Exceptions to the herein may be made for Borough-related safety events, i.e., safety demonstrations performed by the Metuchen Police Department or groups like Bike Walk Metuchen.
- (14) Bring or possess alcoholic beverages with an intent to consume the same within the Plaza, or to publicly consume alcohol, with the exception being when a permitted special event takes place with the required security, the required State of New Jersey Division of Alcoholic Beverage Control and Borough permits and insurance coverage is provided. All events where alcohol is served shall be in full compliance with the New Jersey Division of Alcoholic Beverage Control rules and regulations.
- (15) Drive or park a vehicle onto the Plaza. Vehicles are only permitted onto the Plaza for purposes of loading and unloading and only after all necessary safety precautions are established during said times. Vehicles are not permitted to idle while on the Plaza.
- (16) Permit a pet to walk or run in or on the Plaza without a leash. All persons walking a pet must clean up after all pets.
- (17) Have in their possession, or set or otherwise cause to explode or discharge or burn, any firecrackers, torpedo rockets or other fireworks, firecrackers or explosives of inflammable material or discharge them or throw them into any such areas from lands or highways adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with another substance or compound would be dangerous from any of the foregoing standpoints. At the discretion of the Borough Administrator permits may be given for

conducting properly supervised fireworks in designated Town Plaza areas.

- (18) Build or attempt to build a fire. Fire pits are not permitted. No person shall drop, throw or otherwise scatter burning cigarettes or cigars, tobacco paper or other inflammable material within the Plaza.
 - (19) Enter an area of the Plaza posted as "closed to the public," nor shall any person use or abet in the use of any area in violation of posted notices.
 - (20) Gamble, or participate in or abet any game of chance, except in such areas and under such regulations as may be licensed and permitted by the Borough Administrator.
 - (21) Sleep or protractedly lounge on the seats or benches or other areas or engage in loud, boisterous, threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.
 - (22) Fail to produce and exhibit any permit issued from the Borough claimed to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.
 - (23) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit issued by the Borough.
 - (24) Expose or offer for sale any article or thing, nor shall station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Borough.
 - (25) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatsoever on Plaza without specific authorization to do so. Signs belonging to stores, offices or retailers located on the Plaza must only be displayed in front of the business and no place else on the Plaza.
- B. Nothing herein shall permit activities and/or conduct that are prohibited in the existing ordinances. Sections 124-1, 124-2 and Chapter 158 shall apply to the Town Plaza. Smoking, as defined in § 158-1, shall be prohibited in the Town Plaza.

§ 124-18. Special events; permit requirement.

A group or gathering of 50 or more persons shall constitute a special event requiring a permit to be issued by the Borough for the use of the Town Plaza. No group of 50 or more persons shall utilize the Town Plaza for an event, gathering or outing without first having obtained a use permit in advance from the Borough. Permits are not required by individuals using the Plaza for casual, informal gatherings. Adult supervision of children's groups requiring a permit is required at all times. No person shall call or hold any public meeting or give any concert or entertainment of any kind or erect any structure, stand, tent, or platform, utilize any loudspeaker, public address system, or amplifier except by the specific written authority of the Borough, as authorized by permit. Although all events shall be opened to the public, no other organized group or persons other than the one holding the use permit shall interfere with permit holder's use of the Town Plaza during the time covered by the permit issued by the Borough. All permits that are granted must be produced upon demand.

§ 124-19. Use permit.

- A. All permits for the Town Plaza shall be approved by the Borough Administrator in consultation and approval of the Chief of Police or their designee, Fire Chief or his designee, and/or the Superintendent of Public Works or their designee as deemed necessary by the Borough Administrator. The issuance of use permits of the Metuchen Town Plaza shall be limited to Metuchen commission-/committee-sponsored events, the Metuchen Downtown Alliance and the Metuchen Farmers Market.
- B. Permits for special events in the Town Plaza shall be obtained by application to the Borough Clerk in accordance with the following procedure:
- (1) An organization, entity, Borough commission, Borough committee or Borough board seeking issuance of a permit hereunder shall file an application with the Borough Clerk providing:
 - (a) The name and address of the applicant.
 - (b) The name and address of the person, persons, corporation or association of the activity and event for which is being sponsored for, if any.
 - (c) The day and hours for which the permit is desired and the type of event planned.
 - (d) The estimated size and number of attendees of the event.
 - (e) A detailed map of the Plaza must be submitted showing the desired area or location in the Town Plaza sought to be used for the event and a detailed description of all equipment, vendors, vehicles and associated items for use during the event.
 - (f) Any other information which the Borough Administrator, Borough Clerk, Police Chief, Fire Chief and/or the Director of Public Works shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder.
 - (2) Applicants for a permit for a special event in the Metuchen Town Plaza shall also be required to comply with all of the requirements set forth in Chapter 75 of the Borough Code.
 - (3) In addition to the completed application, an organization, entity, Borough commission, Borough committee or Borough board seeking issuance of a permit hereunder shall also provide the following:
 - (a) A security deposit in the amount of \$500 made payable to the "Borough of Metuchen," unless waived by the Borough Administrator.
 - (b) Adequate insurance information demonstrating that it will provide the Borough with a certificate of liability insurance and additional insured endorsement, such information shall also state the specific dates and limits of coverage.
 - (4) Application for a permit for an event can be submitted up to one year in advance of the event date. Date selection will not be transferred upon request after approval is provided. All applications for a permit for an event shall be submitted no later than 60 days prior to the requested use.
 - (5) Rain dates will not be held in addition to the requested event date for all events. Requests can be made for one rain date, in addition to the scheduled event date. The Borough Administrator will decide if a rain date can be approved on a case-by-case basis.
 - (6) Applicants shall not advertise or promote, either in printed, digital or electronic format on the internet and/or social media platforms prior to obtaining a Metuchen Town Plaza special events

permit. Premature advertising and/or promotion may be sole grounds for denial of the permit.

- (7) Standards for issuance of a use permit by the Borough Administrator shall include the following findings:
- (a) That the proposed activity or use of the Town Plaza will not unreasonably interfere with or detract from the general public enjoyment of the Town Plaza.
 - (b) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
 - (c) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.
 - (d) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the Borough.
 - (e) That the proposed activity will not result in a breach of this article, another ordinance, or law, or may be adverse to the public interest, to public health and/or safety, or the protection of persons and/or property.
 - (f) That the Town Plaza or portions thereof desired have not been reserved for other use at the date and hour requested in the application.
 - (g) That the proposed activity or use of the Town Plaza will not unreasonably interfere or conflict with a Borough event, or Borough-sponsored event, whether at the Metuchen Town Plaza or some other location within the Borough. Borough events and Borough-sponsored events shall have priority over all applications for use of the Metuchen Town Plaza.
- (8) The office of the Borough Clerk shall maintain a final schedule of events which have received approval for a use permit as well as a proposed schedule of applications pending approval. Borough Events and events sponsored by the Borough shall have a preference over all other requests.
- (9) The Borough Administrator may approve a permit with modifications or special conditions as the Borough Administrator deems necessary under the circumstances. Some examples of the conditions which the Borough Administrator may require at the applicant's sole cost and expense include, but are not limited to, the provision of on-site event security coverage or traffic control which must be provided by the Metuchen Police Department and/or portable bathrooms for the event.
- (10) Appeal.
- (a) Within five days after the receipt of the denial for a permit any aggrieved organization, entity, Borough commission, committee or board shall have the right to appeal to the Mayor and Council President by submitting a formal written request. The Mayor and Council President shall consider the request for an appeal and shall provide the applicant with a decision, in writing, no later than 14 days in advance of the proposed date for the special event.
 - (b) In considering the request for appeal, the Borough officials may request further information from the applicant or from any other person, organization or entity.

- (c) In addition to the criteria set forth in § 124-19B(3), the following will be considered in the review of the request to appeal:
 - [1] A report of the Borough Administrator or other Borough official providing for the reasons for the denial and any information provided by the applicant;
 - [2] Whether the application form and/or the information provided by the applicant was complete and accurate;
 - [3] Whether the applicant is able to provide the Borough with the adequate protection for the public health, safety, welfare and protection of property.
 - (d) The decision of the Mayor and Council President shall be final.
- (11) Notwithstanding any other section, the Borough shall refuse to issue a permit if the Finance Department notes that the applicant or any principal, director or officer of the applicant and/or the sponsored entity has an outstanding and unpaid debt to the Borough, including a debt relating to a special event regardless of whether such debt was incurred through another organization or legal entity in relation to a special event.
- (12) A permittee shall be bound by all Borough rules and regulations and all applicable ordinances fully as though the same were inserted in the permits.
- (13) The organization and/or entity to whom the permit is issued or for whom the event is sponsored shall be liable for all loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued and/or sponsored. The Borough Administrator shall have the right to require any permittee to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined by the Borough prior to the commencement of any activity or issuance of any permit.
- (14) Revocation. The Borough Administrator, and/or the Chief of Police or their designee shall have the authority to revoke a permit if there is reasonable grounds to believe that the holding or continuation of the special event:
- (a) Poses a danger to the health and safety of any person;
 - (b) Poses a danger to property;
 - (c) Is not in the public interest; or
 - (d) Is in contravention of this article, rule or policy of the Borough or for the failure to comply with a condition of the permit.
- C. To the extent permissible, in the case of a revocation prior to the date and time of the proposed event, the Borough official shall immediately inform the permit holder or the permit representatives of the revocation and the reasons for it by means of contacting the permit holder at the address or at the telephone number provided in the permit application. Nothing herein shall limit the Borough's right to revoke a permit during the course of the event if determined by the Borough official that the above criteria apply. In such a case, the Borough official shall immediately advise the designated supervisor of the event of the revocation and the event shall be immediately terminated and the organization, entity, and/or the sponsored entity shall forfeit its deposit.

§ 124-20. Permit fee, security deposit and insurance requirements.

- A. There shall be a permit application fee of \$100 for the use of the Town Plaza. The permit fee may be waived for the Borough commission-, Borough committee- or Borough board-sponsored events, the Metuchen Downtown Alliance, and/or the Metuchen Farmer's Market.
- B. A security deposit of \$500 in the form of a check made payable to the "Borough of Metuchen" shall be submitted with the application for a use permit. The security deposit shall be refunded, without interest, to the applicant within 30 days of the event date with any deductions made for any damage and/or failure to comply with cleanup policies after an event. The required security deposit may be waived by the Borough Administrator.
- C. No permit shall be issued for the use of the Town Plaza unless the applicant shall provide the Borough with satisfactory proof of the following:
 - (1) Proof of insurance coverage as follows:
 - (a) For bodily injury to any one person in the amount of \$1,000,000 and any occurrence in the aggregate amount of \$3,000,000;
 - (b) For property damage for each occurrence in the aggregate amount of \$500,000; and
 - (2) A certificate of insurance shall be delivered to the Borough Administrator which shall name the Borough of Metuchen, its officers, employees, agents and representatives as additional insureds on the policy.

§ 124-21. Miscellaneous use permit requirements and conditions.

- A. Any organization, entity, Borough commission, Borough committee or Borough board and/or the sponsored entity utilizing the Town Plaza shall be solely responsible for cleaning up the Town Plaza during and upon the conclusion of an event, whether formal or informal. The Department of Public Works of the Borough of Metuchen shall not be responsible for the cleanup or maintenance of the Town Plaza both during and after an event. Any organization, entity, Borough commission, Borough committee or Borough board and/or the sponsored entity utilizing the Town Plaza is also responsible for moving Plaza furniture, to the extent necessary and approved by permit for their event. Do not stack Plaza tables and chairs on top of each other. Upon the conclusion of the event, any organization, entity, Borough commission, Borough committee or Borough board and/or the sponsored entity utilizing the Town's Plaza shall return all of the Plaza furniture to its original location. Failure to maintain, clean up and/or return Plaza furniture will result in the loss or deduction of the security deposit.
- B. Permittees, upon approval by the Borough, are allowed to utilize the electrical outlets available in the planting beds, and those located throughout the Plaza. Unless, specifically authorized, permittee shall not utilize an extraordinary amount of electricity for or during any event.
- C. Any tent or canopy utilized in the Town Plaza must be properly weighted for wind resistance. Tents or canopies greater than 10 feet by 10 feet must be weighted with concrete. Spikes cannot be hammered into the Plaza surface to secure tents, canopies or other equipment. The Plaza surface cannot be damaged or altered in any way whatsoever. Permittees and/or occupants of the Plaza will be responsible for any damage to the Plaza sustained during an event, whether scheduled or informal.
- D. All applicants for a permit must agree to be responsible for indemnifying and holding harmless both the Borough of Metuchen, its officers, employees, agents and representatives from any claim

whatsoever arising out of, or in connection with, the use of the Town Plaza in order to obtain a use permit.

- E. It shall be the applicant, the permittee and/or the sponsored entity's sole responsibility, at its sole cost and expense, to obtain all necessary inspections, permits and approvals for the proposed event to comply with all state, county or local regulations. Applicant must provide to the Borough copies of all necessary permits issued prior to receiving the Town Plaza event use permit. The Borough reserves the right to impose further conditions upon the use permit in the event that necessary approvals are not provided.
- F. If the permittee and/or the sponsored entity leaves any item(s) at the Plaza after the completion of the event breakdown and/or load-out, permittee and/or the sponsored entity will be charged a minimum of \$100 per day for storage, including the hourly rates set forth below for the transportation of the item(s).
- G. Additional fees may be deemed necessary by the Borough of Metuchen based upon the nature and/or size of item(s) left on-site and all security deposit funds will be forfeited. Items may be held at Metuchen DPW for pickup for a reasonable period of time. However, under no circumstances shall the Borough of Metuchen, its employees, officials, agents or representatives be held responsible for the removal or liable for any damage to items left on the premises after the prescribed permit hours.
- H. Repairs for damages, maintenance and/or cleanup shall be calculated at a minimum of \$65 per man-hour plus the cost of materials. Additional costs may be deemed necessary by the Borough based upon the nature of repairs and/or replacements. Failure to pay within 30 days will require forfeit of the deposit. In the event that the security deposit is insufficient to cover the costs to the Borough and the permittee and/or the sponsored entity fails to make a timely payment therefor, an action by Borough to recover the fees will be instituted and the permittee and/or the sponsored entity will be responsible for all collection costs, including attorneys' fees, and disqualification from consideration for issuance of future permits.

§ 124-22. Cancellation.

- A. Cancellation of any event, after a permit is issued, must be provided to the Borough Administrator, in writing. Cancellations of events received more than 60 days in advance may be rescheduled within 365 days of cancellation date upon the submission of a written request and approval by the Borough Administrator without an adverse consequence. If the cancellation occurs 30 days or less before the date of the event, the permittee must submit a new application for a use permit. Any applicant seeking a permit shall notify the Borough, in writing, in the event that the event for which the party seeks a permit is cancelled or a permit is no longer sought. Repeated cancellations shall be considered as negative criteria in considering future requests for use permits.
- B. Rain dates and requests therefor shall be governed by § 124-19B(5) above.

§ 124-23. Enforcement.

- A. The Borough Administrator, Police Chief, Fire Chief or their designee, and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.
- B. The Borough Administrator, Police Chief, Fire Chief or their designee, and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall have the authority to eject from the Town Plaza any person or persons acting in violation of this article.

- C. The Borough Administrator, Police Chief, Fire Chief or their designee, and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall have the authority to seize and confiscate any property, thing or device in the Town Plaza used in violation of this article.

§ 124-24. Violations and penalties.

Any person, persons, organization, entity or group violating any of the provisions of this article or any rule or regulation promulgated pursuant hereto, shall upon conviction be subject to penalties as provided in Chapter 1, General Provisions, Article 1.

§ 124-25. Severability.

Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

§ 124-26. When effective.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

ARTICLE 4

Use of Borough Fields**[Adopted 10-2-2023 by Ord. No. 2023-28]****§ 124-27. Permits to utilize Borough of Metuchen fields.**

- A. Prior to any organized use of, or the organization of an event to be conducted at, the baseball/softball/soccer fields and/or multipurpose turf fields, regardless of the number of attendees, any individual or entity must obtain a permit for such use from the Borough of Metuchen. Except for the specific days and time frames wherein a permit for the exclusive use is issued by the Borough as provided for herein, the use of the baseball/softball/soccer fields and/or multipurpose turf fields shall be open to the general public. Individuals and/or entities having a permit for use shall have the exclusive use of the permitted portions of the baseball/softball/soccer fields and/or multipurpose turf fields during the allotted time of the permit issued. A separate permit shall be required for each location. Permits shall be issued for one-hour intervals for the following locations and fields:
- (1) Myrtle Park, multipurpose artificial turf field.
 - (2) Charles Park, multipurpose artificial turf field.
 - (3) Hampton Park, grass soccer field.
 - (4) Hampton Park, grass baseball field.
 - (5) Oakland Park, grass baseball field.
 - (6) Oakland Park, grass softball field.
 - (7) Vidas Park, grass baseball field.
 - (8) Vidas Park, grass soccer/football field.
 - (9) Edgar Field, multipurpose turf field.
- B. Except by use of the Borough of Metuchen, the fields shall be used solely for the purposes of sports/athletic practices and/or competition. Permits may be granted for any other types of uses, at the sole discretion of the Borough, based upon the proposed use of the proposed field.
- C. Permits shall be issued for one-hour intervals. Permits shall not be issued for the use of the fields beyond 9:00 p.m. Accordingly, the last available permit to be issued on any day shall be for the 9:00 p.m. through 10:00 p.m. time interval except for Sundays wherein the use of lights is not permitted and the last time a permit will be issued for Sundays will coincide with daylight hours.

§ 124-28. Application for permit for use of Borough fields. [Amended 1-29-2024 by Ord. No. 2024-05]

- A. Application. The Borough Administrator, Borough Clerk, Recreation Director, Superintendent of Public Works, and Police Chief shall create and maintain an application for field usage which shall include but not be limited to the following:
- (1) The name and address of the applicant. In the event that the applicant is an organization or association, the names and addresses of the officers and directors. In addition, all nonprofit organizations must submit proof of their 501(c) status with their application for a permit.

- (2) The name and address of the person, persons, corporation or association sponsoring the activity, if any.
- (3) The date and hours for which the permit is desired.
- (4) The specific field or portion thereof for which such permit is desired.
- (5) The proposed activity or program to be conducted on the field.
- (6) Estimated size and the number of participants and attendees (for traffic and safety).
- (7) Insurance certificate naming the Borough of Metuchen as additional insured as to the field usage for bodily injury and for property damage.
- (8) Security deposit, if required, as set forth below.
- (9) An agreement, in writing, whereby the applicant agrees to indemnify, defend and save harmless the Borough of Metuchen, its officers, employees, agents and volunteers from any and all liability, expense, claim or damages resulting from the use of the baseball/softball/soccer fields and/or multipurpose turf field.
- (10) If the applicant is a sports or recreation program, acknowledgement that a preapproved waiver has been executed by each participant and/or his/her parent or guardian, expressly agreeing to indemnify and save the Borough of Metuchen, its officers, employees, agents and volunteers from any and all liability, expense, claim or damage resulting from the use of the baseball/softball fields and/or the multipurpose turf field and participation in the sports or recreation program.
- (11) If any services are required by employees from the Borough of Metuchen, the cost of such employee(s) and/or service is to be borne by the applicant as a cost of the field usage. The hourly rates for outside duty will be provided upon request by the Borough Administrator and an appropriate escrow amount shall be posted and will be billed to the escrow posted by the applicant.
- (12) Any other information which the Borough Administrator, Borough Clerk and/or the Recreation Director shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder.

B. Miscellaneous requirements.

- (1) Applications can be obtained from and returned to the Recreation Director.
- (2) Applications for a permit for an event can be submitted up to one year in advance of the event date. Date selection will not be transferred upon request after approval is provided. All applications for a permit for the use of a field shall be submitted no later than 30 days prior to the requested use.
- (3) Rain dates will not be held in addition to the requested event date. Requests can be made for one rain date, in addition to the scheduled event date. The Recreation Director in consultation with the Borough Administrator will decide if a rain date can be approved on a case-by-case basis.
- (4) Applicants shall not advertise or promote, either in printed, digital or electronic format on the internet and/or social media platforms, prior to obtaining a field use permit. Premature

advertising and/or promotion may be sole grounds for denial of the permit.

- (5) The within permits shall not apply to applications for the use of fields for purposes of a tournament, involving more than two teams. Permits for tournaments shall be made as a special event pursuant to Chapter 75 and the requirements of both this article and Chapter 75 shall be met.

C. Standards for issuance of a use permit by the Recreation Director in consultation with the Borough Administrator.

- (1) Generally, permits shall be issued on a first-come-first-served basis. However, the Recreation Director, in consultation with the Borough Administrator, shall have discretion in order to promote the equitable usage of the baseball/softball, soccer and multipurpose turf fields by a wide variety of groups within the community.
- (2) No applicant shall be denied a baseball/softball/soccer and/or multipurpose turf field permit on account of his or her sex, affectional or sexual orientation, race, color, religion, natural origin, age, disability, ancestry, or atypical hereditary cellular or blood trait.
- (3) It is the goal of the Borough of Metuchen to encourage the usage of its recreational fields by Metuchen-based nonprofit groups when such uses do not interfere with the Borough-sponsored recreational programs. The Borough of Metuchen reserves the exclusive right to determine the eligibility of an organization or group and to assign prioritization to any application for the use of the baseball/softball/soccer fields and/or multipurpose turf fields. These organizations whose aim and intended use are consistent with the general policy of widespread community use shall be considered eligible and prioritized as follows:
 - (a) Any recreation program sponsored by the Borough of Metuchen Recreation.
 - (b) Any recreation program sponsored by the Borough of Metuchen Board of Education.
 - (c) Members of the Metuchen Youth Sports Coalition, as established and maintained by the Recreation Director.
 - (d) Community recreation programs, which shall be construed to mean an organization, the majority (80%) of whose membership is domiciled in Metuchen.
 - (e) Borough of Metuchen residents.
 - (f) Area recreation programs shall be construed to mean an organization whose members reside in neighboring towns and at least 25% are Metuchen residents.
 - (g) Out-of-area recreation programs shall be construed to mean an organization that has less than 25% of its members residing in Metuchen.
 - (h) Middlesex County residents.
 - (i) Nonresidents.
 - (j) Profit organizations and for-profit recreation programs.

D. Additional standards and consideration for the issuance of a use permit shall include the following findings:

- (1) That the proposed activity or use of the field/park will not unreasonably interfere with or detract

from the general public enjoyment of the park.

- (2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
 - (3) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.
 - (4) That the proposed activity will not entail extraordinary or burdensome expense of police operation by the Borough of Metuchen.
 - (5) That the proposed activity will not result in a breach of this article, another ordinance, or law, or may be adverse to the public interest, to public health and/or safety, or the protection of persons and/or property.
 - (6) That the field desired has not been reserved for other use at the date and hour requested in the application.
 - (7) That the proposed activity or use of the field will not unreasonably interfere or conflict with a Borough event, or Borough-sponsored event, whether at the specific field or some other location within the Borough. Borough events and Borough-sponsored events shall have priority over all applications for use of the Metuchen fields.
- E. Fees. Permits for use of Borough fields shall only be issued upon submission of an application and approval by the Recreation Director in consultation with the Borough Administrator. The fees for the use of the fields shall be nonrefundable and on an hourly basis and in the amounts as follows:

Metuchen Multipurpose Artificial Turf Fields

(Myrtle Park, Charles Park and Edgar Field)

Metuchen Multipurpose Artificial Turf Fields (Myrtle Park, Charles Park and Edgar Field)			
	Metuchen Resident (80% of Resident Participants) and/or Metuchen-Based Nonprofit Organization (Located in Metuchen)	Metuchen-Based For- Profit Organization and Nonresident and/ or Nonresident Nonprofit Organization	Nonresident For- Profit Organization
Weekday	\$50 per hour	\$75 per hour	\$100 per hour
Weekend	\$75 per hour	\$100 per hour	\$125 per hour
Use of lights*	\$20 per hour	\$20 per hour	\$20 per hour

NOTES:

- * There are no lights located at Edgar Field.

Metuchen Baseball, Softball, Soccer/Football Grass Fields (Hampton Park, Oakland Park and Vidas Park)			
	Metuchen Resident (80% of Resident Participants) and/or Metuchen-Based Nonprofit Organization (Located in Metuchen)	Metuchen-Based For- Profit Organization and Nonresident and/ or Nonresident Nonprofit Organization	Nonresident For- Profit Organization
Weekday	\$25 per hour	\$50 per hour	\$75 per hour
Weekend	\$50 per hour	\$75 per hour	\$100 per hour

- F. Security deposit. Permits shall only be issued for use of baseball/softball/soccer and/or multipurpose turf fields upon submission of a security deposit of \$250. The security deposit is to guarantee that the baseball/softball/soccer and/or multipurpose turf fields and surrounding areas are properly cleaned after their usage and not damaged. The deposit shall be returned to the applicant after it has been determined that baseball/softball/soccer and multipurpose turf fields and the surrounding areas were properly cleaned by the applicant and/or attendees and left in an acceptable condition. In the event that the baseball/softball/soccer and/or multipurpose turf fields and/or surrounding areas are not properly cleaned after their usage or there is damage to the permitted premises, the applicant shall be charged the cost of the cleanup and/or damage to the field(s). Upon notice to the applicant, the Borough shall deduct that cost from the security deposit and return the balance to the permit holder. In the event there is not sufficient deposit to pay for the work or damage, the permit holder shall be responsible for payment of any excess amount and shall not be permitted to receive any additional permits until payment is made. The Borough may also pursue any legal remedies it may have in such a situation. If deemed appropriate, the Recreation Director may waive or reduce the security deposit requirement for established nonprofit and school organizations and other applicant that has demonstrated through past experience proper maintenance and cleanup of the fields after the usage.
- G. The Recreation Director in consultation with the Borough Administrator may approve a permit with modifications or special conditions as the Recreation Director and/or the Borough Administrator deems necessary under the circumstances. Some examples of the conditions which the Borough Administrator may require at the applicant's sole cost and expense include but are not limited to the provision of on-site event security coverage or traffic control which must be provided by the Metuchen Police Department.
- H. Notwithstanding any other section, the Borough shall refuse to issue a permit if the Finance Department notes that the applicant or any principal, director or officer of the applicant and/or the sponsored entity has an outstanding and unpaid debt to the Borough including a debt relating to a special event regardless of whether such debt was incurred through another organization or legal entity in relation to the use of a field and/or a special event.

§ 124-29. Permit regulations.

Any person, group or organization which has received a permit ("users") shall be responsible for seeing that the following conditions are adhered to:

- A. Users shall be solely responsible for cleaning up and maintaining the fields and surrounding areas during and upon the conclusion of an event, whether formal or informal. The Department of Public Works of the Borough of Metuchen shall not be responsible for the cleanup or maintenance of the field both during and after its use. Failure to maintain and/or clean up will result in the loss or deduction of the security deposit. Users are responsible to leave the fields clean and ready for the next user as they found it and are to inspect the field and remove anything left by their players or spectators, such as trash, mouth guards, athletic tape, or equipment. In the event that a user has left the field without cleaning up, a cleaning fee will be charged to that person, group or organization.
- B. Any physical damage caused by the user or its participants or attendees will be the responsibility of the applicant for all such damages. No further usage of the Borough fields will be permitted until that charge is paid in full.
- C. Users are responsible for the conduct and behavior of players and their spectators on the field or courts.
- D. If a user finds a problem, defect or unclean conditions on the field or courts, they must notify the Borough Administrator immediately.
- E. The Borough reserves the right, in its sole discretion, to close the baseball/softball/soccer fields and/or multipurpose turf field for any reason whatsoever, including but not limited to the weather and/or proposed weather conditions or resulting conditions, to protect the health, welfare and safety of the Borough residents, employees, agents, volunteers and visitors and to adequately protect and maintain the baseball/softball/soccer fields and/or multipurpose turf fields. In the event that the Borough determines to close the field, it shall provide notice to the permit holder of such closure and, in such an event, the permit issued by the Borough shall no longer be valid for the specific date and time of such closure.
- F. Despite the aforementioned permit fees being nonrefundable, in the event that it rains or snows on the date for which the permit for the use of the field was issued and the field is closed by the Borough and the applicant is unable to utilize the field on said date, the applicant shall be credited the permit fee towards the subsequent application for a permit for the use of the field. However, a credit for the permit fee shall be nontransferable and shall expire within one year from the date on which the permit was issued.
- G. Thunder/lightning.
 - (1) In the event of thunder/lightning, the presence of even distant thunder warrants leaving the field; the field should be clear for 30 minutes after the last bolt of lightning or clap of thunder.
 - (2) 30/30 lightning rule. At a count of 30 seconds between seeing a strike and hearing thunder or signs of an approaching storm, users are to leave the field. Normal activity should not be resumed until 30 minutes after the last thunderclap is heard.
- H. Any training equipment, such as portable lights, blocking sleds, lacrosse nets, soccer goals, soccer free-kick mannequin walls, etc., must be preapproved by the Recreation Director.
- I. Marking, painting or taping the field or courts is strictly prohibited.
- J. Rockets or fireworks are prohibited on the fields.
- K. Any and all glass containers are prohibited on the fields.

- L. The use of alcohol, any tobacco and/or cannabis products is prohibited throughout Metuchen parks.
- M. Users shall comply with all laws, regulations and Borough ordinances including but not limited to those set forth in Chapter 124 of the Code of the Borough of Metuchen. Authorized users are responsible for notifying their participants and guests of these policies. Failure to do so may forfeit their permission to use the field.
- N. It is strictly understood that the Borough of Metuchen and its agents, owners, members, employees, volunteers, etc., are not liable, and may not be held responsible, for any loss before, during or after the applicant's use of the facilities. In addition, these groups are not responsible for any theft or loss at any time.
- O. The Borough of Metuchen and its agents, employees and officers shall not be held liable for failure to perform or fulfill its contractual obligation for any reason within or beyond their control and shall not be held liable for damages, loss or injury for any reason within or beyond their control.
- P. The permit shall not be transferred or assigned. The permit holder or designated representative must be present whenever the field is in use during the time of its permit. The permit holder must be in possession of the permit and the permit must be posted in public view.
- Q. No alcoholic beverages and/or smoking is permitted at any time by anyone during the use of the fields, including the team players and spectators. The permit holder shall be responsible for enforcing this condition.
- R. The permit holder shall be responsible for any and all illegal acts by spectators and team members, including the opposing team.
- S. The permit holder shall be responsible for ensuring that team members and spectators adhere to no-parking regulations at and near the field in use.
- T. All payments to the Borough are required within 48 hours after notification of approved usage. In no event shall a permit be issued prior to the Borough's receipt of payment.
- U. No refunds will be issued for unused time.
- V. The Borough Administrator, Recreation Director and/or Chief of Police may impose any such conditions reasonably calculated to reduce or minimize dangers and hazards to vehicle or pedestrian traffic and the public health, safety, and welfare, including but not limited to the required presence of off-duty Metuchen police officers being required during said scheduled event, the cost of which shall be borne by the applicant pursuant to the costs established by Borough ordinance. In addition, the applicant may request the presence of an off-duty Metuchen police officer(s) during such a scheduled event, the costs of which shall be borne by the applicant pursuant to the costs established by Borough ordinance.
- W. Revocation. The Borough Administrator, Recreation Director and/or the Chief of Police or their designee shall have the authority to revoke a permit if there is reasonable grounds to believe that the holding or continuation of the use of the field:
 - (1) Poses a danger to the health and safety of any person;
 - (2) Poses a danger to property;
 - (3) Is not in the public interest; or

- (4) Is in contravention of this article, rule or policy of the Borough or for the failure to comply with a condition of the permit.
- X. To the extent permissible, in the case of a revocation prior to the date and time of the proposed event, the Borough official shall immediately inform the permit holder or the permit representatives of the revocation and the reasons for it by means of contacting the permit holder at the address or at the telephone number provided in the permit application. Nothing herein shall limit the Borough's right to revoke a permit during the course of the event if determined by the Borough official that the above criteria apply. In such a case, the Borough official shall immediately advise the designated supervisor of the event of the revocation and the event shall be immediately terminated and the organization, entity, and/or the sponsored entity shall forfeit its deposit.
- Y. Repairs for damages, maintenance and/or cleanup shall be calculated at a minimum of \$65 per man-hour plus the cost of materials. Additional costs may be deemed necessary by the Borough based upon the nature of repairs and/or replacements. Failure to pay within 30 days will require forfeit of the deposit. In the event that the security deposit is insufficient to cover the costs to the Borough and the permittee and/or the sponsored entity fails to make a timely payment therefor, an action by Borough to recover the fees will be instituted and the permittee and/or the sponsored entity will be responsible for all collection costs, including attorneys' fees, and disqualification from consideration for issuance of future permits.

§ 124-30. Enforcement.

- A. The Borough Administrator, Police Chief, Fire Chief or their designee, the Recreation Director, and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.
- B. The Borough Administrator, Police Chief, Fire Chief or their designee, the Recreation Director and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall have the authority to eject from the Borough fields any person or persons acting in violation of this article.
- C. The Borough Administrator, Police Chief, Fire Chief or their designee, the Recreation Director and/or the Superintendent of Public Works or their designee and all members of the Metuchen Police Department shall have the authority to seize and confiscate any property, thing or device on the Borough field used in violation of this article.

§ 124-31. Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions of this article shall, upon conviction thereof, be punished by a fine and be subject to penalties as provided in Chapter 1, General Provisions, Article 1, as well as restitution payable to the Borough of Metuchen for any monies expended by the Borough to rectify damages caused by acts of the accused.

§ 124-32. Severability and repealer.

- A. Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

- B. All ordinances or parts of ordinances of the Borough of Metuchen in conflict with or inconsistent with the provisions of this article, including but not limited to those set forth in § 87-20, are hereby repealed and amended to the extent of such inconsistency.

§ 124-33. When effective.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

METUCHEN CODE

Chapter 127

PEACE AND GOOD ORDER

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Sections 17-1, 17-2 and 17-5 and 17-12 of the 1966 Code. Amendments noted where applicable.]

§ 127-1. Advertising on public highways.

No person shall place, nail or attach in any manner any advertising or notice on any tree, post fence, building or stone located on a public highway.

§ 127-2. Throwing objects intentionally.

No person shall intentionally break a streetlamp or an electric light within the borough, or throw stones or sticks, glass or broken glass, metal or any hard, dangerous or offensive substance into any street, byway or public place, or at any car, vehicle, house, building, fence or person within the borough.

§ 127-3. Interference and compliance with police officers. [Amended 6-1-1970 by Ord. No. 70-18]

No person shall resist, obstruct or interfere, by force or otherwise, with a borough police officer in the discharge of his or her duty, nor shall any person disobey the lawful orders or instructions of any such officer in the performance of his or her duty.¹¹⁶

§ 127-4. Violations and penalties.¹¹⁷ [Amended 10-16-1978 by Ord. No. 78-26]

Any person violating any of the provisions of this chapter shall be punished in accordance with the general penalty provision as set forth in Chapter 1, General Provisions, Article 1.

116.Editor's Note: Former §§ 17-6 through 17-11, dealing with horseback riding, sleds and strikes and lockouts, which immediately followed this section, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 2.

117.Editor's Note: See also N.J.S.A. 2C:1 et seq.

Chapter 130**PEDDLING AND SOLICITING**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 6-21-1999 by Ord. No. 99-12. Amendments noted where applicable.]

§ 130-1. Findings.

- A. The Borough of Metuchen has experienced a substantial volume of criminal activity involving burglary, the invasion or attempted invasion of private residences for illegal purposes and fraudulent sales schemes perpetrated by door-to-door vendors.
- B. The Borough has received numerous complaints from residents about solicitors or persons claiming to be solicitors disturbing the peace, annoying the residents and otherwise violating the right of the occupants to the quiet and peaceful enjoyment and security of their homes.
- C. Many of these crimes were committed by persons falsely posing as door-to-door salesman or canvassers for political, charitable or other nonprofit organizations.
- D. It is in the public interest and in furtherance of the public safety to employ a registration program in the Borough to preclude such persons from freely roaming the Borough and calling from door-to-door on the pretext of performing legitimate canvassing activities.
- E. The citizens of the Borough are entitled to preserve the quiet enjoyment of their homes, if they so desire, by declining to receive canvassers and solicitors at any hour.

§ 130-2. Regulated activities.

The following practices are hereby regulated in accordance with the provisions of this chapter:

- A. That of going in and upon private residences by peddlers, canvassers, solicitors and transient vendors of merchandise, not having been requested or invited to do so by the owner or occupant, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or for the purpose of disposing of same.
- B. That of soliciting money, signatures, votes or opinions, or engaging in political or religious discourse, by a bona fide nonprofit political, charitable or religious organization by going in or upon private residences, not having been requested or invited to do so by the owner or occupant.

§ 130-3. Permit required.

No person shall engage in any regulated activity, as set forth in § 130-2 hereof, without first having obtained a written permit from the Borough.

§ 130-4. Application for permit.

Any person desiring a permit to carry out any regulated activity in the Borough shall file, not more than three months prior to the time such activity shall commence, nor less than 10 days prior thereto, an application consisting of the following:

- A. A statement, on a form to be supplied by the Municipal Clerk, setting forth:

- (1) Applicant's name and social security number.
 - (2) Applicant's permanent home address.
 - (3) Name and address of applicant's employer.
 - (4) Applicant's place(s) of residence for the preceding three years.
 - (5) Dates on which applicant wishes to commence and complete the regulated activity.
 - (6) The nature of the regulated activity, including a description of any services to be offered and any merchandise to be sold or offered for sale.
 - (7) Whether the applicant has ever been convicted of a crime, misdemeanor or violation of any ordinance concerning canvassing or soliciting and, if so, the date, place and nature of the offense and the penalty imposed.
 - (8) Names of other communities in which applicant has worked as a canvasser or solicitor in the past two years.
 - (9) Make, model, description and license number of any automobile that applicant will use in connection with the regulated activity.
 - (10) The use and disposition of any funds to be solicited.
 - (11) A description of the methods to be used in conducting solicitations of funds.
 - (12) Proof, if applicable, that the organization on behalf of which the regulated activity will be conducted is a nonprofit corporation and/or exempt from federal income taxation.
- B. A letter or other written statement from the individual, firm or corporation employing the applicant, certifying that the applicant is authorized to act as the employer's representative in carrying out the regulated activity.

§ 130-5. Investigation and issuance of permit.

- A. Upon receipt of such application, it shall be referred to the Chief of Police or his or her designee, who shall cause to be made such investigation of the applicant's business and background as he or she deems necessary for the protection of the public welfare.
- B. Unsatisfactory determination.
- (1) If, as a result of such investigation, the application is found to be unsatisfactory, the Chief of Police shall endorse on such application his or her disapproval and the reasons for the same and return the application to the Clerk, who shall notify the applicant that the application is disapproved.
 - (2) Any determination by the Police Department that an application is unsatisfactory shall be based upon one or more of the following findings with respect to the application:
 - (a) Conviction of a crime relating adversely to the occupation of canvassing or soliciting.
 - (b) Prior violation of a peddling or soliciting ordinance.
 - (c) Previous fraudulent acts or conduct.

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PEDDLING AND SOLICITING

- (d) Record of breaches of soliciting contracts.
 - (e) Misrepresentation or false statement contained in the application for the permit.
- C. If, as a result of such investigation, the application is found to be satisfactory, the Chief of Police shall endorse his or her approval on the application, returning the application to the Clerk, who shall, upon payment of the prescribed permit fee, execute and deliver to the applicant his or her permit. The Clerk shall keep a record of all permits issued and all complaints received, if any, concerning each permit.

§ 130-6. Multiple canvassers.

If more than one agent, solicitor or canvasser will participate in any door-to-door campaign, each participant must make a separate application, supplying all information required pursuant to this chapter.

§ 130-7. Application fee. [Amended 12-21-2009 by Ord. No. 2009-18; 2-22-2011 by Ord. No. 2011-1]

Annual application fees for door-to-door soliciting in the Borough shall be as follows: \$115 per each solicitor.

§ 130-8. Use of permit.

- A. The permit shall, upon demand, be exhibited to any police officer or other municipal official and shall be displayed to any person approached in connection with any regulated activity.
- B. No person shall conduct a regulated activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.
- C. No person shall make any fraudulent, misleading or incorrect statement in the course of conducting a regulated activity.
- D. It shall be a violation of this chapter if any person to whom a permit is issued pursuant to this chapter shall be convicted of a felony while the permit is in effect.

§ 130-9. Uninvited soliciting prohibited.

The regulated activities named in § 130-2 hereof shall be deemed to have been invited unless the resident or occupant of any premises shall post notice to the contrary on the front door of said premises or such other prominent location as may be permitted by the Code of the Borough of Metuchen. It shall be unlawful for any person to engage in any regulated activity in defiance or disregard of such notice.

§ 130-10. Times of activity.

No person shall engage in any regulated activity except during daylight hours only, commencing at 9:00 a.m., Monday through Saturday. Such activities are prohibited on Sundays and on all state and federal holidays.

§ 130-11. Violations and penalties.

Any person violating any provision of this chapter, upon conviction, shall be subject to penalties as provided in Chapter 1, General Provisions, Article 1, and revocation of the permit issued hereunder.

Chapter 132**POLITICAL FUNDRAISING**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-8-1998 by Ord. No. 98-7. Amendments noted where applicable.]

§ 132-1. Title.

The short title of this chapter is "An ordinance banning the use of government buildings and government equipment for political fundraising."

§ 132-2. Purpose; findings.

Whereas political contributions have a profound impact on government decisionmaking; and whereas, our laws in New Jersey do not presently ban solicitation or acceptance of contributions by public officeholders and employees while on public property or by use of public facilities; and whereas, a conflict may arise between the business of political fundraising and the business of government in Town Hall and other government-owned premises, and this may cause a distraction from the people's business; and whereas the most appropriate method to prevent this conflict and to ensure the integrity of government decisions is the prohibition of political fundraising on or by use of public property; therefore, it is accordingly found and determined that the paramount public interest in a clean and accountable government requires the prohibition of political fundraising on public property or by use of public facilities.

§ 132-3. Definitions.

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

CANDIDATE — Any individual seeking election to a public office of the federal government, state, county, municipality, school district or political organization at an election.

CONTRIBUTION — Includes all loans and transfers of money or other thing of value to or by any candidate, elected official or political organization and all pledges or other commitments or assumptions of liability to make any such transfer. Contributions shall be deemed to have been made upon the date when such commitment is made or liability assumed.

MUNICIPALITY — This municipality and any other officer, department, board, commission or agency thereof.

MUNICIPAL OFFICIAL, EMPLOYEE AND APPOINTEE — Any person holding elective municipal office or holding an appointed position in the municipal government, or in any agency, commission, board or office thereof, whether the position is full-time or part-time, compensated or uncompensated; and any employee or municipal government or in any agency, commission, board or office thereof, whether the position is full-time or part-time.

POLITICAL ORGANIZATION — Any two or more persons acting jointly or any corporation, partnership or any other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for federal, state, county, municipal or school board office. Political organization includes, but is not limited to, organizations otherwise defined as "political committee, "joint candidates committee" and "legislative leadership committee."

PROPERTY OF THE MUNICIPALITY — Building, land, vehicles, phone, fax machines, computers or other office equipment or supplies and other real or personal property owned, leased or controlled by the municipality, except for public roads and open park land.

SOLICIT — To seek by oral or written communication a contribution as same is defined herein.

§ 132-4. Soliciting or accepting political contributions on public property prohibited.

No municipal official, employee or appointee may solicit, commit to pay, or receive payment of or a commitment to pay, any contribution for any candidate, elected official or political organization while in or on the property of the municipality or utilizing the property of the municipality.

§ 132-5. Prohibited forms of fundraising.

Prohibited forms of fundraising shall include but are not limited to:

- A. Soliciting or accepting contributions using municipal telephones, fax machines or computers.
- B. Soliciting or accepting contributions using personal telephones while on the property of the municipality.
- C. Soliciting or accepting contributions through the use of publicly owned computers or privately owned personal computers while on the property of the municipality.
- D. Using municipal letterhead to solicit or accept contributions.
- E. Sending correspondence which solicits contributions.
- F. Face-to-face soliciting of an individual or an owner or representative of a business entity while on the property of the municipality.
- G. Use of automobiles owned or leased by the municipality to accept or solicit contributions.

§ 132-6. Reporting requirements; whistleblower provision.

- A. It shall be the responsibility of any employee, appointed or elected, or elected official who observes any prohibited forms of fundraising to report such conduct to the municipal ethics board, if one exists, or, in the alternative, to the municipal prosecutor and the Municipal Clerk, who shall report same to the governing body.
- B. Whistleblower provision. It shall be unlawful for any employee, elected official or appointee to be dismissed, reprimanded, retaliated against or otherwise intimidated for complying with the reporting requirements mandated by this chapter.

§ 132-7. Violations and penalties.

Violation of any provision of this chapter shall be punished by a period of community service not exceeding 90 days or imprisonment in the county jail for a term not exceeding 90 days or a fine not exceeding \$1,000.

METUCHEN CODE

Chapter 134

POOLROOMS AND BOWLING ALLEYS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Ch. 20 of the 1966 Code. Amendments noted where applicable.]

ARTICLE 1
General Provisions

§ 134-1. Number of tables or alleys.

No licensee under this chapter shall install any greater number of tables or alleys than that stated in his or her license.

§ 134-2. Hours of operation. [Amended 1-17-1983 by Ord. No. 83-1¹¹⁸]

No pool, billiards or bowling or other amusement devices shall be played in any premises licensed under this chapter on Sunday except during the hours from 12:00 midnight Saturday to 2:00 a.m. Sunday morning and from 1:00 p.m. to midnight on Sundays. On weekdays and Saturdays no such games shall be played in such premises during the hours from 3:00 a.m. to 7:00 a.m., except on Monday mornings no such games shall be played in such premises during the hours from 1:00 a.m. to 7:00 a.m. During the aforesaid prohibited hours all pool and billiard tables shall be covered.

§ 134-3. Adult supervision.

All premises licensed under the provisions of this chapter shall at all times be in charge of a person over the age of 21 years.

§ 134-4. Minors. [Amended 3-20-1972 by Ord. No. 72-5]

No licensee under this chapter, or his or her servants, agents or employees, shall allow or permit under any circumstances any minor under the age of 16 years to play any game of pool or billiards or to be or remain in licensed premises which are maintained or operated for the conduct of such pool or billiard games, unless such minor is accompanied by his or her parent or guardian or other supervisory adult over the age of 21 years. The licensee shall not be liable for penalties under this section if he or she has obtained a statement as to age signed in the presence of the licensee by any minor, parent, guardian or supervisory adult involved in any charge arising under this section.¹¹⁹

§ 134-5. Applicability.

This chapter shall not apply to any lodge, fraternal organization, Y.M.C.A., society or social club in which pool or billiard tables or bowling alleys are kept.

§ 134-6. Violations and penalties.

Any licensee or person who violates any section of this chapter shall be subject to the general penalty as provided in Chapter 1, General Provisions, Article 1, in addition to or instead of any revocation of license for violations of any sections of this chapter.

118.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

119.Editor's Note: Former § 20-5, dealing with the purpose of the chapter, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 2.

ARTICLE 2

Licenses**§ 134-7. Required.**

No person shall maintain, conduct, operate, engage in or carry on the business of maintaining, conducting or operating any poolroom, billiard room, bowling alley, or place in which pool, billiards or bowling shall be played, for gain, hire or reward in the borough without a license to do so, as provided by this chapter.

§ 134-8. Issuance of license to owner or lessee only.

No license required by § 134-7 shall be issued to or valid for any person other than the actual owner or lessee of the licensed premises, and whenever the word "owner" shall appear in this chapter the same shall be construed to mean owner or lessee.

§ 134-9. Application and issuance.

The license required by this chapter may be issued by the Borough Clerk upon the payment to him or her of the license fee required by § 134-10, but only after special resolution of the Borough Council granting the same upon written application by the person asking therefor setting forth the location of the room or premises in which the business is to be conducted, the full name and address of each person interested therein as owner and the number of pool tables, billiard tables or bowling alleys to be used therein. Should the owner be a corporation, the application shall contain the full names and addresses of all officers and stockholders.

§ 134-10. Fee; expiration. [Amended 5-18-1981 by Ord. No. 81-14]

A license fee equal to \$75 per year for each pool table, billiard table or bowling alley to be used or operated shall be paid for the license required by § 134-7 upon the issuance thereof, and such license when granted shall expire on December 31 next following the date when such license was issued. The license fee after July 1 in any year shall be 1/2 the aforesaid fee.

§ 134-11. Contents.

All licenses issued under the provisions of this chapter shall set forth the location of the licensed premises, the name of the owner, the number and kind of tables or alleys authorized, the date of issuance, the license fee paid, the date of expiration and a recital that the license is issued subject to the rules and regulations heretofore or hereafter adopted by the Borough Council.

§ 134-12. Transference.

Licenses issued under the provisions of this chapter may be transferred with the consent of the Borough Council to other persons, to other premises and to other persons and premises upon written application therefor containing similar statements as those required in an original application and upon payment of a transfer fee of \$5. The transfer shall be so noted on the original license by the Borough Clerk.

§ 134-13. Revocation.

- A. Any license issued under the provisions of this chapter may be revoked by the Borough Council, after public hearing, upon any of the following grounds:

- (1) Violation of this chapter or any other borough ordinances.
 - (2) Violation of state or federal statutes.
 - (3) Operation of the licensed premises in a noisy, disorderly manner.
 - (4) Conviction of the owner, or his or her servants or agents, for any crime or disorderly conduct in the operation of the business.
 - (5) Permitting boisterous and disorderly persons to frequent the licensed premises.
 - (6) Permitting gambling, gaming, disorderly conduct or other illegal and improper practices to be carried on in the licensed premises.
- B. Notice in writing of the charge and the time and place of hearing shall be given at least five days before the date fixed for such hearing by leaving a copy of such notice with any person in charge of such licensed premises.

Chapter 137**PRECIOUS METALS, GEMS AND SECONDHAND GOODS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 6-2-1980 by Ord. No. 80-16; amended in its entirety 4-10-2023 by Ord. No. 2023-05.¹²⁰ Subsequent amendments noted where applicable.]

§ 137-1. Purpose; intent.

- A. The purpose and intent of this chapter is to assist law enforcement officials and victims of crime in recovering stolen precious metals, gems and other secondhand goods by reporting minimum identification, reporting, maintenance and distribution criteria for dealers in these goods.
- B. No person shall use, exercise, or carry on the business, trade, or occupation of the buying and selling or pawning of precious metals, gems or other secondhand goods without complying with the requirements of this chapter in the exact manner described.

§ 137-2. Definitions.

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

ACCEPTABLE IDENTIFICATION — A current valid New Jersey driver's license or identification card, a current valid photo driver's license issued by another U.S. state, a valid United States passport, or other verifiable U.S. government-issued identification, which will be recorded on the receipt retained by the dealer and subsequently forwarded to the local police department on request.

DEALER — Any person, partnership, limited-liability company, corporation, or other entity who, either wholly or in part, engages in or operates any of the following trades or businesses: the buying for purposes of resale of precious metals, jewelry, or other secondhand goods as defined herein; pawnbrokers as defined herein; itinerant businesses as defined herein. For the purposes of this chapter, transient buyers, as defined herein, are subject to the same licensing and reporting requirements as any other dealers.

ITINERANT BUSINESS — A dealer who conducts business intermittently within the Borough or at varying locations.

PAWNBROKER — Any person, partnership, association or corporation lending money on deposit or pledge of personal property, other than choses in action, securities, or printed evidences of indebtedness; purchasing personal property on condition of selling it back at a stipulated price; or doing business as furniture storage warehousemen and lending money on goods, wares or merchandise pledged or deposited as collateral security.

PRECIOUS METALS — Gold, silver, platinum, palladium, and their alloys as defined in N.J.S.A. 51:5-1 et seq. and N.J.S.A. 51:6-1 et seq.

PUBLIC — Individuals and retail sellers, not to include wholesale transactions or transactions between other merchants.

REPORTABLE TRANSACTION — Every transaction conducted between a dealer and a member of the public in which precious metals, jewelry, or any other secondhand goods as defined herein are purchased or pawned.

120.Editor's Note: This ordinance also changed the title of this chapter from "Precious Metals and Gems" to "Precious Metals, Gems and Secondhand Goods."

SECONDHAND GOODS — Used goods such as antiques, gold, silver, platinum, or other precious metals, jewelry, coins, gemstones, gift cards, any tools, telephones, typewriters, word processors, GPS devices, computers, computer hardware and software, television sets, radios, record or stereo sets, electronic devices, musical instruments, sporting goods, automotive equipment, collectibles, game cartridges, DVDs, CDs, and other electronically recorded material, firearms, cameras and camera equipment, video equipment, furniture, clothing, and other valuable articles. For the purposes of this chapter, "secondhand goods" shall not include goods transacted in the following manner:

- A. Judicial sales or sales by executors or administrators;
- B. Occasional or auction sales of household goods sold from private homes;
- C. Auctions of real estate;
- D. The occasional sale, purchase, or exchange of coins or stamps by a person at his permanent residence or in any municipally owned building who is engaged in the hobby of collecting coins or stamps and who does not solicit the sale, purchase, or exchange of such coins or stamps to or from the general public by billboard, sign, handbill, newspaper, magazine, radio, television, or other form of printed or electronic advertising.

SELLER — A member of the public who sells or pawns used goods such as precious metal, jewelry, or other secondhand goods to a dealer.

TRANSIENT BUYER — A dealer, as defined herein, who has not been in a registered retail business continuously for at least six months at any address in the municipality where the dealer is required to register or who intends to close out or discontinue all retail business within six months

§ 137-3. Written record of reportable transactions required.

Any person, partnership or corporation in the full- or part-time business of purchasing gold, silver, precious metals, gems and other secondhand goods in the Borough of Metuchen shall maintain a written record of all reportable transactions.

§ 137-4. Form of record.

Said record shall be contained in a book bound with stitching, glue or other type of permanent binding and shall not be contained in any looseleaf, spiral, insert or other type of semipermanent or temporary binding. There shall be no spaces between entries, and each entry shall be numbered in sequence. Said record shall be legible and contain the following information:

- A. Date of sale.
- B. Name and address of seller.
- C. Detailed description of items purchased.
- D. Purchase price.

§ 137-5. Identification of seller; recordkeeping requirements.

For every reportable transaction between a dealer and the public, the dealer shall be required to do as follows:

- A. Require of each person selling or pawning precious metals or other secondhand goods acceptable

identification as defined above in § 137-2.

- B. Require each seller to execute a declaration of ownership, which shall contain the following certification: "My signature confirms that I am the sole legal owner of and am legally authorized to sell the goods being sold. By signing below I certify that I did not obtain and do not possess the identified goods through unlawful means. I am the full age of 18 years and the identification presented is valid and correct."
- C. Record and issue to each person selling or pawning such goods on a sequentially numbered receipt:
- (1) The name, address, and telephone number of the purchaser, including the clerk or employee of the dealer making the purchase;
 - (2) The name, address, date of birth, and telephone number of the seller or sellers;
 - (3) A photographed recording of the seller in a format acceptable to the Chief of Police, along with a physical description of the seller, including height and weight (approximate), hair color, eye color, facial hair, if any, etc.;
 - (4) A photographed recording of the seller's presented acceptable identification, as set forth in § 137-2, in a format acceptable by the Chief of Police;
 - (5) A photographed recording of all items sold in a format acceptable by the Chief of Police. When photographing, all items must be positioned in a manner that makes them readily and easily identifiable. Items should not be grouped together when photographing or imaging. Each item should have its own photograph;
 - (6) The receipt number;
 - (7) A detailed, legible description of the item(s) and the manufacturer and model of the item(s) if known; in the case of jewelry, the descriptions must include style, length, color, design, and stones, if any; any identifying marks, including numbers, dates, sizes, shapes, initials, names, monograms, social security numbers engraved thereon, serial numbers, series numbers, or any other information, which sets apart the particular object from others of like kind;
 - (8) The price paid for the purchase or pawn of the item(s);
 - (9) If precious metals, the net weight in terms of pounds Troy, pennyweight (Troy) or kilograms/grams; fineness in terms of karats for gold, and sterling or coin for silver, in accordance with N.J.S.A. 51:5-1, N.J.S.A. 51:6-1 et seq.;
 - (10) The time and date of the transaction.

§ 137-6. Reports to Police Department.

The information contained in § 137-5 shall be electronically submitted to the Borough of Metuchen Police Department Detective Bureau within 72 hours of the transaction in the form and as required and provided for by the Chief of Police.

§ 137-7. Availability of record.

The dealer shall make the records required by this chapter available for inspection of any law enforcement officer, upon demand, without the need for advance notice. The records required by this chapter shall be kept at the dealer's business premises. In addition to all other reporting requirements, every dealer

shall maintain for at least five years a written record of all purchases of precious metals, gems and other secondhand goods in the form prescribed in § 137-5C.

§ 137-8. Retention and inspections.

- A. All secondhand goods purchased, received for pawn, or received for consignment as described above are to be made available for inspection by the Chief of Police or designee thereof at the designated business address for a period of at least seven calendar days from the date the transaction information is actually reported to the Chief of Police in the approved manner described above in § 137-6, except for precious metals and jewelry, which must be maintained for at least 10 business days or for the statutory period provided in N.J.S.A. 2C:21-36(d).
- B. All precious metal or other secondhand goods subject to inspection must remain in the same condition as when purchased or received for pawn and shall not be sold, disposed of, changed, modified, or melted by the dealer until the retention period has expired. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the location where the purchased item(s) are being held.

§ 137-9. Prohibited acts.

No dealer shall sell, melt, change the form or dispose of any articles purchased or received for a period of 10 days from the date the notification is made to the Chief of Police. All such items shall remain on the premises where the purchase was made until the expiration of the time period set forth herein.

§ 137-10. Violations and penalties.

Any person who shall violate any provision of §§ 137-1 through 137-9 of this chapter or shall fail to comply with any of the requirements thereof shall, upon conviction thereof, be punished as provided in Chapter 1, General Provisions, Article 1. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Chapter 139**PROPERTIES AND STOREFRONTS, VACANT AND ABANDONED**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-8-2015 by Ord. No. 2015-10. Amendments noted where applicable.]

§ 139-1. Definitions.

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

OWNER — Shall include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions N.J.S.A. 46:10B-51 (P.L. 2008, c. 127, § 17, as amended by P.L. 2009, c. 296), or any other entity determined by the Borough of Metuchen to have authority to act with respect to the property.

PROPERTY — Any portion of improved or unimproved real estate located within the Borough of Metuchen which includes the buildings or structures or portions thereof located on it, regardless of condition.

VACANT PROPERTY — Any building or structure which is not at present legally occupied or at which all lawful business or construction operations or residential or other occupancy have substantially ceased for a period of six months, including, but not limited to, any property meeting the definition of "vacant property" in N.J.S.A. 55:19-80 et seq.

VACANT STOREFRONT — Any area within a building or structure that may be individually leased or rented for any purpose other than residential use which is not present legally occupied or at which all lawful business or construction operations or other occupancy have substantially ceased for a period of six months.

§ 139-2. Registration requirements.

The owner of any vacant property or vacant storefront as defined herein shall, within 30 calendar days after the building becomes a vacant property or storefront or within 30 calendar days after assuming ownership of the vacant property or vacant storefront, whichever is later, or within 10 calendar days of receipt of notice by the municipality, file a registration statement for such vacant property or storefront with the Zoning Officer on forms provided by the Borough for such purposes. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.

- A. Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately, and only one statement is required for a property that meets both the definition of "vacant property" and "vacant storefront."
- B. The registration statement shall include the name, street address, telephone number, and e-mail address (if applicable) of a person 21 years or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners in connection with the enforcement of any applicable code; and the name, street address, telephone number, and e-mail address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour-per-day, seven-day-per-week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within

the State of New Jersey.

- C. The registration shall remain valid for one year from the date of registration, except for the initial registration time, which shall be prorated through December 31. The owner shall be required to renew the registration annually as long as the building remains a vacant property or a portion thereof remains a vacant storefront and shall pay a registration or renewal fee in the amount prescribed in § 139-5 of this chapter for each vacant property registered or vacant storefront. The owner shall be required to renew the registration annually as long as the building remains a vacant property or vacant storefront and shall pay a registration or renewal fee in the amount prescribed in § 139-5 of this chapter for each vacant property or vacant storefront registered.
- D. The annual renewal shall be completed by January 1 each year. The initial registration fee shall be prorated for registration statements received less than 10 months prior to that date.
- E. The owner shall notify the Clerk within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Clerk for such purpose.
- F. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the owner or owners of the property.

§ 139-3. Access to vacant properties and storefronts.

The owner of any vacant property or vacant storefront registered under this chapter shall provide access to the Borough to conduct exterior and interior inspections of the building to determine compliance with municipal codes, upon reasonable notice to the property owner or the designated agent. Such inspections shall be carried out on weekdays during the hours of 9:00 a.m. to 4:00 p.m., or such other time as may be mutually agreed upon between the owner and the Borough.

§ 139-4. Responsible owner or agent.

- A. An owner who meets the requirements of this chapter with respect to the location of his or her residence or workplace in the State of New Jersey may designate himself or herself as agent or as the individual responsible for maintaining the property.
- B. By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property or storefront and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered property by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the Borough of Metuchen in writing of a change of authorized agent or until the owner files a new annual registration statement.
- C. Any owner who fails to register a vacant property or vacant storefront under the provisions of this chapter shall further be deemed to consent to receive, by posting on the building, in plain view, and by service of notice at the last known address of the owner of the property on record within the Borough of Metuchen by regular and certified mail, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

§ 139-5. Fee schedule.

- A. The initial registration fee for each building or portion thereof shall be \$500. The fee for the first renewal is \$1,500, and the fee for the second renewal is \$3,000. The fee for any subsequent renewal beyond the second renewal is \$5,000. In the event that a property meets the definition of both a "vacant property" and "vacant storefront," and it contains the same block and lot number as designated in official records of the municipality, there shall only be one registration fee applied.
- B. Vacant property/vacant storefront registration fee schedule.
- (1) Initial registration: \$500.
 - (2) First renewal: \$1,500.
 - (3) Second renewal: \$3,000.
 - (4) Subsequent renewal: \$5,000.

§ 139-6. Requirements of owners of vacant properties and/or storefronts.

- A. The owner of any building or storefront that has become vacant and any person maintaining or operating or collecting rent for any such building that has become vacant shall, within 30 days thereof:
- (1) Enclose and secure the building and/or storefront against unauthorized entry as provided in the applicable provisions of the Borough Code, or as set forth in the rules and regulations supplementing those codes; and
 - (2) Post a sign affixed to the building and/or storefront indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process (if designated pursuant to this chapter), and the person responsible for the day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than eight inches by 10 inches; and
 - (3) Secure the building and/or storefront from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the building and/or storefront is complete; and
 - (4) Ensure that the exterior grounds of the structure or storefront, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls, attached or unattached accessory structures and driveways, are well maintained and free from trash, debris, loose litter, and grass and weed growth; and
 - (5) Continue to maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied or demolished, or until repair and/or rehabilitation of the building is complete; and
 - (6) Continue to maintain the property consistent with the requirements of the Borough Code, including but not limited to Chapter 140, entitled "Property Maintenance."
- B. All areas of vacant storefronts visible to the public from the public street or sidewalk must be maintained in broom-clean condition and free of litter and debris.

§ 139-7. Waiver of fees.

A waiver of the registration fee set forth herein may be granted, upon application, by the Borough Administrator for the current year if the following conditions are met:

- A. All local municipal fees are paid in full; and
- B. A consistent good faith effort is shown to market, rent, sell, or lease the vacant property or storefront. Good faith efforts include but are not limited to contracts with a real estate licensee, newspaper, electronic advertisements or other methods, provided that the effort is actually likely to generate interest in the property and the owner is actually willing to rent, sell or lease, and the pricing is consistent with other similar properties or portions thereof as attested by a real estate licensee as licensed by the New Jersey Real Estate Commission. The mere placement of a "for sale" or "for rent or lease" sign on or in the building in and of itself does not meet the requirements of this subsection; and
- C. The vacant property or storefront is in compliance with all Borough of Metuchen codes and ordinances.

§ 139-8. Violations and penalties.

- A. Any person who violates any provision of this chapter or of the rules and regulations issued hereunder shall be fined not less than \$100 and not more than \$2,000 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.
- B. For purposes of this section, failure to file a registration statement within 30 calendar days after a building or portion thereof becomes vacant property or a vacant storefront or within 30 calendar days after assuming ownership of a vacant property or storefront, whichever is later, or within 10 calendar days of receipt of notice by the municipality, and failure to provide correct information on the registration statement, or failure to comply with the provisions of such provisions contained herein shall be deemed to be violations of this chapter.
- C. The Zoning Officer of the Borough of Metuchen shall be the enforcement agent of the within chapter. Violations of the within sections of the Code shall be heard in Municipal Court.

§ 139-9. Severability.

Should any section, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, the remaining portions of this chapter shall not be affected thereby and shall remain in full force and effect, and to that end, the provisions of this chapter are hereby declared to be severable.

PROPERTY MAINTENANCE

Chapter 140

PROPERTY MAINTENANCE

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-15-2014 by Ord. No. 2014-13.¹²¹ Amended in entirety 9-18-2017 by Ord. No. 2017-13. Amendments noted where applicable.]

121.Editor's Note: This ordinance superseded former Ch. 140, Property Maintenance, which comprised Art. 1, Commercial and Industrial Maintenance, adopted 6-6-1988 by Ord. No. 88-10, as amended; and Art. 2, Residential Property Maintenance, adopted 4-2-1990 by Ord. No. 90-4.

ARTICLE 1

Commercial and Industrial Maintenance**§ 140-1. Title, findings and purpose.**

- A. Title. This article shall be known as the "Commercial and Industrial Maintenance Code of the Borough of Metuchen" and is referred to in this article in the short form as "this code."
- B. Findings and declaration of policy. It is hereby found and declared that the lack of maintenance of real property leads to progressive deterioration and loss of property values. It is further found and declared that by reason of lack of maintenance and progressive deterioration, the conditions of certain premises have further effect of creating blighting conditions and initiating slums and that, if the same is not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and neighborhood and property values thereby maintained, the desirability and amenities of premises and neighborhood enhances and the public health, safety and welfare protected and fostered.
- C. Purpose. The purpose of this code is to protect and promote the public health, safety and welfare by establishing minimum standards for the maintenance, appearance and conditions of commercial and industrial premises in the Borough, to fix responsibilities and duties upon owners, operators and occupants, to authorize and establish procedures for the inspection of commercial and industrial premises, to fix penalties for the violations of this code to permit the Borough to make necessary repairs and assert a lien on such premises and to provide for the right of access to permit repairs when necessary. This code is hereby declared to be protective, preventative, remedial and necessary for the public interest, and it is intended that this code be liberally construed to effectuate the purpose as stated herein.

§ 140-2. Definitions.

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

COMMERCIAL OR INDUSTRIAL PREMISES — A lot, plot, parcel or tract of land, vacant or occupied, including the building or structures thereon, on any part of which commercial or industrial activity of any kind may take place in the Borough of Metuchen. For purposes of this code, this activity is defined as all commercial and industrial uses permitted or allowed by prior nonconforming uses, including but not limited to retail sales, professional activities, office uses, personal services, warehouse, research and manufacturing. Any apartments or other residences above or within a commercial or industrial structure shall be included within the scope and coverage of this code.

EXTERIOR OF PREMISES — The exterior facades or external portions of a building and the remainder of the lot or property outside of any building erected thereon which is exposed to view from a public right-of-way and/or an adjacent or nearby property.

INFESTATION — The presence of insects, rodents, vermin or other pests on the premises which constitutes a health hazard as certified by the Borough Health Officer.

NUISANCE —

- A. Any physical condition or use of any premises regarded as a nuisance at common law or as provided by the laws of the State of New Jersey or other ordinances of the Borough of Metuchen.

- B. Any attractive nuisance which may prove detrimental to the health or safety of children whether located in a building or on a lot, including but not limited to the following: excavations and other earthworks, shafts or structurally unsound fences or structures.
- C. Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist.
- D. Any premises which has unsanitary sewerage or plumbing facilities.
- E. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings or whatever creates an unreasonable hazard through odor or noise so as to deprive adjacent owners of the quiet enjoyment of their property.
- F. Any premises which is manifestly capable of being a fire hazard or is manifestly unsafe or unsecure as to endanger life, limb or nearby property.
- G. Any premises which is unsanitary or which is littered with accumulated rubbish or garbage or which has an uncontrolled growth of weeds.

OCCUPANT — A person in actual possession of any commercial or industrial premises or any part thereof.

OPERATOR — A person who has charge, care or control of commercial or industrial premises, or any part thereof, whether with or without the consent of the owner.

OWNER — Any person who, alone or jointly with others, has legal or equitable title to any commercial or industrial premises, with or without accompanying actual possession, or has charge, care or control of any commercial or industrial premises as owner or as fiduciary, including but not limited to an executor, executrix, administrator, administratrix, trustee, receiver or guardian of an estate, or as a mortgagee in possession, regardless of how such possession was obtained. Any person who is a lessee, subletting or reassigning any part or all of a commercial or industrial premises, shall be deemed to have joint responsibility as if he or she were an owner over the portion of the premises sublet or assigned.

WORKMANLIKE — Maintenance or repair work that has been performed in a reasonably skillful manner.

§ 140-3. Compliance with code; liability.

A. Compliance with code.

- (1) Minimum standards. This code establishes minimum standards for the maintenance of the exterior of all premises and structures, which are used or may be used as commercial and industrial premises, in the Borough of Metuchen, including those occupied and used before the adoption of this code, and does not replace or lessen standards otherwise established for the construction, repair, alteration or use of the commercial or industrial buildings or premises contained therein. Where there is mixed occupancy with commercial and other uses on the same premises, all such uses shall be regulated by and subject to the provisions of this code.
- (2) Interpretation. Where the provisions of this code impose a higher standard than is set forth in any other ordinance of the Borough of Metuchen or under the laws of the State of New Jersey, then the standards set forth herein shall prevail; but if the provisions of this code impose a lesser standard than other ordinances of the Borough of Metuchen or laws of the State of New Jersey, then the more rigorous standard contained in such ordinances or law shall prevail. This code should not be interpreted or construed to replace or effect any and all other codes and ordinances of the Borough and the powers and remedies authorized thereunder, including but not limited to

Chapter 67, entitled "Unsafe Buildings."

- (3) Responsibility. The owner of the premises shall maintain such structures and premises in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or operate premises which do not comply with the requirements of this article.
- (4) Vacant structures and land. All vacant structures and premises thereof or vacant land shall be in full compliance with all of the provisions and requirements of this chapter. Vacant structures and premises shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a nuisance to exist or adversely affect the public health or safety.

B. Liability.

- (1) Owners and operators shall have all the duties and responsibilities prescribed in this code, and no owner or operator shall be relieved from any duty or responsibility, or be entitled to defend against any charge of violation, by reason of the fact that the occupant is also responsible and in violation thereof.
- (2) Occupants shall have such duties and responsibilities as are prescribed for them in the § 140-4, and shall not be relieved of any duty and responsibility or be entitled to defend against any charge of violation by reason of the fact that the owner or operator is also responsible and in violation thereof.

§ 140-4. Regulations of premises.

- A. Exterior to be kept free of all nuisances. The exterior of structures and premises shall be kept free of nuisances, unsanitary conditions and any other hazards to the health or safety of occupants, pedestrians and other persons entering the premises. All exterior features of structures and premises shall be maintained in a good and workmanlike condition and state of repair. Any nuisance, unsanitary condition, lack of maintenance or other hazard shall be promptly removed and/or abated by the owner and/or operator and/or occupant to keep the premises free of hazards, including but not limited to the following:
 - (1) Refuse. Brush, weeds, stumps, roots, obnoxious growths, broken glass, filth, garbage, trash, litter, rubbish and debris of any description.
 - (2) Natural growth. Brush, weeds, ragweed, stumps, roots and obnoxious growth; dead and dying trees and limbs or other natural growth which due to lack of maintenance or through rotting or deteriorating conditions or storm damage constitute a hazard or nuisance to persons or property in the vicinity. Trees and landscaping shall be kept pruned and trimmed, where appropriate, to prevent such conditions.
 - (3) Decorative features. All cornices, wall facings, bas-reliefs or similar decorative and architectural details, including overhanging features of buildings and similar decorative features of site improvements, shall be maintained in good and workmanlike repair. They shall be properly anchored and kept in a safe and attractive condition.
 - (4) Ground surface hazards or unsanitary conditions. Holes, excavations, earthworks, breaks, projections, obstructions, broken or missing pavement, ice, uncleaned snow and excretion of pets and other animals. All holes on or in walkways, parking lots and/or all foreseeable walking surfaces/areas and excavations shall be filled and repaired, walks and steps repaired and other

conditions removed where necessary to eliminate hazards or unsanitary conditions. It shall be the responsibility of owners, occupants and operators to take reasonable steps to discover and remove any such hazards or unsanitary conditions which may exist on their premises.

- (5) Recurring accumulations of stormwater. Adequate runoff drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of stormwater.
 - (6) Sources of infestation. The presence of insects, rodents, vermin or other pests on the premises shall constitute a health hazard as certified by the Borough Health Officer.
 - (7) Signs. All signs, markings, printed matter and pictures or illustrations contained on the exterior of the premises permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good and workmanlike repair and kept in a neat and clean condition.
- B. Landscaping. Lawns, other ground cover, hedges and shrubs shall be kept trimmed and maintained from becoming overgrown. Lawns shall be regularly trimmed and shall not exceed a height of six inches and all landscaped areas kept free of weeds, rubbish and debris. Planted materials which have been damaged, or fail to survive, shall be replaced as required. Buffer areas which have not grown to meet the intent of the Zoning Ordinance shall also be replaced where necessary.
- C. Premises to be kept in good repair. All sides of the exterior of every structure or accessory structure, including fences and store facades, shall be maintained in good repair. All structural surfaces shall be kept clean and neatly painted where necessary for preservation and appearance, free of excessive peeling paint and maintained free of safety hazards, such as broken windows, loose and falling shingles and crumbling and falling stone or brick. Owners, operators and occupants shall not be liable for recurring acts of vandalism involving graffiti so long as they take reasonable efforts to remove the graffiti within two weeks of its discovery by them or within seven days of notice provided to them by Borough officials. The premises shall further be subject to the following regulations:
- (1) Signs and billboards. All permanent signs and billboards exposed to public view, permitted by ordinance or other regulations or as a lawful nonconforming use shall be maintained in good and workmanlike repair. Any sign or billboard which has weathered excessively or faded or the paint on which has excessively peeled or cracked shall, with its supporting members, be removed forthwith or put into a state of good and workmanlike repair. All nonoperative or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.
 - (2) Windows exposed to public view. All windows exposed to public view shall be unbroken. No windows shall remain boarded up except for a temporary period awaiting the replacement of broken glass.
 - (3) Awnings or marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in a workmanlike manner as to not constitute a nuisance or safety hazard. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material, such as paint or other protective treatment. In the event any such awning or marquee is not properly maintained in accordance with the foregoing, it shall, together with its supporting members, be removed forthwith. In the event any such awning or marquee is made of cloth, canvas, vinyl, plastic or of similar materials, said materials, where exposed to public view, shall be maintained in good and clean condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing or other deterioration. Nothing herein shall be construed to authorize any encroachment of an awning, marquee or its accompanying structural members on

streets, sidewalks or other parts of the public domain.

- (4) Temporary scaffolding or equipment. No temporary painting scaffold or other temporary equipment used for construction, repair or maintenance shall be permitted to remain in place beyond the period reasonably necessary to complete the purpose for which such equipment was brought to the premises.
 - (5) Construction, repair or alteration delays in completion. Any construction, repair or alteration work on a structure or premises, including site work, shall take place in a timely manner without delays or complete stoppage so as to constitute a prolonged hazardous or unsightly condition. If such work shall be delayed or stopped for a prolonged period, the exterior of an affected structure or premises shall be returned to a safe and presentable condition that complies with all other sections of this article and all other applicable ordinances and codes.
 - (6) Store fronts. All store fronts shall be maintained in good and workmanlike repair, and all surfaces thereof shall be kept clean and neatly painted when necessary for the purposes of preservation and appearance.
- D. Removal of garbage and refuse. The owner, operator and occupant shall have the duty and responsibility of removing refuse and garbage stored outdoors as often as required, but at least once per week.
- E. Maintenance of sidewalks. Every day that the premises is open for business, the occupant and/or operator shall be responsible for removing litter from the sidewalk or other pedestrian areas, if any, in front of the occupant's commercial premises. The area shall be swept and/or cleared as often as necessary to maintain it free of litter, spillage, snow, ice and other debris or other hazards to pedestrians. The owner, operator and occupant shall also have the duty and responsibility to provide sufficient trash cans for the premises which shall be located and/or screened in order to maintain the attractive appearance of the commercial premises.

§ 140-5. Inspections. [Amended 6-26-2023 by Ord. No. 2023-20]

All buildings and premises subject to this code are subject to inspection from time to time by the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, their respective designees, or any other official charged with the duty of enforcing regulations governing any aspect or conduct of the activity on the premises. At the time of such inspection, all portions of the premises subject to this code must be available and accessible for such inspection, and the owner, operator and occupant are required to provide the necessary arrangements to facilitate such inspection. Such inspection shall be made during regular business hours of the business occupying said premises, unless there is sufficient reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the inspecting official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the official is authorized to enter the structure or premises at reasonable times to inspect or enforce the requirements of this chapter, provided that if such structure or premises is occupied the official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, whether occupied or not, the official shall obtain a proper warrant or have other recourse to the remedies provided by law to secure entry.

§ 140-6. Correction of violation; abatement by municipal officers. [Amended 6-26-2023 by Ord. No. 2023-20]

- A. Immediate abatement. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb or presents an immediate threat to the health, safety and welfare of the occupants, invitees, adjoining property owners or the general public, unless abated without delay, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, or their respective designees may order the owner, operator or occupant to correct the violation or condition within the period of time consistent with the hazard involved and with the measures necessary to remove the hazard, and, upon the failure of the operator, owner or occupant to correct said condition, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, or their respective designees shall issue a summons forthwith and shall cause said condition to be immediately abated thereafter as prescribed in Subsection I below.
- B. Procedure upon discovery of violations. Except as otherwise provided in Subsection A above, where violations of this code or the regulations hereunder are found to exist, a written notice from the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall be served on the person or persons responsible for the correction thereof.
- C. Notice. Notice shall be served personally or by certified mail, addressed to the last-known address of the person to be served. In the case of an occupant, notice may be posted upon the main entrance door of the building, and in the case of an owner, the last-known address shall be the address of the owner as shown in the records of the office of the Tax Collector.
- D. Contents of notice. The notice shall specify the violation or violations committed, what must be done to correct the same, a reasonable period of time, not to exceed 30 days, to abate the violation, the right of the person served to request a hearing and that the notice shall become an order of the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees in 10 days after service unless a hearing is requested pursuant to these provisions.
- E. Request for hearing. Within 10 days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon by serving a written request within the ten-day period in person or by certified mail on the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees. Such request for a hearing shall set forth briefly the reasons for which the request for a hearing is made and the factual matters contained in the notice of violation for which the hearing is requested. The Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees upon receipt of the request for hearing, shall, within 30 days therefrom and upon five days notice to the parties so requesting, conduct a hearing.
- F. Hearings and orders. At the hearing provided hereunder, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall hear all parties and his or her final determination shall be made within 10 days from the completion of the hearing. He or she shall then issue an order incorporating the determinations and directions contained in the notice, modifying said notice if he or she so deems necessary. The Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees may extend the time for correction of the violations when deemed by him or her to be necessary.

- G. Summons for unabated violation. In the event the violation is not abated, removed, cured or otherwise fully remedied within the time period prescribed in the initial notice or extended time period as permitted by the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees, a summons shall then be issued against such person or persons charged with the violation. A summons may also be issued without initial written notice in the circumstances described in § 140-6A.
- H. In addition to the issuance of summons for an unabated violation, and where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, and upon the certification of the Health Officer, Fire Official and/or the Borough Engineer and after the approval of the Borough Administrator, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees may provide for the removal of or destruction of overgrown brush, weeds, including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth, garbage, trash, debris as permitted by N.J.S.A. 40:48-2.13 and N.J.S.A. 40:48-2.13a.
- I. In the event that the immediate abatement is necessary pursuant to Subsection A hereof, or that brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious growth, filth garbage trash, debris are sought to be removed or destroyed pursuant to Subsection H herein, the officer of the municipality or their respective designee seeking such removal and the Borough Administrator shall obtain and certify the costs thereof to the Mayor and Borough Council, who shall examine the certificate, and if found to be correct and appropriate shall authorize and direct by way of resolution the removal and/or destruction and to direct the costs as shown thereon to be charged against said dwelling or lands and the amounts so charged shall forthwith become a lien upon such property or lands and shall be added to and become part of the taxes next to be assessed and levied upon such property or lands, the same to bear interest at the same rate as taxes. A copy of the resolution authorizing and directing the removal and the costs and expenses to be charged shall be certified by the Borough Clerk and filed with the Tax Collector of the Borough, who shall be responsible for the collection thereof, with a copy of the report and resolution sent by certified mail to the owner, operator and/or occupant of the premises. If the amount of the lien is not paid, the Tax Collector may sell the unpaid municipal lien at the next tax sale. Notwithstanding anything to the contrary contained herein, nothing shall prevent the Borough from simultaneously proceeding to collect these costs and expenses, as well as to impose fines and penalties upon the owner, operator and occupant by commencing and continuing a proceeding in the Municipal Court of the Borough against those responsible for noncompliance with this code.

§ 140-7. Violations and penalties.

Any person who shall violate any of the provisions of this article or any order promulgated hereunder shall, upon conviction, be punished by at least a minimum fine of \$100 and a maximum fine not exceeding \$2,000, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

ARTICLE 2

Residential Property Maintenance**§ 140-8. Title, findings and purpose.**

- A. Title. This article shall be known as the "Residential Property Maintenance Code of the Borough of Metuchen," sometimes referred to in this article as "this code."
- B. Findings and declaration of policy. It is hereby found and declared that the lack of maintenance of real property leads to progressive deterioration, a threat to public safety and loss of property values. It is further found and declared that by reason of lack of maintenance and progressive deterioration, the condition of certain premises has further effect of creating blighting conditions and initiating slums and that, if the same is not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and neighborhood, property values and the public health and safety thereby maintained, the desirability and amenities of premises and neighborhood enhances and the public health, safety and welfare protected and fostered.
- C. Purpose. The purpose of this code is to provide for a maintenance code similar in content and with the parallel objectives to the Commercial and Industrial Maintenance Code as set forth in Article 1 of this chapter already adopted by the Borough in 1988. Its objectives are to prescribe the minimum standards for the maintenance, appearance and conditions of one- and two-family dwellings within the Borough, to establish procedures for the inspection of these residential dwellings, to fix penalties for the violation of this code and to prescribe the manner by which repairs may be made by the Borough when necessary. This code is hereby declared to be protective, preventative, remedial and necessary in the public interest, and this code should be liberally construed to effectuate the purposes stated herein.

§ 140-9. Definitions.

- A. To the extent not inconsistent with the express terms or definitions herein, the terms already defined in the Commercial and Industrial Maintenance Code shall have the same meaning in this code, except that the word "residential" shall be understood to replace the words "commercial" or "industrial" as contained in that code.
- B. As used in this article, the following terms shall have the meanings indicated:

ABANDONED OR UNUSED VEHICLES — Automobiles or other motorized forms of vehicular transportation stored in the exterior property areas of a residential premises without current registration or license plates or undriven for more than 30 days as a result of being in a condition rendering the vehicle inoperable on the public highways without extensive repairs or replacement of parts. These vehicles, as defined herein, shall be considered to be litter, as defined and prohibited both under this code and in Chapter 118, Littering, of the Code of the Borough of Metuchen.

DWELLING, MULTIFAMILY — A structure or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

DWELLING, ONE-FAMILY — A structure containing one dwelling unit with one or more persons living as a single, nonprofit, nontransient housekeeping unit, as distinguished from individuals or groups occupying a hotel, club, boardinghouse or other facility on a temporary basis. The family shall be deemed to include necessary servants where the servants share the common housekeeping

facilities as the family they serve.

DWELLING, TWO-FAMILY — A detached or semi-detached structure where the individual family units are entirely separated by vertical walls or horizontal floors, unpierced except for common access to the outside or in a common basement.

DWELLING UNIT — A single housekeeping unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EXTERIOR PROPERTY AREAS — The open space on the premises and on adjoining property under the control of the owners or occupants of such premises.

MAINTENANCE — Acts of repair or other acts to prevent a decline in the condition of structures, exterior premises and exterior property areas such that the condition shall not fall below the standards established by this code, other applicable ordinances of the Borough or other obligations established or imposed by law.

PREMISES — A lot, plot or parcel of land, including the buildings or structures thereon.

RESIDENTIAL PREMISES — A one- or two-family dwelling.

UNSAFE STRUCTURE — Any structure or building that is in a state of dilapidation, deterioration or decay; any structure that is open, vacant or abandoned and in danger of collapse or failure or causing danger to anyone on or near the premises; any structure previously damaged by fire or other casualty to the extent as not to provide shelter where there has been a cessation of normal reconstruction or rehabilitation for more than six months.

§ 140-10. Compliance with code; liability.

A. Compliance with code.

- (1) **Minimum standards.** This code establishes minimum standards for the maintenance of the exterior of all residential premises and structures in the Borough of Metuchen, including those occupied and used before the adoption of this code. It is designed as a maintenance code for preexisting structures and premises and does not replace or lessen standards otherwise established for the construction, repair, alteration or continued use of these buildings and premises. This code does not apply to those multifamily structures or boarding houses separately regulated by state statute.
- (2) **Interpretation.** Where the provisions of this code impose a higher standard than is set forth in any other ordinance of the Borough of Metuchen or under the laws of the State of New Jersey, then the standards set forth herein shall prevail; but if the provisions of this code impose a lesser standard than other ordinances of the Borough of Metuchen or laws of the State of New Jersey, then the more rigorous standard contained in such ordinances or law shall prevail. This code should not be interpreted or construed to replace or effect any and all other codes and ordinances of the Borough and the powers and remedies authorized thereunder, including but not limited to Chapter 67, entitled "Unsafe Buildings."
- (3) **Responsibility.** The owner and/or occupant of the premises shall maintain such structures and premises in compliance with these requirements. A person shall not occupy as owner or occupant or let to another for occupancy premises which do not comply with the following requirements of this article.
- (4) **Vacant structures and land.** All vacant structures and premises thereof or vacant land shall be in

full compliance with all the provisions and requirements of this chapter. Vacant structures and premises shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a nuisance to exist or adversely affect the public health or safety.

B. Liability.

- (1) Owners shall have all the duties and responsibilities prescribed in this code, and no owner shall be relieved from any duty or responsibility, or be entitled to defend against any charge of violation, by reason of the fact that the occupant is also responsible and in violation thereof.
- (2) Occupants shall have such duties and responsibilities as are prescribed for them in the § 140-11, and shall not be relieved of any duty and responsibility or be entitled to defend against any charge of violation by reason of the fact that the owner or operator is also responsible and in violation thereof.

§ 140-11. Regulation of premises.

A. The exterior of the premises and all structures thereon shall be kept free of all nuisances, unsanitary conditions and any other hazards to the health and safety of occupants, pedestrians and other persons entering the premises or residing in or occupying nearby properties to the same extent as stated in Article 1 of this chapter. All exterior features of structures and premises shall be maintained in a good and workmanlike condition and state of repair. Any nuisance, unsanitary condition, lack of maintenance or other hazard shall be promptly removed and/or abated by the owner and/or occupant to keep the premises free of hazards, including but not limited to the following:

- (1) Refuse. Brush, weeds, stumps, roots, obnoxious growths, broken glass, filth, garbage, trash, litter, rubbish and debris of any description.
- (2) Natural growth. Brush, weeds, ragweed, stumps, roots and obnoxious growth; dead and dying trees and limbs or other natural growth which through lack of maintenance, rotting or deteriorating conditions or storm damage constitute a hazard or nuisance to persons or property in the vicinity. Trees and landscaping shall be kept pruned and trimmed, where appropriate, to prevent such conditions.
- (3) Overhangings. Loose and overhanging objects and accumulations of ice and snow, which by reason of location above ground level constitutes a danger of falling on persons in the vicinity thereof.
- (4) Decorative features. All cornices, wall facings, bas-reliefs or similar decorative and architectural details, including overhanging features of buildings and similar decorative features of site improvements, shall be maintained in good and workmanlike repair. They shall be properly anchored and kept in a safe and attractive condition.
- (5) Ground surface hazards or unsanitary conditions. Holes, excavations, earthworks, breaks, projections, obstructions, broken or missing pavement, ice, uncleaned snow and excretion of pets and other animals. All holes on or in walkways, parking lots and/or all foreseeable walking surfaces/areas and excavations shall be filled and repaired, walks and steps repaired and other conditions removed where necessary to eliminate hazards or unsanitary conditions. It shall be the responsibility of owners and operators to take reasonable steps to discover and remove any such hazards or unsanitary conditions which may exist on their premises and the adjacent public right-of-way, used for access to the premises.

- (6) Recurring accumulations of stormwater. Adequate runoff drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of stormwater.
- (7) Sources of infestation. The presence of insects, rodents, vermin or other pests on the premises shall constitute a health hazard as certified by the Borough Health Officer.

B. Storage of Refuse.

- (1) Storage of household solid waste. It shall be unlawful for any residential property owner to store or permit storage of any bulky household waste, including household appliances, furniture and mattresses, in areas zoned residential, except in a fully enclosed structure or during days designated for the collection of bulky items.
- (2) Storage of tires. It shall be unlawful for any residential property owner to store or permit the storage of tires in areas zoned residential, except in a fully enclosed structure or on days designated for the collection of tires.
- (3) Inoperable vehicles. It shall be unlawful for any person to keep or permit the keeping on streets, vacant lots and residential lawns except in a fully enclosed structure, any motor vehicle, trailer or semitrailer:
 - (a) Which is missing tires, wheels, engine or any essential parts;
 - (b) Which displays extensive body damage or deterioration;
 - (c) Which does not display a current, valid State license; or
 - (d) Which is wrecked, disassembled or partially disassembled.
- (4) Construction sites. It shall be unlawful for any owner, agent or contractor in charge of a construction or demolition site to permit the accumulation of litter before, during or after completion of any construction or demolition project. It shall be the duty of the owner, agent or contractor in charge of a construction site to furnish containers adequate to accommodate friable or nonfriable debris or trash at areas convenient to construction areas and to maintain and empty the receptacles in such a manner and with such a frequency as to prevent spillage of refuse.
[Amended 6-26-2023 by Ord. No. 2023-20]
- (5) Laundry. It shall be unlawful for any residential property owner to store or hang clothing, bedding, towels or other laundry, to dry on fences or railings on any residential property

C. Landscaping. Lawns, other ground cover, hedges and shrubs shall be kept trimmed and maintained from becoming overgrown. Lawns shall be regularly trimmed and shall not exceed a height of six inches and all landscaped areas kept free of weeds, rubbish and debris. Planted materials which have been damaged, or fail to survive, shall be replaced as required. Buffer areas which have not grown to meet the intent of the Zoning Ordinance shall also be replaced where necessary.

D. Premises to be kept in good repair. All sides of the exterior of every structure or accessory structure, including fences and residential facades, shall be maintained in good repair. All structural surfaces shall be kept clean and neatly painted where necessary for preservation and appearance, free of excessive peeling paint and maintained free of safety hazards, such as broken windows, loose and falling shingles and crumbling and falling stone or brick. Owners and occupants shall not be liable for recurring acts of vandalism involving graffiti so long as they take reasonable efforts to remove the graffiti within two weeks of its discovery by them or within seven days of notice provided to them by

Borough officials. The premises shall further be subject to the following regulations:

- (1) Exterior windows and/or windows exposed to public view. All windows exposed to public view shall be unbroken. No windows shall remain boarded up except for a temporary period awaiting the replacement of broken glass.
 - (2) Temporary scaffolding or equipment. No temporary painting scaffold or other temporary equipment used for construction, repair or maintenance shall be permitted to remain in place beyond the period reasonably necessary to complete the purpose for which such equipment was brought to the premises.
 - (3) Construction, repair or alteration delays in completion. Any construction, repair or alteration work on a structure or premises, including site work, shall take place in a timely manner without delays or complete stoppage so as to constitute a prolonged hazardous or unsightly condition. If such work shall be delayed or stopped for a prolonged period, the exterior of an affected structure or premises shall be returned to a safe and presentable condition that complies with all other sections of this article and all other applicable ordinances and codes. Any reconstruction, repair or alteration work commenced on a residential premises, whether caused by previous fire, other casualty or permitted structural expansion shall proceed in a timely manner without delay so as to avoid a prolonged hazardous, unsightly condition or unsafe structure to the owners of the neighboring properties. Should such work be delayed or halted for more than sixty days or if the time for completion extends beyond six months from commencement, the exterior of the affected structure or premises shall be returned forthwith to a safe and presentable condition that complies with the maintenance provisions of this article and all other applicable ordinances and codes.
 - (4) Removal of garbage and refuse. The owner and occupant shall have the duty and responsibility of securing and removing refuse and garbage stored outdoors as often as required, but at least once per week.
 - (5) Maintenance of sidewalks. The owner and occupant shall be responsible for removing litter from the sidewalk or other pedestrian areas, if any, in front of the occupant's premises. The area shall be swept and/or cleared as often as necessary to maintain it free of litter, spillage, snow, ice and other debris or other hazards to pedestrians. The owner and occupant shall also have the duty and responsibility to provide sufficient trash cans for the premises which shall be located and/or screened in order to maintain the attractive appearance of the premises.
 - (6) No abandoned or unused vehicles shall be stored anywhere in the exterior property areas of a residential premises.
- E. Interior structure/premises. The interior of a building/dwelling and the equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.
- (1) Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.
 - (2) Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.
 - (3) Handrails and guards. Every handrail and guard shall be firmly fastened and capable of

supporting normally imposed loads and shall be maintained in good condition.

- (4) Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.
- (5) Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.
- (6) Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.
- (7) Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

§ 140-12. Inspections. [Amended 6-26-2023 by Ord. No. 2023-20]

All buildings and premises subject to this code are subject to inspection from time to time by the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, their respective designees or any other official charged with the duty of enforcing regulations governing the premises. At the time of such inspection, all portions of the premises subject to this code must be available and accessible for such inspection, and the owner and occupant are required to provide the necessary arrangements to facilitate such inspection. Such inspection shall be made during regular business hours, unless there is sufficient reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the inspecting official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the official is authorized to enter the structure or premises at reasonable times to inspect or enforce the requirements of this chapter, provided that if such structure or premises is occupied the official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, whether occupied or not, the official shall obtain a proper warrant or have other recourse to the remedies provided by law to secure entry.

§ 140-13. Correction of violation; abatement by municipal officers. [Amended 6-26-2023 by Ord. No. 2023-20]

- A. Immediate abatement. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb or presents an immediate threat to the health, safety and welfare of the occupants, adjoining property owners and/or the general public unless abated without delay, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, or their respective designees may order the owner, operator or occupant to correct the violation or condition within the period of time consistent with the hazard involved and with the measures necessary to remove the hazard, and, upon the failure of the owner or occupant to correct said condition, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall issue a summons forthwith and shall cause said condition to be immediately abated thereafter as

prescribed in Subsection I below.

- B. Procedure upon discovery of violations. Except as otherwise provided in Subsection A above, where violations of this code or the regulations hereunder are found to exist, a written notice from the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall be served on the person or persons responsible for the correction thereof.
- C. Notice. Notice shall be served personally or by certified mail, addressed to the last-known address of the person to be served. In the case of an occupant, notice may be posted upon the entrance door of the dwelling, and in the case of an owner, the last-known address shall be the address of the owner as shown in the records of the office of the Tax Collector.
- D. Contents of notice. The notice shall specify the violation or violations committed, what must be done to correct the same, a reasonable period of time, not to exceed 30 days, to abate the violation, the right of the person served to request a hearing and that the notice shall become an order of the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees in 10 days after service unless a hearing is requested pursuant to these provisions.
- E. Request for hearing. Within 10 days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon by serving a written request within the ten-day period in person or by certified mail on the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees. Such request for a hearing shall set forth briefly the reasons for which the request for a hearing is made and the factual matters contained in the notice of violation for which the hearing is requested. The Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees, upon receipt of the request for hearing, shall, within 30 days therefrom and upon five days' notice to the parties so requesting, conduct a hearing.
- F. Hearings and orders. At the hearing provided hereunder, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall hear all parties and his or her final determination shall be made within 10 days from the completion of the hearing. He or she shall then issue an order incorporating the determinations and directions contained in the notice, modifying said notice if he or she so deems necessary. The Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees may extend the time for correction of the violations when deemed by him or her to be necessary.
- G. Summons for unabated violation. In the event the violation is not abated, removed, cured or otherwise fully remedied within the time period prescribed in the initial notice or extended time period as permitted by the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees, a summons shall then be issued against such person or persons charged with the violation. A summons may also be issued without initial written notice in the circumstances described in § 140-13A.
- H. In addition to the issuance of summons for an unabated violation, and where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, and upon the certification of the Health Officer, Fire Official, Director of Public Works and/or the Borough Engineer and after the approval of the Borough Administrator, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees may provide for the removal of or destruction of overgrown brush, weeds,

including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth, garbage, trash, debris as permitted in N.J.S.A. 40:48-2.13 and N.J.S.A. 40:48-2.13a.

- I. In the event that the immediate abatement is necessary pursuant to Subsection A hereof, or that overgrown brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious growth, filth garbage trash, debris are sought to be removed or destroyed pursuant to Subsection H herein, the officer of the municipality or their respective designee seeking such removal and the Borough Administrator shall obtain and certify the proposed costs thereof to the Mayor and Borough Council, who shall examine the certificate and, if found to be correct and appropriate, shall authorize and direct by way of resolution the costs as shown thereon to be charged against said dwelling or lands and the amounts so charged shall forthwith become a lien upon such a dwelling or lands and shall be added to and become part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes. A copy of the resolution authorizing and directing the removal and the costs and expenses to be charged shall be certified by the Borough Clerk and filed with the Tax Collector of the Borough, who shall be responsible for the collection thereof, with a copy of the report and resolution sent by certified mail to the owner and/or occupant of the premises. If the amount of the lien is not paid, the Tax Collector may sell the unpaid municipal lien at the next tax sale. Notwithstanding anything to the contrary contained herein, nothing shall prevent the Borough from simultaneously proceeding to collect these costs and expenses, as well as to impose fines and penalties upon the owner and occupant by commencing and continuing a proceeding in the Municipal Court of the Borough against those responsible for noncompliance with this code.

§ 140-14. Violations and penalties.

Any person who shall violate any of the provisions of this article or any order promulgated hereunder shall, upon conviction, be punished by at least a minimum fine of \$100 and a maximum fine not exceeding \$2,000, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

ARTICLE 3

Lead-Based Paint Inspections
[Added 9-9-2024 by Ord. No. 2024-18]**§ 140-15. Inspections for lead-based paint. [Added 9-9-2024 by Ord. No. 2024-18]**

- A. Definitions. The following shall have the meaning as used in and in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq.

BOROUGH CODE OFFICIAL — The Borough of Metuchen Construction Official, the Borough of Metuchen Department of Code Enforcement, or any enforcement officer appointed by the Borough of Metuchen, pursuant to N.J.S.A. 40:48-2.3 et seq., or any other statutory authorization, to perform inspections of any building or other code, or any enforcement officer authorized to enforce the Borough of Metuchen Property Maintenance Code or Health Code, or their designee.

DUST WIPE SAMPLING — A sample collected by wiping a representative surface and tested, in accordance with a method approved by the United States Department of Housing and Urban Development (HUD) and as conducted pursuant to N.J.A.C. 5:28A-2.3.

DWELLING — A building containing a room or rooms, or suite, apartment, unit, or space that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

DWELLING UNIT — A unit within a building that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

MULTIPLE DWELLING — Any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other. "Multiple dwelling" also means any group of 10 or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied, or intended to be occupied, by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. "Multiple dwelling" does not include those buildings and structures that are excluded pursuant to N.J.S.A. 55:13A-3(k).

PERIODIC LEAD-BASED PAINT INSPECTION — The initial inspection of all applicable dwelling units at the earlier of two years from the effective date of P.L. 2021, c. 182 (July 22, 2022) (N.J.S.A. 52:27D-437.6), or tenant turnover and, thereafter, the earlier of three years or upon tenant turnover, consistent with N.J.A.C. 5:28A-2.1, for the purposes of identifying lead-based paint hazards in dwellings subject to this article.

REMEDIATION — Interim controls or lead abatement work undertaken in conformance with this article to address lead-based paint hazards.

TENANT TURNOVER — The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit or the time at which a new tenant enters a vacant dwelling unit.

- B. Inspections authorized. The Borough Code Official shall be authorized and empowered to conduct periodic lead-based paint inspections for all applicable multiple dwelling units offered for rent to determine the presence of lead-based paint, in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq.
- C. Certain multiple dwelling units exempted from lead-based paint inspection. Inspections for lead-

based paint in multiple dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq., and N.J.S.A. 55:13A-1 et seq. A dwelling unit in a single-family, two-family, or multiple rental dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards if the unit:

- (1) Was constructed during or after 1978;
- (2) Is a single-family or two-family seasonal rental dwelling unit that is rented for less than six months' duration each year by tenants that do not have consecutive lease renewals;
- (3) Has been certified to be free of lead-based paint, pursuant to N.J.A.C. 5:17;
- (4) Is in a multiple dwelling that was constructed prior to 1978 and has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has either:
 - (a) No outstanding paint violations from the most recent cyclical inspection performed on the multiple dwelling under the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.);
 - (b) A current certificate of inspection issued by the Department of Community Affairs, Bureau of Housing Inspection; or
 - (c) An open inspection with no violations for paint;
- (5) Has a valid lead-safe certification issued pursuant to N.J.A.C. 5:28A. Lead-safe certifications are valid for two years from the date of issuance pursuant to N.J.A.C. 5:28A-2.4.

§ 140-16. Owner required to obtain inspection. [Added 9-9-2024 by Ord. No. 2024-18]

- A. Inspection performed by Borough code official. The owner, landlord, and/or agent of every single-family, two-family and/or multiple dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards as required in this article, or at tenant turnover, whichever is earlier. To obtain the required inspection, the landlord, owner and/or agent shall arrange it with the Borough's Code Official and pay all applicable and required fees associated with the Borough's inspection as specified in §§ 140-18 and 140-19, below.
- B. Option for inspection performed by licensed lead evaluation contractor.
 - (1) A dwelling unit owner or landlord may opt, instead, to directly hire a licensed lead evaluation contractor to conduct the periodic lead-based paint inspections for lead-based paint as required in this article. Notwithstanding this option, the Borough retains the authority to conduct inspections or investigations of landlords or owners that directly hire lead evaluation contractors to ensure that periodic lead-based paint inspections are being performed, in accordance with this article.
 - (2) The Borough also retains the authority to prohibit an owner from directly hiring a lead evaluation contractor to conduct a periodic lead-based paint inspection where:
 - (a) The owner previously opted to hire a lead evaluation contractor to perform the periodic lead-based paint inspection and failed to have the inspection completed; or
 - (b) The Borough determines there is a conflict of interest between the owner and their lead-evaluation contractor of choice.

§ 140-17. Timing for required lead-based paint inspections. [Added 9-9-2024 by Ord. No. 2024-18]

- A. The initial inspection for all single-family, two-family and multiple dwellings subject to this article shall be upon tenant turnover or within two years of the effective date of P.L. 2021, c. 182 (July 22, 2022), whichever is sooner.
- B. Thereafter, all such dwelling units shall be inspected for lead-based paint hazards every three years or upon tenant turnover, whichever is earlier, except that an inspection shall not be required at tenant turnover if the dwelling unit owner has a valid lead-safe certification for the dwelling unit.
- C. The next periodic lead-based paint inspection shall be counted from the most recent periodic lead-based paint inspection which resulted in a valid lead-safe certification.

§ 140-18. Notice of inspection to be given. [Added 9-9-2024 by Ord. No. 2024-18]

Whenever any multiple dwelling unit is scheduled for a tenant turnover, the then-current landlord, owner and/or agent shall provide written notice to the Borough Code Official that an inspection is needed at least 20 calendar days prior to the scheduled date of the tenant turnover.

§ 140-19. Fees for application, filing and inspections. [Added 9-9-2024 by Ord. No. 2024-18]

- A. Application and filing fee. The fee for the application for a lead-based paint inspection and/or for the filing of a lead-safe certification or lead-free certification with the Borough shall be \$30.
- B. Inspection fee. There shall be a fee of \$300 for each initial visual lead-based paint inspection. If a dust-wipe sampling is deemed necessary based on visual examination, there shall be an additional fee of \$200 for that sample.
- C. There shall be a fee of \$200 for each visual lead-based paint reinspection which is required and/or requested pursuant to this article. If a dust-wipe sampling is deemed necessary based on visual examination, there shall be a fee of \$200 for that sample.
- D. An additional fee of \$20 shall be assessed to the application and inspection fees, in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-2.2, to be deposited into the Lead Hazard Control Assistance Act Fund under the administration of the New Jersey State Department of Community Affairs.
- E. All fees are nonrefundable upon the applicant's failure to cancel the requested inspection at least 48 hours prior to a scheduled inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this article for lead-based paint inspections and shall not be used for any other purpose.
- F. A dwelling landlord, owner and/or agent may directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of this article and the requirements of N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq., in which case the fee of \$20 shall be assessed in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-2.2, payable to the Borough, to be deposited into the Lead Hazard Control Assistance Act Fund under the administration of the New Jersey State Department of Community Affairs, but no additional lead-based paint inspection fee shall be charged by the Borough.

§ 140-20. Time for inspections. [Added 9-9-2024 by Ord. No. 2024-18]

All inspections and reinspections shall take place within 20 calendar days of the requested inspection.

Inspection fees shall be paid prior to the inspection. No inspections or reinspections shall take place unless all fees are paid. Scheduled inspections or reinspections may be canceled by the Borough Code Official, unless the completed application and required fees have been received by the Borough at least 24 hours prior to the scheduled inspection, or on the last working day prior to the scheduled inspection. Every inspection for which the landlord, tenant, owner or agent has failed to provide access for inspection shall be deemed a failed inspection.

§ 140-21. Lead-based paint inspections by visual assessment or dust wiping method. [Added 9-9-2024 by Ord. No. 2024-18]

- A. At the time of the enactment of P.L. 2021, c.182 (N.J.S.A. 52:27D-437.6), the Department of Community Affairs identified the Borough as a municipality in which less than 3% of children tested, six years of age or younger, have a blood lead level greater than or equal to five ug/dL according to the central lead screening database maintained by the New Jersey Department of Health. Accordingly, the Borough Code Official or licensed lead evaluation contractor shall perform the periodic lead-based paint inspection through a visual assessment, in which the Official or contractor is to examine dwellings, in accordance with HUD guidelines and regulations at 42 U.S.C. § 4851b for deteriorated paint or visible surface dust, debris, or residue on all painted building components, especially any walls, window, trim, and surfaces that experience friction or impact. The Borough Code Official or licensed lead evaluation contractor may also elect to, but is not required to, collect samples by dust wiping surfaces, including floors, interior windowsills, and other similar surfaces, and tested, in accordance with methods approved by the State of New Jersey and/or the United States Department of Housing and Urban Development.
- B. If, in the future, the Department of Community Affairs designates the Borough as a municipality in which at least 3% of children tested, six years of age or younger, have a blood lead level greater than or equal to five ug/dL according to the central lead screening database maintained by the New Jersey Department of Health, then the inspections required by this article shall be performed through dust wipe sampling instead of visual assessment alone.

§ 140-22. Inspection certification to be supplied. [Added 9-9-2024 by Ord. No. 2024-18]

- A. If, following inspection, the Borough Code Official or lead evaluation contractor finds that no lead-based paint hazard exists in a dwelling unit, they shall certify the dwelling unit as lead-safe on the form prescribed by the Department of Community Affairs and supply a copy of the lead-safe certification to the landlord, owner, and/or agent of the dwelling. If a licensed lead evaluation contractor issues the lead-safe certification, a copy shall also be provided to the Borough Code Official and the Borough Clerk at the time it is issued, along with the aforementioned application and filing fee.
- B. The lead-safe certification shall be valid for a period of two years from the date of issuance, unless during the two-year certification period a lead evaluation contractor, lead inspector/risk assessor, a local health department, or a public agency conducts an independent inspection or risk assessment and determines that there is a lead-based paint hazard, in which case the certification shall be invalid.

§ 140-23. Identification of lead-based paint hazard. [Added 9-9-2024 by Ord. No. 2024-18]

- A. If the Borough Code Official or licensed lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit, they shall notify the New Jersey State Department of Community Affairs, Division of Local Government Services for review of the findings, in accordance with the Lead Hazard Control Assistance Act.

- B. If a lead-based paint hazard is identified in an inspection of one of the dwelling units in a building consisting of two or more dwelling units, then the lead contractor or Borough Code Official shall inspect the remainder of the building's dwelling units, with the exception of those dwelling units that have been certified to be free of lead-based paint or which have a valid lead-safe certification.

§ 140-24. Responsibility for remediation of lead-based paint. [Added 9-9-2024 by Ord. No. 2024-18]

The owner of the dwelling unit shall be responsible for remediation of the lead-based paint hazard. Remediation and any reinspections required following remediation must be conducted consistent with N.J.A.C. 5:28A-2.5. Documentation of such remediation shall be provided to the Property Maintenance Code Official.

§ 140-25. Owner responsibility for recordkeeping. [Added 9-9-2024 by Ord. No. 2024-18]

- A. The landlord, owner and/or agent of a dwelling that is subject to this article shall provide to the tenant and to the Borough evidence of a valid lead-safe certification obtained pursuant to this article at the time of tenant turnover. The owner shall also affix a copy of any such certification as an exhibit to the tenant's lease.
- B. The owner of a multiple dwelling that is subject to this article shall provide evidence of a valid lead-safe certification obtained pursuant to this article, as well as evidence of the most recent tenant turnover, at the time of any cyclical inspection performed pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.
- C. The owner of a dwelling that is subject to this article shall maintain a record of the lead-safe certification, which shall include the name or names of a unit's tenants, if the inspection was conducted during a period of tenancy.
- D. The owner of any dwelling subject to this article shall inform the Borough of all tenant turnover activity to ensure any required inspection may be scheduled.
- E. The owner of a dwelling shall provide a copy of this article, and any lead-safe certifications issued pursuant thereto, along with the accompanying guidance document, "Lead- Based Paint in Rental Dwellings," to any prospective owners of the dwelling during a real estate transaction, settlement, or closing.

§ 140-26. Municipal responsibilities and enforcement powers.

- A. Pursuant to N.J.A.C. 5:28A-2.1(d), the Borough Code Official shall exercise appropriate oversight of a landlord or owner who chooses to hire a lead evaluation contractor to perform the periodic lead-based paint inspection.
- B. Pursuant to N.J.A.C. 5:28A-3.2, the Borough Code Official shall maintain a record of: all dwellings subject to this article, which includes up-to-date information on inspection schedules, inspection results, and tenant turnover; all lead-safe certifications issued; and all lead-free certifications issued.
- C. Pursuant to N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-4.1, the Borough Code Official is authorized to conduct investigations and issue penalties in order to enforce a multiple dwelling landlord's, owner's and/or agent's failure to comply with this article.
 - (1) The owner of the dwelling shall first be given a period of 30 calendar days to cure any violation by conducting the required inspection or initiating any required remediation efforts.

- (2) If the owner of the dwelling has not cured the violation within that time period, they shall be subject to a penalty, not to exceed \$1,000 per week, until the required inspection has been conducted or the remediation efforts have been initiated.
- (3) Remediation efforts shall be considered to be initiated when the dwelling owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.

Chapter 143**PUBLIC RECORDS ACCESS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 7-1-2002 by Ord. No. 2002-8. Amendments noted where applicable.]

§ 143-1. Purpose.

It is the policy of the Borough of Metuchen that public records requested by members of the public be made available at the earliest reasonable time consistent with New Jersey state law. The office of the Borough Clerk shall be the conduit for all such requests.

§ 143-2. Scope.

- A. Pursuant to N.J.S.A. 47:1A-1 et seq., the Borough of Metuchen, during regular business hours, will allow for the inspection of those records which are defined under the statute to be public records. The Borough reserves the right to preclude from inspection and/or duplication those records which are exempted as provided for in N.J.S.A. 47:1A-1 et seq.
- B. All municipal agencies, employees and officers having possession of any public records subject to N.J.S.A. 47:1A-1 et seq. shall, upon request from the Borough Clerk, provide the Clerk with that record on or before the end of the business day following receipt of that request. If unable to comply as herein required then as soon thereafter as able, but within the prescribed deadline of N.J.S.A. 47:1A-1 et seq. Factors which may affect the Borough's ability to furnish requested information include the number of documents or pages requested, the accessibility of the documents and the nature of the document.
- C. Generally, public records/documents in a form prepared for sale or distribution by the Borough Clerk or another Borough office shall be made available immediately upon completion of the request application and payment of the appropriate fees to that office.
- D. The following guidelines are established for all municipal records/documents:
 - (1) The requestor shall complete the appropriate Borough form in writing, specifying the information requested and delivering it to the Borough Clerk.
 - (2) Requests for copies of pages and/or documents of no more than 50 pages will be made available within two business days of the request.
 - (3) Requests for copies of pages and/or documents of more than 50 pages will be made available within seven business days of the requests.
 - (4) All requests for copies from the same person or organization shall be treated as one for the purpose of the time guidelines stated above.
 - (5) Requests for copying on premises by use of the requestor's own equipment shall be considered by the Borough Clerk pursuant to N.J.S.A. 47:1A-1 et seq. Requestors will be notified by the Borough Clerk of the fee if the use of such equipment is authorized.
 - (6) Requests for information will be provided only in the form kept by the Borough. In no case will the Borough generate special reports or analyses to satisfy a requestor unless expressly authorized by the governing body to do so.

- (7) If any of the foregoing guidelines cannot be met, the requestor shall be notified by the Borough Clerk of the time when the copies are expected to be available.

§ 143-3. Application process.

The Borough Clerk shall adopt a form for the use of any person who requests access to a government record. The form shall request name, address, phone number and a brief description of the government record sought. The form shall also include a space for the Borough Clerk to indicate which record will be made available, when the record will be available and the fees charged. The form shall also include the following:

- A. Specific directions and procedures for requesting a record;
- B. A statement as to whether prepayment of fees or a deposit is required;
- C. The time period in which the Borough of Metuchen is required by P.L. 1963, c. 73 (N.J.S.A. 47:1A-1 et seq.) as amended and supplemented to make the record available;
- D. A statement of the requestor's right to challenge the decision by the public agency to deny access and the procedure for filing an appeal;
- E. Space for the Borough Clerk or custodian of records to list reasons if a request is denied in whole or in part;
- F. Space for the requestor to sign and date the form; and
- G. Space for the Borough Clerk to sign and date the form if the request is fulfilled or denied.

§ 143-4. Fees. [Amended 10-4-2010 by Ord. No. 2010-13]

Except as otherwise provided by law or regulation, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be \$0.05 per letter-size page or smaller, and \$0.07 per legal-size page or larger. If a public agency can demonstrate that its actual costs for duplication of a government record exceed the foregoing rates, the public agency shall be permitted to charge the actual cost of duplicating the record. The actual cost of duplicating the record, upon which all copy fees are based, shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or other overhead expenses associated with making the copy except as provided. Access to electronic records and nonprinted materials shall be provided free of charge, but the public agency may charge for the actual costs of any needed supplies such as computer discs.

Chapter 147**RENT CONTROL**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 3-17-1980 by Ord. No. 80-8. Amendments noted where applicable.]

§ 147-1. Rent Stabilization Board reestablished; composition; appointment and terms of members; vacancies; alternate members. [Amended 3-30-1981 by Ord. No. 81-9]

- A. The Rent Stabilization Board of the Borough of Metuchen heretofore created is hereby reestablished and continued. The Board shall consist of five members of the borough to be appointed by the Mayor with the advice and consent of the Council. Every member appointed shall be appointed for two years. In the event a vacancy shall occur for a regular or alternate member, the same shall be filled for the balance of the unexpired term. Members presently serving on the Board are hereby confirmed in office and shall continue to serve until the expiration of their terms.
- B. In addition, there shall be appointed by the Mayor with the advice and consent of the Council two alternate members to be designated at the time of said appointment as "Alternate One" and "Alternate Two." The terms of the alternate members shall be for two years. The alternate members shall have the right to participate by discussion in all Board meetings. However, Alternate One shall be entitled to vote only if one or more members of the Board are absent, and Alternate Two shall be entitled to vote only if two or more regular members of the Board are absent or if one regular member and Alternate One are absent.

§ 147-2. Powers and duties. [Amended 3-30-1981 by Ord. No. 81-8; 5-3-1982 by Ord. No. 82-13; 6-6-1983 by Ord. No. 83-12]

- A. The Rent Stabilization Board is granted and shall have and exercise all powers necessary and appropriate to carry out and execute the purposes of this chapter, including but not limited to the following:
 - (1) To issue and promulgate such rules and regulations as it deems necessary to implement the purposes of this chapter, which rules and regulations shall have the force of law until revised, repealed or amended from time to time by the Board in the exercise of its discretion, provided that such rules are filed with the Borough Clerk.
 - (2) To supply information and assistance to landlords and tenants to help them comply with the provisions of this chapter.
 - (3) To hold hearings and adjudicate applications from landlords for additional surcharges and vacancy decontrol as authorized by the provisions of this chapter.
 - (4) To hold hearings and adjudicate applications from tenants for reduced rental in accordance with the provisions of this chapter.
 - (5) To hold hearings and adjudicate disputes between landlords and tenants arising under the provisions of this chapter.
 - (6) To order and direct the reimbursement by the landlord to the tenants of any and all sums of moneys, rentals or otherwise exacted from tenants in violation of this chapter and to order and direct the tenant or tenants to pay to the landlord or owner any and all lawful increases granted to the landlord under this chapter. The Rent Stabilization Board shall give reasonable

opportunity to be heard to both the landlord and the tenant before making any determination.

- (7) To deny all rental increases, as well as tax and hardship surcharges, capital improvement increases and vacancy decontrol determinations or applications for any rental unit where the landlord has obtained an unauthorized charge, fee or brokerage commission, contrary to the provisions of § 147-7D through 147-G for a period of one year from the date on which the Board has made a determination concerning the illegal charge or before the landlord has rented a vacant unit and failed to comply with the vacancy decontrol provisions of § 147-11 for a period of one year from the date the Board has made a determination of the vacancy decontrol violation or until the date of the next vacancy of said unit, whichever occurs last. Any denial of said increases, surcharges, or vacancy decontrol determinations and applications, shall extend only to the specific dwelling unit within the complex involved in the illegal charge or vacancy decontrol violation. In addition, the Rent Stabilization Board shall not grant a landlord any relief under this chapter unless he or she has complied with the registration requirements of § 147-6 and the information statement, if applicable, required under § 147-11E. Any determination by the Rent Stabilization Board shall be made in writing within 45 days of the receipt of request for such determination, or the date of hearing on such determination, whichever date shall be later.
- B. In addition to all other provisions set forth in Subsection A above, the Rent Stabilization Board shall have the power and authority to deny all rental increases, tax and hardship surcharges and capital improvement increases for any or all rental units owned by a landlord where the landlord has pleaded guilty or been found guilty in the Municipal Court of any charge of harassment as set forth in § 147-11 or where the Rent Stabilization Board, after a hearing under the rules set forth in this section, has found the landlord guilty of harassment.

§ 147-3. Appeals.

- A. Either a landlord or a tenant may appeal the determination and findings of the Rent Stabilization Board to the Mayor and Council by filing a written notice of appeal upon the Borough Clerk and by serving a copy of the notice upon the adverse party by certified mail. Such notice shall be filed within 20 days of the determination by the Board. In the event of an appeal, a hearing will be held thereon by the Mayor and Council.
- B. Wherever in this chapter provision for notice is made by personal service or registered mail or certified mail, return receipt requested, such requirement of notice may be satisfied by acknowledgment of service signed by the party to be served.

§ 147-4. Definitions. [Amended 3-30-1981 by Ord. No. 81-8; 5-3-1982 by Ord. No. 82-13]

For the purposes of this chapter, the following words and phrases shall have the following meanings respectively ascribed to them by this section:

AVAILABLE FOR RENT TO TENANT — Fit for habitation as defined by the statutes, codes and ordinances in full force and effect in the State of New Jersey, County of Middlesex and Borough of Metuchen and occupied or unoccupied and offered for rent.

CASH FLOW — The landlord's net income as determined in accordance with sound accounting procedures except that depreciation shall be eliminated.

DWELLING — Any building or structure or trailer, or land used as a trailer park, rented or offered for rent as a residence to one or more tenants or family units. Excluded from this definition and from the operation

of this chapter are motels, hotels and similar type buildings and dwellings of three units or less in which the owner of the premises resides.¹²²

EQUITY IN REAL PROPERTY INVESTMENT — The actual cash contribution of the purchaser at the time of closing title and the principal payments to outstanding mortgages.

FAIR RETURN — The percentage of return on equity on real property investment. The amount of return shall be measured by net income before depreciation.

FUEL — Includes oil, coal, gas and/or electricity used for heating dwellings controlled under this chapter.

HOUSING SPACE — That portion of a dwelling rented or offered for rent for living and dwelling purposes to an individual or family unit, together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the property.

JUST CAUSE — Any action by or on behalf of a landlord in refusing to let, rent, relet or rereat residential premises to a tenant or any action toward a dispossession, including but not limited to the following:

- A. Failure on the part of the tenant to pay rent due and owing, whether the same shall have been due by virtue of a written lease, an oral letting or a month-to-month tenancy.
- B. Disorderly, disturbing, damaging or malicious conduct on the part of the tenant that is harmful to the peace and tranquility of the landlord, other tenants or neighbors or destructive of personal property.
- C. Intentional or neglectful conduct that creates or permits filth, noise, damage or destruction of any kind.
- D. Frequent or repeated violations by the tenant of contractual obligations contained in the lease or of reasonable rules and regulations established by the landlord previously having been agreed to.
- E. Substantial breach of terms and conditions contained in a lease.
- F. Clear and convincing proof that an owner intends to occupy the premises personally. Any owner seeking eviction of a tenant or possession of premises on the ground that it shall be for his or her own use must occupy the premises within 60 days and not for less than one year.
- G. The owner seeks to close the premises down and will not permit further occupancy in the future.

MAJOR CAPITAL IMPROVEMENT — A substantial change in the housing accommodations such as would materially increase the rental value in a normal market and provide the tenants with a benefit of service which they had not previously enjoyed. Ordinary repairs and maintenance, replacement of facilities, materials or equipment so as to maintain the same level of services as previously provided shall not constitute a major capital improvement. The fact that a capital improvement qualifies as a capital expenditure or capital improvement under the Internal Revenue Code shall not be considered evidence that the improvement is a major capital improvement under this chapter.

PRICE INDEX — The consumer price index, all items for that region of the United States in which the Borough of Metuchen is included, which index is periodically published by the Bureau of Labor Statistics of the United States Department of Labor.

RENTAL UNITS — Dwellings, the rental for which, is regulated under this chapter.

122. Editor's Note: See Ch. 104, Hotels, Boardinghouses and Rooming Houses.

§ 147-5. Refusal to rent, relet or rereat.

A landlord shall not refuse to rent, relet or rereat housing space or terminate a landlord-tenant relationship except for just cause.

§ 147-6. Registration.

All rental units in the Borough of Metuchen must be registered by the owners of those rental units annually on or before April 1 with the Borough Clerk and the Rent Stabilization Board of the Borough of Metuchen. The information required to be furnished to the Borough Clerk and the Rent Stabilization Board shall include the following:

- A. The address of the property.
- B. The number of the rental units therein.
- C. The number of rooms in each rental unit.
- D. The current rent charged for each rental unit.
- E. The rent for each rental unit for the three previous years.
- F. The total amount of surcharges for each rental unit so that the total of Subsections D and F of each rental unit would total the full amount paid by the tenant to the landlord for the current year.

§ 147-7. Establishment of rents. [Amended 3-30-1981 by Ord. No. 81-8]

- A. Establishment of rents between landlords and tenants for dwellings and rental units as defined in this section shall hereafter be determined by the provisions of this chapter. At the expiration of a lease, or at the termination of the lease of a periodic tenant, no landlord shall request or receive a percentage increase in rent from the existing tenant or new tenant which is greater than the lesser of the following two calculations:
 - (1) The percentage difference between the consumer price index 90 days prior to the expiration or termination of the lease and the consumer price index 90 days prior to the date on which the term of the existing tenant commenced.
 - (2) Seven and one-half percent of the rent in effect under such lease at the expiration thereof.
- B. For a periodic tenant whose lease terms shall be less than one year, such tenant shall not suffer or be caused to pay any rent increase greater than the lesser of the following two calculations:
 - (1) The consumer price index differential for the calendar year prior thereto.
 - (2) Seven and one-half percent of the rent in effect under such lease at the expiration thereof.
- C. In no event shall the rental charge for a rental unit be increased more than once in a twelve-month period. However, this limitation shall not apply to an increase arising from vacancy decontrol if permitted under § 147-11.
- D. No landlord shall institute any separate charge or fee for any privilege, service or facility normally or currently connected with the use or occupancy of a dwelling.
- E. Any separate charge or fee presently in effect for services or facilities, such as garage spaces, parking

spaces, swimming pool membership or similar services and facilities, if mandatory, shall be subject to the same percentage increase as shall the base rent.

- F. No landlord shall charge any application fee to prospective tenants unless said fee bears a reasonable relationship to some expense incurred by the landlord in processing the application. Any fee in excess of \$50 shall be presumed unreasonable and subject to prosecution unless the landlord can establish the reasonableness of same.
- G. No tenant shall be charged any brokerage commission or charge as a result of the rental of any dwelling. Any such charge shall be borne solely by the landlord.

§ 147-8. Rental increases other than at expiration of lease or in excess of chapter authorization.

Any rental increase at a time other than the expiration of a lease or termination of a periodic lease is prohibited and void. Any rental increase in excess of that authorized by the provisions of this chapter is prohibited and void.

§ 147-9. Notification to tenants of increase.

Any landlord seeking an increase in rent shall first notify any tenant by certified mail, or registered mail, return receipt requested, or by personal service of the calculations involved in computing the increase, including the consumer price index, if applicable, 90 days prior to the date on which the term of the lease of the existing tenant commenced, the consumer price index, if applicable, 90 days before the expiration of the lease, the allowance percentage increase and the allowable rental increase.

§ 147-10. Applicability.

- A. No landlord shall, after the effective date of this chapter, charge any rents in excess of what he or she is receiving from the effective date of this chapter, except as otherwise authorized by operation of this chapter.
- B. It is the intent of this chapter that the rent charged for premises, the term for which commences at or after the effective date of this chapter, shall be governed by the provisions of this chapter notwithstanding the date on which the lease for such premises was executed by the parties.
- C. The above subsections of this section are meant to apply to the effective date of the original ordinance and amendments, December 17, 1973, February 25, 1974, and November 4, 1974, as well as the effective date when this chapter is being reenacted.

§ 147-11. Initial rentals and vacancy decontrol. [Amended 5-3-1982 by Ord. No. 82-13; 7-19-1982 by Ord. No. 82-21; 6-6-1983 by Ord. No. 83-12]

The owner of housing space or dwelling units being rented for the first time shall not be restricted to the initial rent he or she charges. Any subsequent rental increase for the dwelling unit, regardless of the turnover of the tenants, shall be subject to the provisions of this chapter.

- A. Notwithstanding any limitations on any permissible rent increases under provisions of this chapter, upon the voluntary, uncoerced vacation of any apartment, for rent increases which are controlled in this chapter, the landlord shall have the right to an increase in rent for such sums as he or she deems appropriate subject to the following:
 - (1) In order for a landlord to qualify for the vacancy decontrol rent increase, the landlord shall first

be required to file with the Rent Stabilization Board a written statement signed by the vacating tenant and an affidavit signed by the landlord certifying to the Board that the landlord has not in any way harassed or pressured the tenant into vacating the housing space unit and that the vacation of such unit was the voluntary act of the tenant. For the purposes of this chapter, a vacation caused or necessitated by substandard, unsafe or unsanitary conditions on the rental premises shall not be deemed a voluntary vacation. Such noncoercion certification shall not be required for a landlord to qualify for a vacancy decontrol increase if:

- (a) The increase does not exceed the total of all permissible increases authorized by any other provisions of this chapter.
 - (b) The landlord files an affidavit with the Rent Stabilization Board certifying that the tenant has moved from the unit without notification to the landlord, and the landlord has made a good faith effort to obtain a noncoercion certification from the tenant.
 - (c) The landlord files an affidavit that the tenant has vacated the unit pursuant to a judicially mandated eviction.
 - (d) The tenant has refused to sign such certification, and upon appeal by the landlord, the Rent Stabilization Board has found that such refusal was unwarranted, and that there was in fact no coercion exerted by the landlord upon the tenant.
 - (e) A hearing pursuant to Subsection A(1)(d) above shall be held before the Rent Stabilization Board upon the landlord giving at least seven days notice to the vacating tenant and five days notice to the public by inserting an advertisement of same in any of the official newspapers of the Borough of Metuchen.
- (2) As further condition for qualification for vacancy decontrol, the landlord shall file with the Rent Stabilization Board a certificate from the Health Officer or Sanitary Inspector of the Borough of Metuchen certifying that the said housing space, as well as the exterior of the buildings, common grounds and appurtenances of the complex of which the housing space is a part, are in substantial compliance with the provisions of the Chapter 107, Housing, and Chapter 213, Health and Sanitation, and the Chapter 225, Nuisances, and that any prior violations for the complex known to the Health Officer and Sanitary Inspector have been corrected. Substantial compliance means that the housing spaces and dwellings units are free from all heat and hot water violations, safety and fire hazards, as well as 90% qualitatively free of all violations of the three chapters mentioned herein. The officer's certification may be based on reports of the Construction Code Official, the Fire Inspector and Fire Subcode Official, the Plumbing Subcode Official and the Chief of Police. When requesting certification of the unit, the landlord may make application for inspection required in this section prior to the date of the actual vacation of the housing space by the tenant, but shall not rent said unit at a decontrolled rental unless there is full compliance with the provisions of this section.
- (3) The fee payable to the Borough of Metuchen for the inspection under this section shall be \$30, payable simultaneously with the request for certification. The fee for any reinspection based upon the same request shall be the additional sum of \$45, payable prior to the submission of any certification by the Health Officer.
- B. The decontrol provisions of this section shall apply only to the dwelling units which are physically vacated subsequent to the adoption date of this section, May 3, 1982. Any units decontrolled between May 3, 1982, and May 3, 1983, remain subject to the rent control provisions of this chapter for any future increases after the initial decontrol increase unless they become vacant and again qualify for

vacancy decontrol. Any units which become decontrolled after May 3, 1983, shall be deemed permanently decontrolled and shall not be subject to the provisions of this chapter except the landlord shall continue to have the obligation to comply with the provisions of Subsection E of this section.

- C. The following acts shall be considered willful violations of this chapter and shall subject the landlord to penalties as provided in § 147-22.¹²³
- (1) Harassment. This shall include any act outlawed as harassment under N.J.S.A. 2C:33-4 and shall specifically also include any of the following:
 - (a) A threat by the landlord to reduce the standards of service and maintenance, furnishings and equipment as set forth in § 147-12.
 - (b) A threat by the landlord to injure the life or limb of any tenant or damage the property of any tenant.
 - (c) A rebuttable presumption of harassment shall be established where the landlord in a one-year period has received three notices of utility shut-off or discontinuance after failure to pay a utility bill, and where tenant has received notice as provided in the public utility regulations, and where the landlord has failed to invoke the disputed bill procedure under N.J.A.C. 14:3-7.13(a) or the procedure for the deferred payment agreement under N.J.A.C. 14:3-7.13(c) and 14:3-7.13(d)
 - (2) Any reduction by the landlord in services which causes the tenant to vacate the premises.
 - (3) Any vacation of the premises which is coerced.
 - (4) Any failure to file the certification and/or affidavits when required under this section, unless excused as set forth above.
- D. Any tenant as well as the Rent Stabilization Board shall have the power, in addition to the powers granted in this chapter, to file a complaint in the Municipal Court of the borough for any violation of § 147-11 of this chapter as set forth above. Also, a landlord violating this section in respect to a specific unit shall forfeit the right to have a unit decontrolled for a period of one year from the date of the determination of said violation by the Rent Stabilization Board.
- E. Upon vacation of any housing space hereafter, which has been qualified for vacancy decontrol, the landlord shall file a statement with the Rent Stabilization Board, certifying to the Board the following:
- (1) The apartment and building numbers of such dwelling unit.
 - (2) The rent paid by the vacating tenant.
 - (3) The maximum rent increase that would be permissible under this chapter, were it not for vacancy decontrol provisions of this chapter.
 - (4) The date on which the unit was vacated and the date on which the unit was occupied by the new tenant.
 - (5) The rent agreed to by the new tenant.
 - (6) Any amount which the tenant pays for brokerage fees or application fees to the landlord or his

123. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

or her authorized agent, or any other party consented to by the landlord.

- (7) That the landlord has provided a written notice to any new tenant prior to renting such decontrolled unit. The form notice shall read as follows:

"The premises which you are now renting at (insert apartment number or address) have been decontrolled and are no longer governed by the provisions of the Metuchen Rent Stabilization Ordinance. Any future rent changes or lease changes are subject to law but need not conform with any of the provisions of the Metuchen Ordinance."

- (8) A copy of the notice with acknowledgment of receipt signed by the tenant must be attached to the certification.

§ 147-12. Standards of service and maintenance.

During the valid life of this chapter, landlords shall maintain the standards of service and maintenance of all real and personal property and equipment in and around the housing spaces and dwellings in the same manner as was provided on the date of the adoption of this chapter. An individual tenant or a class of tenants who are not receiving substantially the same standards of service, maintenance, furniture or furnishings or equipment may apply to the Rent Stabilization Board for a determination of a reasonable rental value of the housing unit or dwelling in view of this deficiency. The tenant or class of tenants shall pay the reasonable rental value as full payment for rent until the landlord proves that the deficiency has been corrected.

§ 147-13. Tax surcharge; formula. [Amended 5-3-1982 by Ord. No. 82-13]

- A. A landlord may seek a tax surcharge from a tenant where the landlord has become liable for an increase in municipal property taxes. Such a tax surcharge shall not exceed that amount authorized by the following provisions:
- (1) The landlord shall divide the increase in the present property tax over the property tax of the previous year by the number of rooms in the dwelling to obtain the tax increase per room. The tenant shall not be liable for a tax surcharge exceeding the tax increase per room multiplied by the number of rooms occupied by the tenant.
 - (2) In figuring the tax surcharge, the tenant shall be responsible to pay the tax surcharge for any previous years that have been granted under this chapter, as well as the tax surcharge for the current year on which the landlord has figured the surcharge and of which the tenant has been notified.
- B. Notwithstanding the formula described herein, no tax surcharge shall be permitted or collected unless there is a written lease between the landlord and tenant which clearly provides for such a contingency or where the tenancy is on a month to month basis by virtue of a carry over or otherwise, or where the tenancy exists by virtue of an oral letting.
- C. On or after the municipal assessments and taxes have been determined for the year 1984, no landlord shall be entitled to a tax surcharge for housing space or dwelling units controlled by this chapter for any increase in taxes due to an increase in the assessment on the landlord's property over the 1983 assessment, which shall be considered a base year because of revaluation. Any tax surcharges charged in the year 1984 or the subsequent years shall be based on a percentage increase in the tax rate which has caused an increase in the landlord's property tax. However, the landlord may continue to collect, as a separate charge, any tax surcharges that he or she had been collecting for previous years, less any

credits for tax appeal rebates, as set forth in this section.

- D. The Rent Stabilization Board shall distribute to the landlords upon request a formula setting forth the method of determining the tax surcharge for any increase between 1983 and 1984 and any subsequent years.

§ 147-14. Notification of tax surcharge to tenant.

Any landlord seeking a surcharge shall first notify the tenant by registered mail, or certified mail, return receipt requested, or by personal service of the calculation involved in computing the tax surcharge, including the present property tax on the dwelling for the previous year, the total number of rooms in the dwelling, the tax increase per room, the number of rooms occupied by the tenant and the maximum allowable surcharge.

§ 147-15. Payment of tax surcharge.

When a tax surcharge has been permitted or allowed, the tenant shall be liable for payment in 12 monthly payments after notification by landlord, commencing July 1 of each tax year.

§ 147-16. Nature of the tax surcharge.

A tax surcharge shall not be considered rent for purposes of computing cost of living rental increases.

§ 147-17. Rebates. [Amended 3-30-1981 by Ord. No. 81-8; 5-3-1982 by Ord. No. 82-13]

- A. In the event a landlord perfects a successful tax appeal, the landlord shall refund to the tenant pro rata to the tenant's living space so leased all amounts which the tenant had previously paid, together with interest thereon, or had become liable for as a tax surcharge during and for the year in which the landlord has received a refund based on the tax appeal; together with interest thereon. The landlord may thereafter retain the balance of the tax refund. For the purposes of this section, tax surcharge shall include any accumulated tax surcharge that the tenant was paying or was obligated to pay during the year for which the refund was granted. The landlord shall notify, in writing, the tenant of the amount being rebated to him or her under this provision within 14 days of the receipt of the tax refund from the municipality. The landlord shall then rebate that amount to the tenant within 30 days after said notification.
- B. On or after the tax year 1984, the landlord shall not be responsible to pay the tenants any amounts collected as the result of a successful tax appeal for the year 1984 or any year thereafter.

§ 147-18. Withholding payment of municipal property taxes.

A landlord shall not withhold the payment of that portion of municipal property taxes for which a tax surcharge has been collected from any tenant.¹²⁴

§ 147-19. Hardship surcharge.

124. Editor's Note: Former § 20A-19 and §§ 20A-23 through 20A-29, which followed this section, were repealed 5-3-1982 by Ord. No. 82-13, and the fuel surcharge is hereby discontinued. However, the landlord may continue to collect as a separate charge whatever amount was awarded to him or her as a fuel surcharge by the Rent Stabilization Board for the computation year April 1, 1980, to March 31, 1981, and which has not been fully paid, as well as the same charge for every year thereafter beginning March 31, 1982, however, such vested surcharge amount shall not be considered rent for the purpose of computing cost of living rental increases. Former §§ 20A-20 through 20A-22, which followed this section, were deleted 3-30-1981 by Ord. No. 81-9.

- A. In cases of financial hardship, where it is clear that the rental income for the residential property cannot meet existing mortgage requirements, taxes, maintenance costs or cannot otherwise earn a fair rate of return upon his or her investment in the dwelling, the landlord may apply for a hardship increase in rent from the Rent Stabilization Board. In determining whether the landlord is receiving a fair rate of return, the Rent Stabilization Board shall compare the landlord's cash flow to the landlord's equity in real property investment. The Board shall be entitled to consider the following factors:
- (1) Taxes.
 - (2) Costs of maintenance and operation of the property.
 - (3) The kind, quality and quantity of the services being furnished or withheld by the landlord.
 - (4) The number and frequency of prior hardship or capital improvement increases for the dwelling.
 - (5) The landlords original and current investment.
 - (6) The dates, amounts, terms and interest rates of all past and current mortgages on the premises.
 - (7) The amount of current professional and management fees and the relation, if any, between the landlord and the recipients of such fees.
 - (8) The age of the dwelling, as well as its original and current appraised value.
 - (9) Present and past rates of vacancy in the dwelling.
 - (10) The efficiency of the current management.
 - (11) Cash flow history, prior to the enactment of rent control present.
 - (12) Other factors which the Board, through its experience, shall determine to affect the rate of return.
- B. The Board shall take into account that generally a fair return shall be commensurate with returns on similar investments, taking into account the higher risk and lesser liquidity of real property investment.
- C. The landlord shall make available to tenants during normal business hours upon request at least five days prior to hearing, all financial statements and documents it intends to use to justify the hardship increase. The increase in a multiple dwelling unit shall be prorated among the tenants in accordance with the number of rooms in each apartment as provided in the tax surcharge set forth above. Ten days prior to any such appeal to the Board, landlords must post in the lobby of each building, or, if there is no lobby, in a conspicuous place near the entrance to the tenant's demised premises or in the mailboxes for each apartment or dwelling unit, a notice of such appeal setting forth the basis for such appeal.¹²⁵

§ 147-20. Hardship surcharge specifications.¹²⁶

The surcharge shall be applicable for one year and shall not continue unless further application is made to and approved by the Rent Stabilization Board. The Board shall not grant any hardship increases where it is satisfied that the landlord has reduced standards of maintenance and/or service which were being provided

¹²⁵Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

¹²⁶Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

either at the original adoption of this chapter in 1973 or at the date in which the premises were let for rental. Hardship surcharges shall not be considered rent for the purposes of computing rental increases. The total hardship surcharge shall be divided among the tenants in the same manner as the tax surcharge and shall be paid in equal monthly installments over a one-year period unless otherwise determined by the Rent Stabilization Board and upon such notice as the Rent stabilization Board shall determine.

§ 147-21. Capital improvements.

- A. The landlord may also seek rental increases where major capital improvements have been provided or where additional services, not previously accorded, have been instituted. As a prerequisite for such an increase, notices outlined in § 147-19 above must be given, which notices must contain the total cost of the completed capital improvement or service, projection of useful life of project in years as claimed by the landlord for purposes of depreciation for income tax purposes, the average cost of the improvement, the total number of rooms in the dwelling or the dwelling complex, the total number of rooms for each tenant and the capital improvement increase that the landlord is seeking from each tenant. The total increase shall then be divided among the tenants in the same manner as the tax, and hardship surcharges over a period of time as determined by the Rent Stabilization Board. In making its determination, the Stabilization Board shall also give consideration as to whether the capital improvement is an energy conservation measure, and whether the landlord has received or will receive any fuel surcharge as a result of such capital improvement.¹²⁷
- B. On receipt of an appeal for rental increases on account of major capital improvements, the Rent Stabilization Board shall determine if the improvement is major in character, and, if so, may permit the increase up to but not in excess of 15% of the amount of the tenant's rent.

§ 147-22. Violations and penalties.

- A. Willful violations of any of the provisions hereof, including but not limited to material misstatements contained in any of the notices required herein, shall be punishable in the Municipal Court as provided in Chapter 1, General Provisions, Article 1.¹²⁸
- B. Violations affecting more than one household shall be considered separate violations.

¹²⁷.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

¹²⁸.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

RENTAL PROPERTIES

Chapter 148

RENTAL PROPERTIES

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 10-16-2017 by Ord. No. 2017-16. Amendments noted where applicable.]

ARTICLE 1

Short Term Rental Property Prohibitions**§ 148-1. Preamble.**

The purpose of this chapter is to establish a procedure and authorize rules and regulations thereunder for short term rental property prohibition in the Borough of Metuchen.

The New Jersey Legislature has, pursuant to N.J.S.A. 40:52-1(d) and (n), specifically authorized municipal corporations, including the Borough of Metuchen to regulate "furnished and unfurnished rented housing or living units and all other places and buildings used for sleeping and lodging purposes, and the occupancy thereof and the "rental of real property for a term of less than 175 consecutive days for residential purposes by a person having a permanent place of residence elsewhere."

In recent years, there has arisen a proliferation of internet and other media advertising often on websites dedicated to the rental of dwelling units for short terms and for a period of less than 150 days ("short term rental").

The Borough's experience, as well as common experiences, dictates the conclusion that short term rentals frequently result in public nuisance, noise complaints, sanitation issues, overcrowding and illegal parking within the residential neighborhoods of the Borough, and essentially converted residential dwelling units into illegal de-facto hotels, motels, boarding houses and other commercial enterprises, in violation of the Borough's zoning and other codes as well as State statutes.

The Borough wishes to deter the cyber-social phenomenon of any owner renting his/her residential dwelling unit(s) on various websites, as well as the listing of short term rental(s) by website businesses, of any dwelling units(s) that constitute an illegal business operating in violation of the Borough's Zoning Code and other public nuisance ordinances.

The Borough additionally wishes to prevent overcrowding, which occurs as a result of person(s) effort to reduce the per-occupant cost of the short term rental(s) which would unlawfully permit the Borough's occupancy limits to be exceeded.

Some property owners and/or their agents permit commercial boarding-house type short term rental(s) and overcrowded conditions and other public nuisances, in order to unlawfully create a commercial enterprise and income, in violation of the Borough Zoning Code and to maximize their profit(s).

Common problems also frequently associated with such short term rental(s) include overcrowding, excessive noise, unruly behavior, obscene language, fighting, littering, parking of vehicles on lawns, public urination, sanitation issues, poor maintenance of the property and grounds, and violation of trash collection ordinances.

§ 148-2. Findings.

The Mayor and Council of the Borough of Metuchen hereby find and adopt, as if set forth more fully herein, the fact assertions of the "Whereas" clauses § 148-1, of this chapter, as their findings of fact.

§ 148-3. Short term rental property prohibited uses.

Notwithstanding anything to the contrary contained in the Borough Code, it shall be unlawful for an owner, lessor, sub-lessor, any other person(s) or entity(ies) with possessory or use right(s) in a dwelling unit, their principals, partner or shareholders, or their agents, employees, representative and other person(s)

or entity(ies), acting in concert or a combination thereof, to receive or obtain actual or anticipated consideration for soliciting, advertising, offering, and/or permitting, allowing, or failing to discontinue the use or occupancy of any dwelling unit, as defined herein, for a period of 150 days or less.

Nothing in this chapter will prevent formation of an otherwise lawful occupancy of a dwelling unit for a rental period of more than 150 days.

§ 148-4. Definitions.

Unless otherwise specified herein, the following definitions shall be used for terms within this chapter:

ADVERTISE or ADVERTISING — Any form of solicitation, promotion and communication for marketing, used to solicit, encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services in violation of this chapter, as same may be viewed through various media including but not limited to, newspapers, magazines, flyers, handbills, pamphlets, commercials, radio, direct mail, internet websites, or text or other electronic messages for the purpose of establishing occupancies or uses of rental property, for consideration, which are prohibited by this chapter.

CONSIDERATION — Soliciting, charging, demanding, receiving or accepting any legally recognized form of consideration including a promise or benefit, a quid-pro-quo, rent, fees, other form of payment, or thing of value.

DWELLING UNIT — Any structure, or portion thereof, whether furnished or unfurnished, which is occupied in whole or in part, or intended, arranged or designed to be occupied, for sleeping, dwelling, cooking, gathering and/or entertaining, as a residential occupancy, by one or more persons. This definition includes an apartment, condominium, building, cooperative, converted space or portions thereof, that is offered to use, made available for use, or is used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guest(s), for consideration, for a period of 150 days or less.

HOUSEKEEPING UNIT — Constitutes a family-type situation, involving one or more persons, living together that exhibit the kind of stability, permanency and functional lifestyle equivalent to that of a traditional family unit, as further described in the applicable reported and unreported decisions of the New Jersey Superior Court.

OCCUPANT — Any individual using, inhabiting, living, gathering, entertaining, being entertained as a guest, or sleeping in a dwelling unit, or portion thereof, or having other permission or possessor right(s) within a dwelling unit.

OWNER — Any person(s) or entity(ies), association, limited liability company, corporation or partnership or any combination, who legally use, possess, own, lease, sub-lease or license (including an operator, principal, shareholder, director, agent or employee, individual or collectively) that has charge, care, control or participates in the expenses and/or profit of a dwelling unit pursuant to a written or unwritten agreement, rental, lease, license, use, occupancy agreement or any other agreement.

PERSON — An individual, firm, corporation, association, partnership, limited liability company, association, entity and any person(s) and/or entity(ies) acting in concert or any combination therewith.

RESIDENTIAL OCCUPANCY — The use of a dwelling unit by an occupant(s).

§ 148-5. Permitted uses.

The residential occupancy of an otherwise lawful and lawfully occupied dwelling unit for a period of 150 days or less by any person who is a member of the housekeeping unit of the owner, without consideration,

such as house guests, is permitted.

§ 148-6. Advertising prohibited.

It shall be unlawful to advertise, solicit or promote by any means actions in violation of this chapter.

§ 148-7. Enforcement, violations and penalties.

The provisions of this chapter shall be enforced by the Zoning Officer, Building Code Official, Fire Official, Health Department, Police Department, Borough Administrator or other Department Head or Subcode or Code Official, as their jurisdiction may arise or other persons designated by the Borough Council, to issue municipal civil infractions directing alleged violators of this chapter and/or to appear in court or file civil complaints.

- A. A violation of this chapter is hereby declared to be a public nuisance per se, and is hereby further found and declared to be offensive to the public health, safety and welfare.
- B. Any person found to have violated any provision of this chapter without regard to intent or knowledge, shall be liable for the maximum civil penalty, upon adjudicated violation or admission of a fine not exceeding \$1,250. Each day of such violations shall be a new and separate violation of this chapter.
- C. The penalty imposed herein shall be in addition to any and all other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/or injunction, reasonable attorney's fees or other fees and costs, in the Borough's Municipal Court or the Superior Court of New Jersey in the vicinage of Middlesex County or in such other Court or tribunal of Competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.

METUCHEN CODE

Chapter 150

SALES, SPECIAL

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Ch. 21 of the 1966 Code. Amendments noted where applicable.]

ARTICLE 1
General Provisions

§ 150-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

CHIEF FINANCIAL OFFICER — The Chief Financial Officer of the Borough of Metuchen.¹²⁹

PUBLISH, PUBLISHING, ADVERTISEMENT or ADVERTISING — Any means of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, letter, newspaper, advertisement, magazine advertisement, handbill, written or printed notice, printed display, billboard display or poster, whether in or away from the business location, radio announcement and any and all other means, oral or written.

SALE — The sale or an offer to sell to the public of goods, wares and merchandise of any kind and description on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, conclusion or abandonment of the business in connection with such sale. The word "sale" shall also include any sale advertised to be an adjustment sale, creditor's sale, executor's sale, administrator's sale, insolvent sale, insurance salvage sale, mortgage sale, assignee's sale, adjuster's sale, receiver's sale, loss of lease sale, wholesaler's closeout sale, creditor's committee sale, forced-out-of-business sale, removal sale and any sales advertised in such manner as to reasonably convey to the public that upon the disposal of the stock of goods on hand, the business will cease and be discontinued.

STOCK — Includes goods, wares and merchandise of all kinds and description.

§ 150-2. Stock records and stock.

- A. A duplicate original of the application and stock list by virtue of which a license is granted under this chapter shall be made available by the licensee to the Chief Financial Officer or his or her designated representative, and the licensee shall permit the Chief Financial Officer or his or her representative to inspect and examine all stock on the premises for comparison with the stock left.
- B. Suitable books and records shall be kept by the licensee at the place of sale and shall be made available for inspection by the Chief Financial Officer or his or her authorized representative.

§ 150-3. Advertising.

All advertising shall be descriptive of the nature of the sale. The content of the advertisements shall be identical with the proposed advertisements submitted with the application.

§ 150-4. Rules and regulations.

The Chief Financial Officer may make such rules and regulations for the conduct and advertisement of sales regulated by this chapter as may be necessary to prevent deception and to protect the public interest and welfare.

¹²⁹Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

§ 150-5. Prohibited acts.

It shall be unlawful to sell, offer or expose for sale at any sale regulated by this chapter, or to list on the inventory required by § 150-8, any stock which is not the stock of the store or other place the business of which is to be closed out by such sale for which a license has been granted; to replenish or add to such stock for the purpose of disposal at such sale or to fail, neglect or refuse to keep accurate and true records of the initial stock, stock sold and stock on hand.

§ 150-6. Exemptions.

The following persons shall be exempt from the provisions of this chapter:

- A. Persons acting pursuant to an order of the process of a court of competent jurisdiction.
- B. Sheriffs, marshals and constables acting in accordance with their powers and duties as public officers.

ARTICLE 2

Licensing**§ 150-7. Required.**

It shall be unlawful for any person to publish, announce or conduct any sale of the type or kind defined in § 150-1 without first obtaining a license therefor in compliance with the provisions of this chapter.

§ 150-8. Application.

Applicants for a license under this chapter, whether a person, firm or corporation, shall file a written application with the Borough Clerk signed by the applicant if an individual, by all partners if a partnership and by the president if a corporation and showing:

- A. The name of the person having management or supervision of the applicant's business during the time that it is proposed that the sale will be conducted, the local address of such person while engaged in the sale, the permanent address of such person, the capacity in which such person will act (that is, whether as proprietor, agent or otherwise), the name and address of the person for whose account the sale will be carried on, if any, and if a corporation, its full corporate name, under the laws of what state it is incorporated and the name and address of its agent upon whom service of legal process may be had.
- B. A description of the place where such sale is to be held.
- C. The nature of the occupancy, whether by lease or by sublease, commencement date and the effective date of termination of such occupancy.
- D. The means to be employed in publishing such sale, together with the proposed content of any advertisement.
- E. An itemized inventory and list of stock to be offered for sale, together with a statement of the quality and cost price thereof and the place where such stock is located.
- F. The place where such stock was purchased or acquired and, if not purchased, the manner of such acquisition.
- G. Any additional information which may be required or requested by the Borough Clerk or the Chief Financial Officer in connection with the application.
- H. A full statement of the reasons for such sale.
- I. The contents of the application shall be verified under oath by the applicant.

§ 150-9. Verification and investigation.

The Chief Financial Officer may in his or her discretion verify the details contained in an application for a license required by this chapter or for a renewal thereof, or cause a check and verification to be made of the items of stock sold during the sale, and it shall be unlawful for any person to whom a license has been issued to fail or refuse to furnish the Chief Financial Officer, or his or her designated representative, with information concerning goods sold, goods on hand or any other information that may be required in order to make a complete investigation of all applications for such licenses and renewals thereof.

§ 150-10. Issuance, term and transferability.

The Borough Clerk shall, upon written approval of the Chief Financial Officer endorsed upon the application provided for by § 150-8, issue a license for a period not exceeding 30 days. Such license shall not be transferable.

§ 150-11. Fee.¹³⁰

Upon filing an application for an original or renewal license as required by this chapter, the applicant shall pay to the Borough Clerk a fee of \$25. If any such application shall be disapproved, such payment shall be forfeited to the borough to defray the cost of investigating the application.

§ 150-12. Display.

Upon commencement of any sale regulated by this chapter, the license issued therefor shall be conspicuously displayed near the entrance to the premises where such sale is conducted.

§ 150-13. Date of issuance to appear in advertising.

The date of issuance of the license required by this chapter shall be set forth in all advertising of the sale.

§ 150-14. Renewal.

- A. Upon satisfactory proof by the licensee that the stock itemized in the original application has not been disposed of, the license required by this chapter may be renewed for an additional thirty-day period.
- B. The application for renewal shall be made on a form furnished by the Borough Clerk and shall contain an itemized list of stock remaining on hand to be offered for sale. The contents of the application for renewal shall be verified under oath by the applicant.
- C. The Chief Financial Officer shall cause the application for renewal to be examined and investigated, and upon being satisfied as to the truth of the statements therein contained, he or she may authorize the issuance of a renewal license for a period not exceeding 30 days; provided, however, that no further renewal may be granted for any such sale for the same location within one year from the issuance of the original license.

§ 150-15. Revocation and suspension.

- A. Grounds for revocation. A license or renewal thereof issued pursuant to this chapter may be revoked by the Chief Financial Officer, after notice and hearing, for any of the following reasons:
 - (1) Any fraud, misrepresentation or false statement contained in the application.
 - (2) Any fraud, misrepresentation or false statement made as to the inventory, stock sold or stock on hand.
 - (3) Any violation of this chapter.
 - (4) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
 - (5) Conducting the business licensed under this chapter in an unlawful manner or in such a manner

¹³⁰Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

- B. Notice of hearing for revocation. Notice of hearing for revocation of a license issued under this chapter shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his or her last-known address, at least five days prior to the date set for the hearing.
- C. Suspension. A license issued under this chapter may be suspended for not more than five days by the Chief Financial Officer upon probable cause being shown that the license should be revoked.
- D. Hearings and investigations. The Chief Financial Officer shall hold such hearings and make such investigations as may be necessary to carry out the provisions and intent of this chapter.

§ 150-16. Appeals.

Any person aggrieved by the decision of the Chief Financial Officer with respect to the denial of an application for a license under this chapter or in connection with the revocation or suspension of a license under this chapter shall have the right of appeal to the governing body. Such appeal shall be taken by filing a written statement of the grounds for appeal with the governing body within 10 days after notice of the decision of the Chief Financial Officer has been mailed to such person's last-known address. The governing body shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such a person in the same manner as provided in § 150-15 for notice of hearing on revocation. The decision of the governing body on such appeal shall be final.

§ 150-17. Violations and penalties.¹³¹

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article 1.

131.Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

SALT AND OTHER DE-ICING MATERIALS

Chapter 151

SALT AND OTHER DE-ICING MATERIALS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Storage of Privately Owned Materials
[Adopted 9-11-2023 by Ord. No. 2023-24]**§ 151-1. 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 Metuchen to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 151-2. Definitions and word usage.

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 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.

DE-ICING MATERIALS — Any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

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

PERMANENT STRUCTURE — 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 accessway from wind-driven rainfall). 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 accessway from wind-driven rainfall.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

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

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

§ 151-3. De-icing material storage requirements.

- A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is

allowed between October 15 and April 15:

- (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 16 and October 14.
- 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 to April 15.
- C. 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 article 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.

§ 151-4. Exemptions.

- A. 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 two weeks.
- B. 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 § 151-3 above. Piles of de-icing materials

are not exempt, even if stored in a permanent structure.

- C. This article does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

§ 151-5. Enforcement.

This article shall be enforced by the Enforcement Official during the course of ordinary enforcement duties.

§ 151-6. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines as follows: \$1,000 per occurrence.

§ 151-7. Severability.

Each section, subsection, sentence, clause, and phrase of this article is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this article.

§ 151-8. Effective date.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

METUCHEN CODE

Chapter 153

SEWERS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in article histories. Amendments noted where applicable.]

ARTICLE 1

Construction of Sanitary Sewers**[Adopted 12-18-1972 by Ord. No. 72-24]****§ 153-1. Permission required.**

No person shall open the street surface or excavate in a street in the Borough for the purpose of installing or extending a public sanitary sewer and for the purpose of connecting such sewer with the present sewers, except by receiving permission from the Mayor and Council and meeting the standards and procedures as set forth in this article.

§ 153-2. Application.

Application for the construction of a sanitary sewer shall be made to the Borough Council, and the applicant shall forward all plans and specifications to the Borough Engineer and receive his or her approval before any phase of the construction work is started.

§ 153-3. Costs.

All costs and expenses whatsoever for the construction and final completion of the sanitary sewer shall be borne by the applicant.

§ 153-4. Bond.

The applicant shall furnish a bond in favor of the Borough of a good and solvent bonding company licensed to do business in the state as surety in the amount of all costs and expenses necessary to finally complete construction of the sewer, which bond shall be conditioned on payment to the Borough of all moneys representing damages which may be sustained by the Borough and for all sums received to complete the installation of the sewer upon the failure of the applicant and his or her contractors to faithfully and fully comply with the terms and specifications and to promptly complete the construction of the sewer and on further condition that the liability under such bond shall not be terminated until a certificate of approval has been obtained from the Borough Engineer to the effect that the sanitary sewers have been completely constructed in accordance with the plans and specifications, which bond shall be furnished prior to the commencement of the work and which such bond shall first be approved by the Mayor and Council of the Borough.

§ 153-5. Liability insurance. [Amended 9-15-1997 by Ord. No. 97-20]

The applicant shall furnish in favor of the Borough a policy of insurance of a good and solvent insurance company licensed to do business in the state and approved by the Mayor and Council of the Borough in the amount of \$500,000 insuring the Borough, its agents, servants and employees against any claim or damages which may arise out of any liability whatsoever, arising therefrom.

§ 153-6. Worker's compensation insurance.

The applicant shall furnish the Borough with proof of worker's compensation insurance covering all persons engaged in the construction of the sanitary sewer, including all agents, servants and employees of the Borough.

§ 153-7. Use restrictions.

The sanitary sewer shall be a public sewer with no restrictions on its use by any person, firm or corporation.

§ 153-8. Y-branches.

In order to facilitate the connecting to the sewer by other property owners, all Y-branches are to be installed in the sewer as directed by the Borough Engineer.

§ 153-9. Expenses.

All lines, grades and engineering supervision shall be furnished at the expense of the applicant.

§ 153-10. Time limit for completion.

All work and operations in connection with the construction of the sewer shall be fully completed within ninety days from the date permission is granted, provided that a further extension of time may be granted by the Mayor and Council of the Borough, provided that all obligations herein of the applicant, in the construction of such sewers, have been satisfactorily performed to the satisfaction of the Mayor and Council of the Borough.

§ 153-11. Revocation of permission.

In the event actual construction of the sanitary sewer is not started within 60 days from the date of the granting of permission, or within the extension of time granted by the Borough Council, then such construction shall be deemed abandoned, and the permission hereby granted shall be considered revoked. Any deposit made or performance bond furnished shall be returned.

§ 153-12. Noncompliance.

The sanitary sewer requirements of the Borough are to be strictly adhered to, and if there is noncompliance therewith, upon written notice of the Borough Engineer, all work in connection with the construction of the sewer shall immediately cease and terminate pending action of the Mayor and Council of the Borough, its agents, servants and employees, which may arise by reason of such termination.

§ 153-13. Acceptance of permission.

Permission granted hereunder shall not become operative until the applicant shall accept in writing the terms and conditions set forth in the resolution granting permission.

§ 153-14. Violations and penalties.

Any person constructing a sanitary sewer in the Borough in violation of this article shall be subject to the fine and penalties as provided for in Chapter 1, General Provisions, Article 1.

ARTICLE 2

Sewer User Charges**[Adopted 8-31-1981 by Ord. No. 81-26]****§ 153-15. Established.**

Commencing October 1, 1981, and thereafter an annual sewer user charge will be paid by all users of the facilities provided by the Borough of Metuchen and the Middlesex County Utilities Authority (hereinafter referred to as "MCUA") in accordance with the terms and provisions of this article.

§ 153-16. User classes.

User classes shall be as follows:

- A. Tax exempt: includes institutions which pay no ad valorem taxes or receive substantial credits in paying such taxes except publicly owned facilities performing local government functions which discharge solely domestic wastes.
- B. Industrial and commercial: includes all users which discharge the equivalent of 25,000 gallons or more of domestic sanitary wastewater per day.
- C. Residential: single and multifamily dwellings and small nonresidential and industrial users which introduce no more than the equivalent 25,000 gallons per day (gpd) of domestic sanitary wastes.

§ 153-17. Method of payment.

- A. Tax exempt and industrial and commercial users shall be invoiced directly for their use of the sewage treatment system. Industrial and commercial users shall receive credit for the amount of such charges which are included in their ad valorem taxes.
- B. Sewer user charges shall continue to be charged to residential users through ad valorem taxes rather than through direct sewer use charges.

§ 153-18. Review and revision of charges.

- A. At least once each year, the Borough of Metuchen shall review and revise, as necessary, sewer use and sewer user charges and shall establish a schedule of charges by flow, biochemical oxygen demand, suspended solids, chlorine demand and such other criteria as the Borough of Metuchen shall deem appropriate. Any charges so established shall provide for the equitable distribution of:
 - (1) MCUA operations and maintenance charges.
 - (2) MCUA debt service charges.
 - (3) Sewer system maintenance and operations charges incurred by the Borough of Metuchen.
- B. The schedule of user charges shall provide for revenue in an amount equal to the total of the above costs. The Schedule of Charges shall be amended yearly at the time of adoption of the Borough's annual budget, or at such other times as the Borough may determine, to reflect changes and/or adjustments in the charges. **[Amended 9-15-1997 by Ord. No. 97-20].**

§ 153-19. Flow measurement.

Wherever actual readings of sewage flow are available, those readings shall be used in determining flow charges. All industrial users shall be monitored for actual flow. Where actual readings of sewage flow are unavailable, flow will be estimated by any of the following ways:

- A. For commercial and industrial and tax exempt users, flow will be estimated by taking 100% of the average water flow and /or other meter reading for the year. Credit for water not discharged into the sanitary sewer may be given to the user by the Borough if the user presents proof satisfactory to the Borough which establishes the amount of water not discharged.
- B. The volume of sewage and/or industrial waste from each industrial establishment may be determined by meters paid for and installed by users, combined with municipal and/or private company water records or from estimates or measurements made by representatives of the municipality.

§ 153-20. Strength measurement.

Wherever actual readings of biochemical oxygen demand (BOD) or suspended solids (SS) or chlorine demand (CD) of a user are available, those readings shall be used in determining charges for the strength of sewage. All industrial and commercial users shall be monitored, or their sewage sampled periodically to determine the BOD and SS and CD characteristics of the sewage. The industrial or commercial user shall, at its own expense, sample the BOD, SS and CD characteristics of its sewage at the frequency and according to the method assigned by the Borough and shall report the results of such sampling to the Borough in a timely manner.

§ 153-21. Extraneous flows and prohibition of inflow services.

- A. Any flows or strengths which are not chargeable to a particular user, whether by reason of the user being exempted from charges or by reason of the flow entering the system by infiltration or inflow, shall be charged to all users, proportionately on the basis of flow.
- B. No roof drainage, cellar drainage, unpolluted industrial process water, surface water, waste from hydrants or ground water from underground drainage fields shall be admitted or be permitted to drain into the sewage system. The sewer system is intended to convey sanitary sewage and industrial wastes only.

§ 153-22. Objections to estimates.

Any user objecting to any estimate of flow, or strength, hereunder shall have the option, at his or her own expense and cost, of installing metering equipment on his or her discharge lines to record actual flow and strength readings. The metering equipment used, its installation, the location of installation and the method of sampling shall be subject to review and approval by the Borough of Metuchen or its designated representatives.

§ 153-23. Toxic pollutants.

Any user who discharges into the system toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the treatment works shall pay for the increased costs.

§ 153-24. Proration of charges.

Any user who connects to the system during any calendar month shall pay a pro rata user charge based

upon the user charge assessed for the current quarter.

§ 153-25. Time of payment.

The user charges established and provided for herein shall be due and payable quarterly on the first day of the month following the end of each calendar quarter.

§ 153-26. Exemptions.

Public buildings, defined as those used solely for local municipal purposes, are excluded from the user charges called for in this chapter. The usage of said public buildings shall be treated as extraneous flow, as defined in § 153-21 hereinabove.

§ 153-27. Schedule of charges. [Last amended 12-3-2007 by Ord. No. 2007-10; amended 9-19-2016 by Ord. No. 2016-22; 10-24-2022 by Ord. No. 2022-21]

A. The following schedule of charges is hereby adopted in connection with this article:

SCHEDULE OF CHARGES		
Tax Exempt Users	Rate	Unit
Flow (including up to 162 mg/l of BOD and 226 mg/l of SS)	\$1.2626	Per thousand gallons
BOD in excess of 162 mg/l	\$0.3043	Per pound
Suspended solids in excess of 226 mg/l	\$0.3714	Per pound
Chlorine demand	none	
Infiltration and inflow charge	\$0.0389	Per \$100 of tax assessed value
Industrial and Commercial		
Flow (including up to 162 mg/l of BOD and 226 mg/l of SS)	\$1.2626	Per thousand gallons
BOD in excess of 162 mg/l	\$0.3043	Per pound
Suspended solids in excess of 226 mg/l	\$0.3714	Per pound
Chlorine demand	none	
Infiltration and inflow charge	Included in property taxes	
Tax credit	\$0.0668	Per \$100 of tax assessed value
The rates listed shall apply to the first quarter of 2022, beginning January 1, 2022 and for all quarters thereafter until amended.		

ARTICLE 3

Fees for Connection to Sanitary Sewer System**[Adopted 1-4-1993 by Ord. No 92-39; amended in its entirety 6-12-2023 by Ord. No. 2023-15]****§ 153-28. Connection of residential units.**

A fee of \$1,500 shall be assessed against the property owner for the connection of any residential unit. In the event of a multiple dwelling, each residential unit shall be assessed, whether or not it has a separate lateral. This amount shall be due whether the correction is a new one or if it is a replacement connection. A replacement connection is defined as any work on any sanitary sewer lateral within five feet of the curblin or right-of-way of any dedicated street or easement or access right-of-way.

§ 153-29. Connection of commercial establishments.

A fee shall be determined by the Borough Engineer for any commercial establishment connecting to the sanitary sewer which shall not be less than \$2,000, but may be more, based on the number of equivalent dwelling units (EDU). The EDU shall be calculated as follows: gross area (sf) times theoretical sewage flow, as determined by NJDEP regulations, divided by 225 gallons per day/per unit.

§ 153-30. (Reserved)**§ 153-31. Additional fee for new commercial connections.**

With regard to any new commercial connection, a fee shall be determined by the Borough Engineer to support the additional sewerage flow as to the capital investment in equipment, both present and future, of the sewerage pumping stations of the Borough of Metuchen. This fee shall not be assessed for any replacement or repaired sewer connection. If, in the sole opinion of the Borough Engineer, there is a change of use or additional intensity of a use creating additional sewerage flow, a fee may be assessed as determined by the Borough Engineer.

§ 153-32. Adjustment of fees.

These fees shall be adjusted annually.

ARTICLE 4

Installation and Maintenance of Grease Traps
[Added 5-15-2017 by Ord. No. 2017-08]**§ 153-33. Purpose.**

The purpose of this article is to aid in the prevention of sanitary wastewater system blockages, back-ups and obstructions from contributions and accumulation of fats, oils, and greases into the sanitary wastewater system from all food service establishments and any and all retail, industrial or commercial establishments.

§ 153-34. Definitions.

As used in this section the following terms shall have the meanings set forth below:

BOROUGH — Borough of Metuchen.

BROWN GREASE — Waste vegetable oil, animal fat, grease, etc., that is recovered from the wastewater drain and grease trap.

FATS, OILS, AND GREASES — Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations, (40 CFR 136), as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

FOOD/FOOD SERVICE ESTABLISHMENT — Any permanently fixed location that produces, prepares, processes, handles and/or serves food that contains grease or produces grease as a by-product as part of its retail business and/or business activity. The term shall also be given its normal industry definition. This term shall not include those establishments that sell only pre-packaged food/drink that do not require that food/food service establishment to produce, prepare, process, handle and/or serve the food/drink within that establishment.

GREASE TRAP — Device that separates and collects oil, grease and settleable solids at the entrance of the sanitary wastewater system, thereby preventing them from traveling through the wastewater pipes and treatment system.

INSPECTING OFFICIAL — Employee and/or representative of the Borough of Metuchen Construction Department (Plumbing Subcode Official), Department of Public Works (Superintendent) and/or Health Department (Health Officer).

MANUFACTURER, PROCESSOR or DISTRIBUTOR — Any business that manufactures, processes and/or distributes food and/or food products as part of its wholesale business.

NONCOMMERCIAL FOOD SERVICE ESTABLISHMENT — Any permanently fixed location that has the ability to produce, prepare, process, handle and/or serve food that contains grease or produces grease as a by-product as part of its operations. The term shall include but not be limited to schools, churches and/or halls that although not a retail business and/or engaging in business activity, that have the ability to produce, prepare, process, handle and/or serve food that contains grease or produces grease as a by-product as part of its operations.

USER — Any person, who contributes, causes or permits the discharge of wastewater into the sanitary wastewater systems within the Borough's boundaries.

YELLOW GREASE — Grease derived from used cooking oil from the food industry as typically found in frying oils from deep fryers.

§ 153-35. Installation and maintenance of grease traps.

- A. All existing, proposed, or newly remodeled food establishments and non-commercial food establishments within the Borough shall be required to install, at the user's expense, an approved, properly operated and maintained grease trap or acceptable grease recovery system.
- B. The inspecting official may require that a grease trap and all relating plumbing in a food establishment and non-commercial food establishments be upgraded to the current-day industry standards.
- C. All new construction and/or installation shall require that waste disposals and commercial dishwashers do not discharge into the grease trap(s).
- D. Food waste, including fat, oil, and grease, cannot be discarded into a slop sink, floor drain, toilet or any other plumbing fixture not connected to a grease trap.
- E. The grease trap shall be in proper operation and efficiency, at the owner's expense, at all times.
- F. Cleaning of grease trap shall be done at a minimum biweekly or more often as required, with complete removal of all contents, including floating materials, wastewater, bottom sludge and solids by all food establishments. The aforementioned cleaning of grease trap may be done at a less frequent rate at noncommercial food establishments dependent upon usage and production of grease to be determined by the Plumbing Subcode Official or Health Officer.
- G. Disposal of waste material from the grease trap shall be discarded in accordance with all applicable federal, State, county and local laws, rules, code provisions and/or regulations. Contents of the grease trap shall be disposed by a private waste hauler firm hired by the establishment, with written documentation of waste hauler name, address, phone number, dates waste removed and volume in gallons, type of grease (yellow or brown), and such records shall be maintained on premises for a period not less than 24 months and made available to the inspecting official upon request. In no event shall the waste material removed from the grease trap be returned to any private or public portion of the Borough's sanitary sewer system and/or the municipal waste stream by either a food service establishment or noncommercial food service establishment.
- H. A maintenance log shall be kept by a food service establishment up-to-date and include the time, date and signature of person performing the biweekly or more often maintenance/cleaning. A maintenance log shall be kept by a noncommercial food service establishment up-to-date and include the time, date and signature of person performing the maintenance/cleaning, the frequency of which is to be determined by the Plumbing Subcode Official or Health Officer. Such logs, required herein, shall be maintained on premises for a period not less than 24 months and made available to the inspecting official upon request.

§ 153-36. Best management practices.

- A. All food establishments and noncommercial food service establishments regulated under/pursuant to this article shall adhere to best management practices dealing with fat, oil and grease disposal and shall educate their employees, agents, representatives and/or volunteers to these practices. Best management practices for users shall include, but are not limited to the following:
 - (1) Training staff or volunteers on grease handling procedures;
 - (2) Hanging/displaying grease handling posters in all applicable areas;

- (3) Instructing employees and/or volunteers that food waste shall not be disposed/discharged into the sanitary sewer system;
- (4) Providing appropriate paper towel dispensers for dry-wiping grease from spills, pots, fry grilling equipment, and other surfaces saturated with fat, oils and grease residue;
- (5) Using strainer baskets in sinks to catch food waste;
- (6) Directing all drains from grease producing surfaces to a properly sized grease trap;
- (7) Insuring that the hot water in food establishments is less than 139° F.

§ 153-37. Access and inspections.

- A. The inspecting official shall have the authority to perform periodic inspections, at the very least, annually, of those establishments generating fat, oil or grease in their operations and shall notify the user of any additional required maintenance or repairs within a stated time period. The user may be required to install, at their sole cost and expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the sanitary wastewater system.
- B. Access to grease traps by an inspecting official shall be provided during normal business hours, unless an emergency situation requires access during off-business hours, then access shall be provided to the inspecting official immediately upon request.
- C. In addition to the inspection set forth above, the inspection official shall have the authority to conduct inspections pursuant to a complaint, for new construction or installation, and such other periodic inspections that the inspection official deems necessary and appropriate.
- D. The production of the receipts for the biweekly disposal by a private waste hauler is required for the issuance of an annual food license by the Health Department for all food establishments that produce, serve, handle and/or prepare oil, fat and/or grease in the course of business. In the event that the food establishment is unable to produce satisfactory documentation of the disposal, a food license may be denied and the food establishment may be subject to fines contained herein.
- E. The production of the receipts as determined required by the Plumbing Subcode Official or Health Officer, for the disposal by a private waste hauler is required for the issuance of a food license by the Health Department for all noncommercial food establishments that produce, serve, handle and/or prepare oil, fat and/or grease. In the event that the noncommercial food establishment is unable to produce satisfactory documentation of the disposal, a food license may be denied and the food establishment may be subject to fines contained herein.
- F. Upon written notification by the inspecting official, the user shall be required to perform the maintenance and/or repair within the time period set forth by the inspecting official. Upon inspection by the inspecting official, the user may be required to install, at his sole cost and expense, additional controls or an increased size system to provide a grease trap system which prevents discharges of any and all grease(s) as defined herein.

§ 153-38. Additives.

Any biological additive(s) placed into the grease trap or building discharge line, including, but not limited to, enzymes, commercially available bacteria, or other additives designed to absorb, purge, treat, or otherwise eliminate fats, oils and/or grease, shall not be considered an acceptable substitute for the installation and maintenance of a grease trap as required herein.

§ 153-39. Enforcement, fees, violations and penalties.

- A. When the discharge from a food establishment or noncommercial food establishment causes an obstruction, damage, or any other impairment to the treatment works, or causes any expense, fine, penalty, or damage of any nature whatsoever to the Borough, the inspecting official shall invoice the owner/user of same incurred by the Borough. If the invoice is not paid within seven days of receipt, the inspecting official shall notify the Borough Attorney to take any and all actions as shall be appropriate to seek reimbursement.
- B. An inspection fee shall be imposed for all inspections performed by an inspecting official as a result of a complaint and/or violation against a food establishment and/or manufacturer, distributor, processor or noncommercial food establishment, in the amount of \$100.
- C. For each reinspection carried out pursuant to an unresolved complaint and/or violation, a fee of \$100 shall be imposed.
- D. Any person who violates any section of this article is subject to the following fines:
 - (1) First offense: up to \$250 per day until the violation is corrected, plus reimbursement of costs and damages;
 - (2) Second offense: up to \$500 per day until the violation is corrected, plus reimbursement of costs and damages; and
 - (3) Third or more offenses: \$1,000 per day until the violation is corrected, plus reimbursement of costs and damages. In addition, the Borough may terminate/close the users ability/access to the Borough sanitary sewer system.

Chapter 156**SHOPPING CARTS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 10-5-1970 by Ord. No. 70-34. Amendments noted where applicable.]

§ 156-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

PUBLIC STREETS AND WAYS — Paved roadways, public rights-of-way, highways and alleys accepted or maintained by the borough, together with sidewalks, driveways, municipal parking areas and parking areas owned and operated by the Parking Authority of the borough.

SHOPPING CARTS — A cart on wheels commonly provided by retail stores for removing merchandise therefrom.

§ 156-2. Identification.

Any shopping cart made available for use by a retail store shall have securely attached thereto a plastic or metal identification tag 3 1/2 inches by five inches in size. The number of the cart, the name and address of the owner and location of the premises where it is actually available for use shall be legibly printed on the identification card.

§ 156-3. Removal. [Amended 5-6-1974 by Ord. No. 74-13]

Any shopping cart abandoned on any public street or ways shall be removed by the Public Works Department and stored at the public garage. The Public Works Department shall forthwith give five days' written notice to the owner of such shopping cart for redemption of the shopping cart. Carts may be redeemed within five days from the date of such notice upon payment to the borough of a fee of \$5 for each shopping cart redeemed to cover the cost of recovery and administration of this chapter.

§ 156-4. Public sale or destruction.

- A. In the event that any shopping cart is not redeemed within the period of time fixed or is unidentified, the Public Works Department shall conduct a public sale of such shopping carts by posting notices in at least five public places, together with legal advertisement in any of the official newspapers of the borough, fixing a date, time and terms of public sale to the highest bidder of such property. The Superintendent of the Department of Public Works shall have the option of selling any cart for not less than \$5.
- B. In the event that any shopping cart shall be in a damaged condition or unsold at public sale, the Public Works Department may destroy and dispose of such shopping cart.

§ 156-5. Report to Treasurer.

The Public Works Department shall make monthly reports to the Mayor and Council and hand over to the Borough Treasurer the proceeds of all redemptions and sales.

§ 156-6. Violations and penalties.¹³²

Any person violating any of the provisions of this chapter shall upon conviction be punished as set forth in Chapter 1, General Provisions, Article 1, and each violation shall be deemed to be a separate and distinct offense. This penalty shall be in addition to any fees for redemption.

132.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

Chapter 158**SMOKING**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 12-1-2014 by Ord. No. 2014-7. Amendments noted where applicable.]

§ 158-1. Definitions.

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

ENCLOSED AREA — All areas between a floor and a ceiling, extending to the outer perimeter walls of a structure.

PARKS AND RECREATIONAL FACILITIES — Shall include all public parks, playgrounds and ball fields publicly owned or leased by the Borough of Metuchen and all property owned or leased by the Borough of Metuchen upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to, any parking area, driveway or drive aisle.

MUNICIPAL BUILDINGS — Shall include all structures owned, leased, rented and/or operated by the Borough of Metuchen and/or occupied by Borough employees and used for official business of the Borough of Metuchen.

SMOKING — The burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

§ 158-2. Prohibition of smoking in public places; signs.

- A. Smoking shall be prohibited in all municipal buildings as defined herein. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted at each municipal building entrance and within each closed area where smoking is prohibited by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.
- B. Smoking shall be prohibited within a fifty-foot radius of the entrances of all municipal buildings. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted both on the building and in locations to provide adequate notice to the public that smoking is prohibited by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine. The "within" prohibition contained in this subsection shall not apply to a designated smoking area located at the Department of Public Works Building (44 Jersey Avenue) and the Volunteer Fire Department Building (583 Middlesex Avenue). The designated smoking area at the above municipal buildings shall be determined and designated by the Borough Administrator after consultation with the Chief of the Fire Department and the Director of the Department of Public Works. "Designated Smoking Area" signs shall be clearly, sufficiently and conspicuously posted in all areas exempt from this subsection.

§ 158-2

SMOKING

- C. Smoking shall be prohibited in all public parks and recreation facilities owned or leased by the Borough of Metuchen and all property owned or leased by the Borough of Metuchen upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to, any parking area, driveway or drive aisle, which have been designated with no-smoking signs. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted in all areas regulated by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited at the designated area. The sign shall also indicate that violators are subject to a fine.
- D. Smoking shall be prohibited in any vehicle registered to the Borough of Metuchen.

§ 158-3. Enforcement.

The enforcement authority of this chapter shall be the Police Department, Fire Department, Recreation Department, Public Works Department and Health Department of the Borough of Metuchen.

§ 158-4. Violations and penalties.

Any person who violates any provision of this chapter shall be subject to a fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense. Any municipal employee found in violation of this chapter may also be subject to discipline in accordance with the provisions of the Borough of Metuchen's policies and procedures.

METUCHEN CODE

Chapter 160

SOLID WASTE

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in article histories. Amendments noted where applicable.]

ARTICLE 1

Dumping

[Adopted 9-26-1966 as Section 10-1 of 1966 Code]

§ 160-1. Prohibited acts.

It shall be unlawful to dump or dispose of any garbage, refuse, rubbish, trash, ashes, debris, tree stumps, tree toppings, brush and inert materials of any kind or nature in any section, area or lands in the borough.

§ 160-2. Violations and penalties. [Added 9-15-1997 by Ord. No. 97-20]

Penalties for violation of the provisions of this article shall be as provided in Chapter 1, General Provisions, Article 1.

ARTICLE 2

Solid Waste Disposal and Mandatory Recycling Program
[Adopted 12-1-1986 by Ord. No. 86-27]**§ 160-3. Findings and purpose.**

- A. The Mayor and Council hereby find that the existing regulations for the collection and disposal of solid waste and refuse within the borough require revision, not only to update the article, but also to expand the mandatory recycling programs for specified waste materials. The Mayor and Council find that the recycling of waste materials decreases waste flow to landfill sites, will significantly reduce the spiraling costs paid by the borough for landfill tipping fees and associated taxes and will provide revenue to the borough from reusable materials which will both conserve energy and increase the resources of the borough. The purpose of this article is to regulate and control the collection, disposal and transportation of solid waste within the Borough of Metuchen, whether collected by borough personnel or by private carters, and to mandate the separation and recycling of certain specified waste materials.
- B. All collection, disposal, recycling and transportation of solid waste within the borough shall be performed in accordance with the terms, conditions and regulations of this article, as supplemented by such additional regulations as may be promulgated by the Director of Public Works of the borough, the County of Middlesex or the State of New Jersey in such lawful form as those regulations may take.

§ 160-4. Definitions. [Amended 8-15-1988 by Ord. No. 88-16; 4-2-1990 by Ord. No. 90-5; 8-5-1991 by Ord. No. 91-14; 11-2-1992 by Ord. No. 92-36]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BUILDING AND SITE DEBRIS — Lumber (treated or painted) plaster, sheetrock, insulation, shingles, rubble and other similar material generated by construction/development requiring a building permit.

BULK MATERIAL — Furniture, box springs, nonmetallic bed frames, mattresses, trunks, rugs and other material similar in mass.

GARBAGE — Any animal or vegetable waste solid resulting from handling preparation, cooking or consumption of foods, but not including human waste.

HAZARDOUS MATERIALS — Any and all liquid or solid waste presenting a clear danger to health and safety by reason of its pathological, explosive, radiological or toxic characteristics.

PICKUP SITE — For the purpose of determining the number of containers to be collected: a building or structure having separate ingress and egress to the outdoors.

PROHIBITED MATERIAL — Rubble, bricks, cinder blocks, concrete, stone, rocks, building and site debris, tree stumps, chemicals, tires, vehicular batteries, hazardous material and any solid waste not generated on and from the premises from which collection is sought.

RECYCLING COORDINATOR — Superintendent of the Department of Public Works or his/her designee. **[Amended 9-18-1995 by Ord. No. 95-19]**

RECYCLABLE MATERIAL — Those items which are required to be separated from all other solid waste items as defined in § 160-8 of this article.

RESIDENTIAL USER — A dwelling unit such as a home or multifamily dwelling of four or fewer units.

RESIDENTIAL SOLID WASTE — Garbage, rubbish and trash resulting from normal residential activities.

SCAVENGERS — Any unauthorized or unlicensed person, firm or corporation collecting garbage, rubbish and trash placed at a collection point for borough collection.

SOLID WASTE — Any and all types of materials which shall be collected by garbage/recycling vehicles.

§ 160-5. Schedule.

A. Days. [Amended 3-4-1991 by Ord. No. 91-2]

- (1) Each residential and eligible nonresidential user shall have his or her garbage and solid waste collected once weekly as per the announced schedule of the Department of Public Works. There shall be no solid waste collections or pickup of recyclable materials on Sundays or scheduled holidays that fall upon any collection day. Holidays to be observed are those as shall be announced in advance by the Department of Public Works.
- (2) Entities and complexes not served by the Department of Public Works shall have their solid waste collected on such daily schedule, excepting Sundays, as their private agreement shall provide.

B. Hours. The hours of solid waste collection shall be from 6:00 a.m. until dusk and shall apply both to public and private collectors. [Amended 11-2-1992 by Ord. No. 92-36]

C. Schedule of user fees. There is hereby established a schedule of user fees for the collection and disposal of solid waste in excess of seven thirty-two-gallon containers per collection day, but not exceeding 14 of said containers, and also for between 15 and 21 thirty-two gallon containers per collection day. Said fee shall be charged on a yearly basis (prorated by the month only during the year of adoption) as follows: [Amended 8-5-1991 by Ord. No. 91-14]

- (1) Yearly service fee for 8 to 14 containers: \$400.
- (2) Yearly service fee for 15 to 21 containers: \$600.
- (3) Patrons consistently exceeding 21 thirty-two-gallon containers per collection day shall be subject to refusal of service and shall be so notified in writing at least two weeks in advance by the Recycling Coordinator.

D. Recycling schedule. [Amended 2-2-1987 by Ord. No. 87-3; 4-2-1990 by Ord. No. 90-5]

- (1) The Recycling Coordinator is hereby authorized and empowered to establish and promulgate regulations as to the scheduling, manner and methods of recyclable collections, such as the bundling, handling, location and placement of all recyclable materials for collection, subject to the approval of the Mayor and Borough Council by resolution.
- (2) The Recycling Coordinator shall notify the residents of the regulations and scheduling, at a minimum, not less than twice yearly and may include one of the following forms of notice: an advertisement in a newspaper circulating in Metuchen, a posted notice in public places where public notices are customarily posted or an official notice mailed to the residents. [Added 9-18-1995 by Ord. No. 95-19]

§ 160-6. Collection regulations. [Amended 4-2-1990 by Ord. No. 90-5]

- A. Solid waste containers shall be placed at a point between the curb and sidewalk in front of or along the line of the respective properties on the days and at the times fixed by the Department of Public Works when the collection of solid waste and garbage is to be made. The Department of Public Works shall have the authority to designate a more precise curbside collection point. Such containers as are reusable shall be removed by such persons within 12 hours after such collection.
- B. No containers or their contents shall be placed along the sidewalk for collection prior to 6:00 p.m. of the day before such materials are to be collected in any particular district.
- C. Containers shall meet all of the following criteria:
 - (1) Each container shall have a capacity of not more than 32 gallons. Heavy-duty plastic disposal bags of not less than three mils thick are acceptable solid waste containers, provided that they are securely tied and bound.
 - (2) No residential solid waste container shall weigh more than 50 pounds when placed at the curb for collection. Nor shall solid waste be wedged into the containers in such a manner as to render it infeasible for employees of the Department of Public Works to separate the solid waste from its container.
 - (3) Except as provided in § 160-5C, solid waste collection from any one pickup site, either residential or nonresidential, shall not exceed seven standard solid waste containers per collection day. **[Amended 3-4-1991 by Ord. No. 91-2; 9-15-1997 by Ord. No. 97-20]**
 - (4) Debris and other loose materials must either be placed in containers complying with the provisions of this section or bundled securely by cord or otherwise fastened, but may not be any larger than four feet long and 18 inches in diameter. Each bundle shall be counted as the equivalent of one container. **[Amended 11-2-1992 by Ord. No. 92-36]**
 - (5) Containers must be maintained in a manner that is not dangerous to the health or safety of the public, and any containers that are badly broken, damaged or deteriorated or otherwise fail to meet the requirements of this section shall be classified as refuse by the Department of Public Works and disposed of accordingly.
 - (6) Drums, barrels, baskets and paper bags are not acceptable solid waste containers and will not be collected. All residential solid waste, except those materials hereinafter identified as mandatory recyclable and other special materials, must be placed in approved solid waste containers.
 - (7) No private carter, collector or refuse truck shall collect garbage, operate its hydraulic mechanisms or travel through the borough other than on truck-designated roadways, except during the days and hours set forth in § 160-5.

§ 160-7. Special materials and prohibited materials. [Amended 8-15-1988 by Ord. No. 88-16; 4-2-1990 by Ord. No. 90-5; 3-4-1991 by Ord. No. 91-2; 11-2-1992 by Ord. No. 92-36]

- A. Bulk material may be placed at the curb for collection as per the announced schedule of the Department of Public Works. Each item shall count as the equivalent of one container of the maximum of seven per collection day. All doors or lids on bulk items shall be removed prior to placement for collection.
- B. No hazardous or prohibited material shall be placed at the curb for collection by the borough by any resident or entity without first obtaining permission from the Director of Public Works. Upon application thereto, the Director shall render a decision whether or not the material is acceptable for

disposal in a landfill or must be disposed of by private removal for which the resident or entity must pay a separate charge. All contractors performing tasks generating building and site debris shall arrange for its prompt removal by private carting firms.

- C. No garbage, refuse or solid waste shall be stored or transferred within the limits of the borough, unless prior thereto, permission has been granted by the Department of Public Works and the Mayor and Council and provided further that all necessary approvals and permits have been received from the County of Middlesex and the State of New Jersey.
- D. No person or entity shall bring, cart, remove, transport or collect any solid waste from outside the borough into the borough for the purpose of dumping or disposing thereof at curbside collection.
- E. No person or entity shall deposit household or commercial solid waste in sidewalk trash receptacles maintained by the borough.

§ 160-8. Mandatory recycling. [Amended 8-15-1988 by Ord. No. 88-16; 4-2-1990 by Ord. No. 90-5; 11-2-1992 by Ord. No. 92-36]

- A. It shall be mandatory for all persons and entities (residential, multifamily, commercial, industrial and institutional, governments and office parks) to separate those materials herein defined and specified from all other solid waste materials in accordance with the provisions of this section. The day, time and manner of recycling collection shall be established by the Recycling Coordinator. **[Amended 9-18-1995 by Ord. No. 95-19]**
- B. The following materials shall be the subject of mandatory recycling, all of which shall be separated from all other solid waste and be placed at the curb collection point or taken to the municipal recycling drop-off center on Jersey Avenue: **[Amended 9-18-1995 by Ord. No. 95-19]**
 - (1) Newspapers: paper of the type commonly referred to as newsprint, but not including magazines, periodicals, books or other paper products of any nature whatsoever. Newspaper used to wrap solid waste may be discarded with the normal solid waste. All other newspapers shall be tied securely with string or twine in bundles no more than one foot high. Newspapers shall not be put out in brown paper bags or cardboard boxes.
 - (2) Glass: all products made from silica or sand, soda ash and limestone, the product being either transparent or translucent and having been used for the packaging or bottling of various matter, as well as other material commonly known as glass; excluding, however, window glass, Pyrex, vehicular windshields and mirrors. Glass shall be separated by color (brown, green, and clear) and shall be placed in suitable rigid open top containers, not including cardboard boxes.
 - (3) Aluminum: Beverage containers shall be placed in suitable rigid open top containers, not including cardboard boxes.
 - (4) Residential and commercial paper: a combination of corrugated cardboard and mixed paper as defined below. Residential and commercial paper shall be collected as designated by the Recycling Coordinator. **[Amended 9-18-1995 by Ord. No. 95-19]**
 - (a) Corrugated cardboard: boxes and packaging generally made from wood pulp and consisting of two smooth sides with a corrugated inner layer. Brown paper grocery bags are included in this category.
 - (b) Mixed paper: glossy inserts, magazines, telephone books, junk mail, colored paper, computer paper, office paper, paperboard (chipboard and pressboard), nonmetallic

wrapping paper, soft-cover books, hard-cover books with covers removed and fine paper.
[Amended 12-17-2007 by Ord. No. 2007-11]

- (5) Plastic: Bottles and containers shall include only beverage bottles (green or clear) or other transparent food containers made of polyethylene terephthalate (PET), designated with the PET 1 recycling symbol; milk, water bottles or other translucent food containers made of high-density polyethylene (HDPE) designated with the HDPE 2 recycling symbol and bleach, detergent bottles or other opaque containers bearing the symbol HDPE 2. Those plastics not included herein are squeezable jars, children's toys, automobile bumpers, Styrofoam, polyvinyl chloride (PVC) piping and other food wrapping material. Plastics shall be placed in suitable rigid open top containers, not including cardboard boxes.
- (6) Brush: branches, woody plants and other like vegetative material that do not exceed five inches in diameter and Christmas trees. All brush shall be either securely tied in bundles weighing no more than 50 pounds per bundle and no longer than four feet in length or in rigid open top containers not weighing more than 50 pounds. Christmas trees must be free of all decoration and may not be wrapped in plastic. **[Amended 9-18-1995 by Ord. No. 95-19]**
- (7) Grass: Grass shall be placed in rigid reusable containers, not including cardboard, not to exceed 50 pounds or in the alternative, placed in biodegradable paper bags on days designated for collection.
- (8) Leaves: Leaves includes materials that are compostable with leaves, such as buckeyes, pine needles or other deciduous matter that falls from trees not including branches or limbs. Leaves shall be placed at the curblin in only biodegradable paper bags on the day(s) designated by the Recycling Coordinator. Leaves shall not be raked, blown or otherwise deposited into the street. **[Amended 9-18-1995 by Ord. No. 95-19]**
- (9) Scrap metal: Scrap metal includes washers, clothes dryers, stoves, water heaters, tire rims, springs, bicycles, pipes, chain link fencing, screens, lawn chairs, cast iron items and similar products. Collection of scrap metal items shall be made by appointment only with two day notice in advance of the scheduled scrap metal collection date.
- (10) Steel cans: Food and beverage containers made of steel and either tin-plated or lacquer-coated, including bimetal cans (ferrous cans with aluminum tops). **[Added 9-18-1995 by Ord. No. 95-19; amended 9-15-1997 by Ord. No. 97-20]**
- (11) Textiles: clean dry clothing or other fabric measuring at least one foot by one foot size (Municipal Drop Off Center Only). **[Added 9-18-1995 by Ord. No. 95-19]**
- (12) Masonry/paving material: asphalt, block, brick, cinder, and concrete. **[Added 12-17-2007 by Ord. No. 2007-11]**
- (13) Rechargeable batteries: nickel cadmium (Ni-Cd), nickel metal hydride (Ni-MH), lithium ion (Li-ion) and small sealed lead (Pb). **[Added 12-17-2007 by Ord. No. 2007-11]**
- (14) Tires: rubber-based scrap automotive, truck, and equipment tires. **[Added 12-17-2007 by Ord. No. 2007-11]**
- (15) White goods: washers, dryers, ranges, refrigerators, air conditioners. Note: All devices that contain CFCs must be properly evacuated by licensed individuals and all CFCs recovered must be sent to an EPA approved reclaimer. The municipality will ensure the hauler shall be the responsible party for the removal and disposal of the CFCs. **[Added 12-17-2007 by Ord. No. 2007-11]**

2007-11]

- (16) For commercial, industrial and institutional, governments and office parks: **[Added 12-17-2007 by Ord. No. 2007-11]**
- (a) Electronics: televisions, CPUs, monitors, laptops, and mercury-containing devices.
 - (b) Fluorescent bulbs: lamps that contain mercury.
 - (c) Plastic film: stretch/shrink wrap, plastic shopping bags – only for warehouses, retail.
 - (d) Wood scrap: unfinished lumber from new construction projects, including pallets. Unfinished shall mean nonchemically treated (not pressure treated, impregnated with preservatives, insecticides, fungicides, creosote, or other chemicals, and not painted, resin-coated or otherwise surface treated, and not laminated or bonded; and not similarly altered from its natural condition) – only for new construction sites.
- C. From the time of placement at the curb by any person or entity of any recyclable materials for collection by the borough, such material shall become the property of the borough, and it shall be a violation of this section for any person, scavenger, firm or entity to tamper with, take, remove or otherwise convert to his or her or its own use in any way such material, except as otherwise provided for in this section.
- D. Notwithstanding § 160-8C, this article shall not prohibit or restrict any person or entity from making his or her or its own arrangements or agreements for private collection of recyclable materials, provided that notice of that agreement is registered with the Department of Public Works; and provided, further, that these materials are not placed at curbside on the regular days of their collection.
- E. A commercial, industrial or institutional premises within the borough may make a written application to the Recycling Coordinator, on a form to be provided by the borough, for exemption from the source separation requirements of this article under the following conditions: **[Amended 12-17-2007 by Ord. No. 2007-11]**
- (1) The mixed waste and recyclables taken from an eligible location may only be taken to a location licensed as a "Transfer Station/MRF." That facility must have the ability to separate out for recycling all mandated recyclables that were commingled with the garbage.
 - (2) Exemptions are valid for a period of up to three years which will begin on the date of issuance and expire on March 31 of the third year.
 - (3) No exemption renewal will be issued if the recycling tonnage report is not received by March 1 of each year.
 - (4) The generator must apply in writing for the exemption and receive an official written notice that it has been granted from that municipal official(s) authorized by the article to grant exemptions. The exemption request must be accompanied by the following information:
 - (a) A letter from the specified hauler agreeing to have the mandated materials separated, which must specifically list the materials that will be separated.
 - (b) A letter from the specified receiving facility including the valid NJDEP permit number that states the mandated materials will be separated.
 - (c) An explanation of why its particular operation, circumstance or facility makes adhering to

the source separation requirements of the recycling plan impractical.

- (d) A description of the nature of the business and the estimated monthly and yearly tonnages of solid waste and designated recyclables to be generated by their facility. The generator must demonstrate that they have at least seventy-five-percent mandated recyclables in their waste stream to qualify for the exemption.
 - (e) A list of mandated materials that the materials recovery facility will be recycling for its business.
 - (f) A description of how the generator disposed of its solid waste pursuant to Middlesex County's waste flow strategy (Plan Amendment 1997-3) and handled recyclables up to the date of the application.
 - (g) A listing of any violations cited (and disposition thereof) for the generator with reference to the solid waste or recyclables generated from its facility.
 - (h) The application shall be certified under oath so that in the event there is a deliberate misstatement, the applicant will be subject to enforcement action.
- (5) If, during the terms of the exemption, the generator switches haulers, or the hauler switches the receiving facility, the existing exemption is no longer valid and must be reapplied for.
 - (6) If the generator is granted the exemption, the company is required to include signage in a prominent place that states that recyclable material is being sorted out at a materials recovery facility.
 - (7) The generator must be able to show the exemption approval and a copy of his/her waste removal contract when the exemption is claimed to the County Public Health Department recycling inspector.
 - (8) Any exemptions granted by the municipality will have to be material specific, list the hauler name, and identify by street address the exact location of the business that has been granted the exemption. Businesses with more than one location must apply for exemptions for each location separately. A copy of each exemption granted must be submitted by the municipality to the Middlesex County DSWM.

§ 160-9. Prohibited acts. [Amended 9-15-1997 by Ord. No. 97-20]

- A. Except as otherwise authorized by this article, it shall be unlawful for any person, firm or entity to collect, pickup or cause to be collected or picked up any material identified herein as being the subject of mandatory recycling.
- B. Noncompliance by any person or entity with the other requirements of this article, including failure to separate those materials herein made the subject of mandatory recycling, shall be subject to the penalties as provided in § 160-10 for each offense. Additionally, noncompliance with the restriction as to the type, size and weight of containers shall be considered sufficient cause by the Department of Public Works for the noncollection of the garbage placed in the noncompliance containers.

§ 160-10. Violations and penalties. [Added 9-15-1997 by Ord. No. 97-20]

Any person, firm or organization found guilty of violating the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be subject to the penalties as provided in Ch. 1,

General Provisions, Article 1, for each offense.

ARTICLE 3

Yard Waste Collection Program
[Adopted 10-17-2005 by Ord. No. 2005-17]**§ 160-11. Purpose.**

The purpose of this article is to establish a yard waste collection and disposal program in the Borough of Metuchen, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 160-12. Definitions and word usage.

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 not inconsistent 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.

CONTAINERIZED — The placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STREET — Any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing state, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

YARD WASTE — Leaves and grass clippings.

§ 160-13. Yard waste collection.

Sweeping, raking, blowing or otherwise placing yard waste that is not containerized at the curb or along the street is only allowed during the seven days prior to a scheduled and announced collection, and shall not be placed closer than 10 feet from any storm drain inlet. Placement of such yard waste at the curb or along the street at any other time or in any other manner is a violation of this article. If such placement of yard waste occurs, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this article.

§ 160-14. Enforcement. [Amended 4-29-2024 by Ord. No. 2024-13]

The provisions of this article shall be enforced by the Zoning Officer or Enforcement Officer/Official of the Borough of Metuchen.

§ 160-15. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed \$1,250.

§ 160-16. through § 160-18. (Reserved)

ARTICLE 4

Containerized Yard Waste**[Adopted 10-17-2005 by Ord. No. 2005-17]****§ 160-19. Purpose.**

The purpose of this article is to establish requirements for the proper handling of yard waste in the Borough of Metuchen, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 160-20. Definitions and word usage.

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 not inconsistent 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.

CONTAINERIZED — The placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STREET — Any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing state, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

YARD WASTE — Leaves and grass clippings.

§ 160-21. Prohibited conduct.

The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste, unless the yard waste is containerized, in the street. If yard waste that is not containerized is placed in the street, the party responsible for placement of yard waste must remove the yard waste from the street or said party shall be deemed in violation of this article.

§ 160-22. Enforcement. [Amended 4-29-2024 by Ord. No. 2024-13]

The provisions of this article shall be enforced by the Zoning Officer or Enforcement Officer/Official of the Borough of Metuchen.

§ 160-23. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed \$1,000.

ARTICLE 5

Refuse Containers/Dumpsters**[Adopted 5-18-2009 by Ord. No. 2009-8]****§ 160-24. Purpose.**

An article requiring dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semiliquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of Metuchen and/or the waters of the state so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 160-25. Definitions.

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 not inconsistent 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) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Metuchen or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

REFUSE CONTAINER — Any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

STORMWATER — 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.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams and bodies of surface- or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 160-26. Prohibited conduct.

- A. Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.
- B. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semiliquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Metuchen.

§ 160-27. Exceptions to prohibition.

- A. Permitted temporary demolition containers.

- B. Litter receptacles (other than dumpsters or other bulk containers).
- C. Individual homeowner trash and recycling containers.
- D. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit.
- E. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup).

§ 160-28. Enforcement. [Amended 4-29-2024 by Ord. No. 2024-13]

The provisions of this article shall be enforced by the Zoning Officer or Enforcement Officer/Official of the Borough of Metuchen.

§ 160-29. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed \$1,000.

Chapter 162**SPECIAL IMPROVEMENT DISTRICT**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 5-2-2016 by Ord. No. 2016-10. Amendments noted where applicable.]

§ 162-1. Findings.

Pursuant to N.J.S.A. 40:56-68b the Council makes the following findings with respect to the area described in attached Exhibit A ("District")¹³³:

- A. The Area will benefit from being designated as a special improvement district;
- B. A district management corporation will provide administrative and other services to benefit the businesses, employees, residents and consumers should the Area be declared a SID pursuant to N.J.S.A. 40:56-65 et seq. (the "Act");
- C. That a special assessment shall be imposed and collected by the municipality with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transferred to the district management corporation to effectuate the purposes of the Act and to exercise the powers given to it by this ordinance; and
- D. That it is in the best interests of the Borough of Metuchen (the "Borough") and the public to create a SID and to designate a district management corporation.

§ 162-2. Creation of a Special Improvement District.

Pursuant to the Act, a SID is hereby created and designated within the Borough.

- A. The goals of the SID are as follows:
 - (1) Beautification, cleanliness, maintenance and design standards;
 - (2) Marketing, advertising, public relations and events;
 - (3) Business recruitment and retention;
 - (4) Coordination of downtown activities and clearinghouse for information; and
 - (5) Integration of new developments with existing business district.
- B. Except as noted in Subsection C of this section, the SID shall consist of the properties designed and listed on Exhibit A¹³⁴ by tax block and lot numbers and by street addresses. The District shall be subject to special assessments on all affected properties within the District, which assessment shall be imposed by the Borough for the purposes authorized by the Act. **[Amended 12-17-2018 by Ord. No. 2018-28]**
- C. All commercial properties, multi-family rental properties with four or more units and mixed use properties within the District are deemed included in the assessing and taxing provisions of this chapter and are expressly subject to assessment and payment of taxes for SID purposes, including

¹³³.Editor's Note: Exhibit A may be found as an attachment to this chapter.

¹³⁴.Editor's Note: Exhibit A may be found as an attachment to this chapter.

properties making payments in lieu of taxes. Specifically exempted from such assessment and payment are all properties which are only improved with less than four residential units and no commercial space, plus properties otherwise exempt from the payment of taxes on real property.

§ 162-3. Creation of Business Improvement District.

There is hereby created and designated with the Borough of Metuchen a Special Business Improvement Zone that shall be described as the same area as the SID Area established by this chapter. The Corporation, as hereinafter defined, shall NOT have the power of eminent domain.

§ 162-4. Composition of District Management Corporation. [Amended 12-12-2022 by Ord. No. 2022-22]

- A. General powers. The business and affairs of the District Management Corporation shall be managed by a Board of Trustees which may exercise all powers of the Corporation and perform all lawful acts for a corporation pursuant to the laws of the state of New Jersey governing "not for profit" corporations.
- B. Number, selection and tenure of trustees. The Corporation shall be governed by a Board of Trustees consisting of 13 voting members and one ex-officio non-voting member. The 13 voting members shall consist of:
 - (1) Four representatives of District owners. "District owner" shall be defined as an owner of real estate within the District. A "District owner" may or may not operate a business within the District in order to be considered a "District owner";
 - (2) Five representatives of District businesses. "District business" shall be defined as a person, corporation or other business entity operating a business within the District. A "District business" may or may not own real estate within the District in order to be considered a "District business";
 - (3) One member of the Borough Council of Metuchen appointed by the Mayor with the advice and consent of the Borough Council;
 - (4) Two Metuchen residents who do not own commercial real estate and/or operate a business in the District and who are not on the Borough Council nor employed by the Borough;
 - (5) One member of the Metuchen Arts Council to be appointed by and serves at the pleasure of the Metuchen Arts Council.

In addition to the 13 voting members, there shall be two ex-officio members of the Board with all powers and authority of a regular Board member, however, shall not be entitled to vote on matters: 1) the Administrator of the Borough of Metuchen or his/her designee, and 2) one member of the Metuchen Parking Authority to be appointed by and serves at the pleasure of the Metuchen Parking Authority.

In the event that any category(ies) of a voting Board member cannot be filled for any reason whatsoever, the District Management Corporation shall set forth in its bylaws the terms and methods to fill all seats on the Board of Trustees.

- C. Terms and appointment of Board of Trustees. The District Management Corporation shall provide for, in its bylaws, the terms and appointment or election of the four District owners, five District businesses and the Metuchen resident voting members of the Board of Trustees.

The initial appointments and terms thereof to the Board of Trustees shall be as set forth in the Borough Code. It shall not necessary for the initial composition of the Board of Trustees to be in full compliance with § 162-4B above. However, after the initial appointments and expiration of terms, the composition of the Board shall be comprised as set forth in § 162-4B above.

§ 162-5. Designation of a District Management Corporation.

A. Metuchen Downtown Alliance, a NJ Non-Profit Corporation is hereby designated as the District Management Corporation as defined in N.J.S.A. 40:56-66c (the "Corporation"). The Corporation shall have all powers necessary and requisite to effectuate its purposes, including, but not limited to, the power to:

- (1) Adopt and amend bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- (2) Employ such persons as may be required, and fix and pay their compensation from funds available to the Corporation;
- (3) Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grants, loans, or donation of property or money, however any application for a grant requiring matching funds or loan from the Borough of Metuchen or from the Metuchen Parking Authority, including but not limited to those set forth in N.J.S.A. 40:56-71.3, et seq., must be approved by the Mayor and Council of the Borough of Metuchen;
- (4) Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the Corporation, including contracts with any person, firm, corporation, governmental agency or other entity;
- (5) Administer and manage its own funds and accounts and pay its own obligations;
- (6) Borrow money from private lenders and from governmental entities, but only as may be specifically approved by the Council in a plan and budget pursuant to N.J.S.A. 56:65-80 and 84;
- (7) Fund the improvement of the exterior appearance of properties in the District through grants or loans;
- (8) Fund the rehabilitation of properties in the District;
- (9) Accept, purchase, rehabilitate, sell, lease or manage property in the District;
- (10) Enforce the conditions of any loan, grant, sale or lease made by the Corporation;
- (11) Provide security, sanitation and other services to the District, supplemental to those provided normally by the municipality;
- (12) Undertake improvements designed to increase the safety or attractiveness of the District to businesses which may wish to locate there or to visitors to the District, including, but not limited to, litter cleanup and control, landscaping, recreational and rest area facilities and artistic endeavors;
- (13) Publicize the District and the businesses included within the District boundaries;
- (14) Recruit new businesses to fill vacancies in, and to balance the business mix of, the District;

- (15) Organize special events in the District;
- (16) Provide special parking arrangements for the District, on a temporary basis and with the approval of the Metuchen Parking Authority. Properties operated by the Metuchen Parking authority are exempt from all regulatory authority of the Corporation; and/or
- (17) Provide temporary decorative lighting in the District.

§ 162-6. Assessments.

- A. All of the monies collected by assessment pursuant to this chapter shall be spent solely to benefit the District consistent with the goals and objectives set forth herein.
- B. The Borough shall transfer assessed payments to the Corporation, quarterly on the fifteenth day of February, May, August and November, as collected.
- C. Failure of any property owner to pay annual assessments shall be treated in the same manner as a failure to pay property taxes, as provided for in Title 54 of the New Jersey Statutes.
- D. The SID assessment shall be a percentage of the quarterly real estate taxes due on each District block and lot calculated as follows: as determined by the approved budget. There shall be no 2016 SID assessments.

§ 162-7. Municipal services.

The municipal services currently provided to the District and paid for through the general fund of the Borough shall continue to be provided by the Borough, and the cost of such services shall not be transferred to the budget of the Corporation. Notwithstanding the foregoing, such services may, in whole or in part, be provided by the Corporation at municipal expense, in which event the services shall be detailed in a plan of coordination which shall be developed by the Corporation in consultation with the Council and approved annually by the Corporation and the Council. The plan of coordination shall specify how the services are to be provided and how the cost thereof shall be reimbursed.

§ 162-8. Annual budget hearing and assessments.

The initial and subsequent annual budgets shall be established as provided for in this section.

- A. The fiscal year of the Corporation shall be January 1 to December 31.
- B. The 2016 estimate of initial operating expenses of the Corporation required by N.J.S.A. 40:56-80 is set forth on Exhibit B. The Council hereby approves of the transfers of \$150,000 from the Borough to the Corporation to fund the 2016 expenses.
- C. In years subsequent to 2016, the Corporation shall submit its annual budget for approval no later than September 1 of the year preceding the year for which budget approval is sought. In all subsequent years the budget shall be processed and adopted by the Council in accordance with procedures set forth in N.J.S.A. 40:56-84 and concurrently with the procedures established in N.J.S.A. 40:56-80 respecting annual estimates of cost and the preparation of the assessment roll.
- D. The budget shall be submitted with a report that explains how the budget contributes to the goals and objectives for the SID. The budget shall be reasonably itemized as follows:
 - (1) All projected revenues and proposed expenditures.

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- (2) Each source of revenue shall be separately designated for the fiscal year.
- (3) A five-year projection of the goals and a strategy for the implementation of these goals of the Corporation (the "Strategic Plan") for the District.
- E. The Borough and Corporation shall strictly follow the procedures set forth in N.J.S.A. 56-80 and 84 with respect to the adoption of budgets, amendments thereof and the issuance of the assessment roll, including public advertising, public hearing and adoption by resolution.
- F. The Corporation shall be responsible to refund the share of any refund, resulting from a tax appeal and attributable to an assessment made pursuant to this chapter.

§ 162-9. Annual audit of the Corporation.

The Corporation shall cause an annual audit of its books, accounts and financial transactions to be made and filed with the Council together with an annual financial statement, and for that purpose the Corporation shall employ a certified public accountant of New Jersey. The annual audit shall be prepared in accordance with accepted accounting standards for nonprofit corporations and completed and filed with the Council within four months after the close of the fiscal year of the Corporation. A certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs within five days of the filing of the audit with the Council. Copies of forms CRI-200, CRI-200R and IRS 990, as necessary, shall be filed with the Council no later than six months after the closing of the Corporation's fiscal year-end.

§ 162-10. Annual report.

The Corporation shall, within 30 days after the close of each fiscal year, prepare an annual report of its activities for the preceding fiscal year to be submitted to the Borough Mayor and Council.

§ 162-11. Municipal powers retained.

Notwithstanding the creation of the District and the designation of the Corporation, the Borough and Council shall retain police powers relating to the District. The Council may at any time hereafter by ordinance amend this chapter.

Chapter 163**STORAGE OF INDUSTRIAL MATERIALS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-25-1978 by Ord. No. 78-21. Amendments noted where applicable.]

§ 163-1. Storage prohibited unless properly screened.

It shall be unlawful for any owner, tenant or occupant of any private property in an industrial zone which adjoins a residential zone or adjoins a street which is a boundary line between an industrial and residential zone to permit the outdoor storage of industrial materials, products and equipment unless such storage is screened by a buffer of suitable construction and material or by a vegetative screening as approved by the Construction Code Official of the borough to be of sufficient height so that the materials, products and equipment are not visible from a distance of one hundred feet from any of the industrial property lines at an average six-foot eye level. The screening shall be permanently maintained by the property owner to preclude the visibility as set forth in this chapter.

§ 163-2. Exceptions.

Motor vehicles and trailers shall be excepted from the provisions of § 163-1 of this chapter; except that any motor vehicles parked or stored on premises as described in § 163-1 shall be subject to a screening or buffer from the residential zone of a suitable nature as determined by the Construction Code Official to afford sufficient protection against vandalism, attractive nuisance and fume pollution in relation to the adjoining residential zone. Any screening which satisfies the provision of § 163-1 of this chapter shall be deemed to be sufficient to comply with the requirements of § 163-2 of this chapter.

§ 163-3. Screening.

Such screening shall conform to the setback and height provisions as set forth in Chapter 110, Land Development, Part IV.

§ 163-4. Notification of regulations.

Within 10 days of the passage of this chapter, the Borough Clerk shall send a copy of this chapter to any owner, tenant or occupant of premises in an industrial zone which adjoin a residential zone or whose property line is on a street separating an industrial zone from a residential zone.

§ 163-5. Undue hardship; modification; variance.

Any owner, occupant or tenant of property in an industrial zone adjoining a residential zone or street separating an industrial and residential zone who objects to a decision of the Construction Code Official or who claims that the enforcement of this chapter will be an undue hardship may apply to the Mayor and Council in writing for a modification of any decision of the Construction Code Official or of any of the provisions of this chapter. In the event a variance is necessary for the industrial property owner to construct a type of screening approved by the Construction Code Official, he or she shall be given a reasonable amount of time not exceeding 90 days to obtain the variance. Any screening installed pursuant to a variance from the Board of Adjustment and/or approved by the Construction Code Official shall be deemed compliance with the provisions of this chapter.

§ 163-6. Enforcement.

The Construction Code Official of the borough shall be the enforcing official under this chapter.

§ 163-7. Violations and penalties.¹³⁵

Any person who violates this chapter or any part thereof shall be punished as provided in Chapter 1, General Provisions, Article 1. Each day a violation exists shall be considered a separate violation under this chapter.

135.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

METUCHEN CODE

Chapter 166

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Penalty

[Adopted 2-7-1972 by Ord. No. 72-2]

§ 166-1. Violations and penalties.

For any act prohibited or declared unlawful under this chapter or the doing of any act or the failure to do any act which is declared unlawful and for which there is no specific penalty provided in this chapter, the penalty shall be in accordance with the general penalty provisions set forth in Chapter 1, General Provisions, Article 1.

ARTICLE 2

Obstructions**[Adopted 9-26-1966 as Article I of Chapter 22 of 1966 Code]****§ 166-2. Brush, hedges or other growth near roadways. [Amended 10-3-1977 by Ord. No. 77-25]**

- A. When necessary and expedient for the preservation of the public safety, all owners or tenants of lands and premises lying within the Borough shall, within 10 days after notice to cut the same has been given by the Chief of Police of the Borough, keep all brush, hedges and other plant life growing within 10 feet of any roadway and within 25 feet from the projected intersection of the curbline of one street with the curbline of the adjoining street cut to a height of not more than 2 1/2 feet above the curbline. **[Amended 8-18-1969 by Ord. No. 69-23¹³⁶]**
- B. Failure to comply. Upon the neglect or refusal of the owner or tenant of any lands and premises to cut the brush, hedges and other plant life thereon in the manner and within the time set forth in § 166-2A, and any notice filed thereunder, the Chief of Police shall notify the Director of Public Works of the Borough who shall have the power to cut or direct the cutting of such brush, hedges or other plant life and certify the cost thereof to the governing body of the Borough, which shall examine the certificate and, if found correct, cause the cost as shown thereon to be charged against such lands or, in the event that such cost is excessive, to cause the reasonable cost thereof to be charged against such lands. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, to bear interest at the same rate as other taxes and shall be collected and enforced by the same officers and in the same manner as taxes.
- C. Enforcement officer. The Chief of Police of the Borough is hereby designated the officer to give all notices, provide for the cutting of brush, hedges and other plant life and generally to enforce the provisions of § 166-2.

§ 166-3. Snow removal. [Amended 3-22-2021 by Ord. No. 2021-05]

- A. Every person, partnership, corporation, or other entity in charge or control of any building or property within the Borough including but not limited to single-family and multifamily residential and commercial, whether an owner, tenant, occupant, lessee or otherwise, shall remove and clear away or cause to be removed and cleared away snow and ice from so much of said sidewalk as is in front of or abuts on said building or property, along with all walkways, curb ramps, staircases (including steps), the public right of way of driveways and parking areas open to the public on said property. Snow and ice shall also be removed so as to provide access to all fire hydrants located on the property.
- B. All sidewalks, walkways, curb ramps and staircases shall be cleared to a width of 42 inches or the maximum width of the sidewalk, walkway, curb ramp or staircase, whichever is less, in order to provide adequate ADA compliant accessibility.
- C. Except as otherwise provided in this article, snow and ice shall be removed from sidewalks, walkways, curb ramps, staircases, public right of way of driveways and public parking areas within the Borough within 12 hours of daylight after the same shall fall or be formed thereon, and at all times thereafter said areas shall be kept free and clear of snow, slush and ice.
- D. In the event that snow and ice on a sidewalk, walkway, curb ramp, staircase, public right of way of a

136.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

driveway or parking areas open to the public has become so hard that it cannot be removed without likelihood of damage to the area, the person or entity responsible for its removal within the time mentioned in this section shall place sand, ashes, cinders or other approved substance on the area to make travel thereon reasonably safe and shall then, as soon thereafter as weather permits, cause said area to be thoroughly cleaned of all snow and ice.

- E. In case such snow or ice shall not be removed from such sidewalk, walkway, curb ramp, staircase, public right of way of a driveway or public and business areas as provided in § 166-3A, B and C, the same may be removed forthwith and under the direction of the Director of the Department of Public Works and the cost of such removal as nearly as can be ascertained shall be certified by the Director of the Department of Public Works to the governing body. The governing body shall examine such certifications and, if found to be correct, shall cause such cost to be charged against such real estate so abutting or bordering upon such sidewalks and the amount so charged shall forthwith become a lien and a tax upon such real estate or land and be added to, recorded and collected in the same way and manner as the taxes next to be levied and assessed upon such premises and shall bear interest and be enforced and collected by the same officers and in the same manner as other taxes. The imposition and collection of a fine imposed by the provision of this Code shall not constitute any bar to the right of the Borough to collect the cost as certified for the removal of snow or ice in the manner herein authorized.

§ 166-3.1. Dumping or placing snow on streets, roadways or public rights-of-way prohibited. [Added 3-22-2021 by Ord. No. 2021-05]

It is prohibited and unlawful for any residential homeowner or tenant, commercial property owner or commercial tenant or their employees, agents, contractors or contractors' employees to dump, plow, shovel or otherwise place snow onto the streets, roadways, curb ramps or public parking lots and public rights-of-way located in the Borough of Metuchen.

§ 166-3.2. Enforcement. [Added 3-22-2021 by Ord. No. 2021-05; amended 4-29-2024 by Ord. No. 2024-13]

The provisions of this article shall be enforced by the Borough of Metuchen Police Department, Zoning Officer and/or the Enforcement Officer/Official of the Borough of Metuchen.

§ 166-3.3. Violation and penalties. [Added 3-22-2021 by Ord. No. 2021-05]

Any person, persons, partnership, corporation, or other entity, organization, or group violating any of the provisions of this Ordinance shall upon conviction be subject to penalties as provided in Chapter 1, General Provisions, Article 1.

§ 166-4. Bridges or culverts in or across gutters.

- A. No person shall, without first having obtained a written permit from the Council, build or construct or cause to be built or constructed any bridge or culvert in or across any gutter in any street in the Borough.
- B. If the maintenance of any bridge or culvert built under a permit as required by § 166-4A, or any bridge or culvert existing, shall be deemed by the Council to be a detriment to the street, the Council may order the owner of the property, in front of which it shall be, to do away with the obstruction or encroachment made by such bridge or culvert within 10 days, and if the owner fails to comply with the order he or she shall be subject to the penalty prescribed in Chapter 1, General Provisions, Article

1 and the obstruction may be removed by the Council at such owner's expense.

§ 166-5. Drainage from property flowing beyond gutter line.

No owner of any property abutting on any portion of any street shall cause or suffer the drainage from such abutting property to run or flow to a point in the street beyond the gutter line next to such property, which gutter line shall be two feet from the curblin, and should drainage be suffered or caused to flow beyond the gutter line above described, the Council of the Borough may give such owner 10 days' notice to make such provisions as shall ensure to do away with the flow of the drainage into the street beyond the gutter, and should such owner fail to comply with the provisions of such notice, such owner shall be subject to the penalty prescribed in Chapter 1, General Provisions, Article 1.

§ 166-6. Obstructing or closing gutters, etc.

No person shall obstruct or close any gutter, sewer drainage pipe, catch basin or watercourse.

ARTICLE 3

Openings and Excavations

[Adopted 3-18-1974 by Ord. No. 74-4; amended in its entirety 12-4-1995 by Ord. No. 95-26]

§ 166-7. Permit required.

- A. No person shall cut, dig, drill or make any hole, trench or other excavation on any road, street, alley, highway, sidewalk or any other public way within the Borough of Metuchen for the purpose of laying any pipes or mains of any description, or for the purpose of repairing or connecting any pipe or conduit pipe with any water or gas main, or for laying any sewer, or connecting with any telephone, telegraph or electric wires, or cable lines under the surface of any street or for any other purpose without first having obtained a permit.
- B. In the event of an emergency where repairs must be made immediately and the person charged with the responsibility for making the repairs would be unduly delayed in seeking a permit, then and in that event, the excavation may be made after contacting the office of the Director of Public Works, and the person having made the excavation shall forthwith apply for a permit and comply with all the provisions of this article.

§ 166-8. Application.

Application for a permit shall be made to the Borough Clerk on forms provided by him or her. The information required for a permit shall include, but not be limited to the following:

- A. The name of the street where the opening is to be made.
- B. The house number, if any, and the Metuchen Tax Map block, lot and section number of the property.
- C. The purpose for which the opening is to be made.
- D. The nature of the surface in which the opening is to be made.
- E. The dimensions of the opening.
- F. The time when the work is to be commenced and completed.
- G. Prior experience in street excavation work, giving name of other municipalities, streets and dates of excavation work.
- H. Any other information which may be required on the application form.

§ 166-9. Issuance of permit.

- A. Upon the filing of a valid application for permit, together with the license fee, deposit or completion bond as required by this article, the Borough shall issue a permit which shall specify when and how said work is to be completed. The Borough shall retain the amount so deposited until the applicant shall have completed the work of filling in, leveling, grading and restoring any road, alley, street, highway, sidewalk or any other public way so excavated.
- B. The Clerk shall provide the Director of Public Works with a copy of the application, for his or her review, prior to the issuing of any permit.
- C. The applicant shall comply with all terms of the permit and the conditions on the application form.

The Borough reserves its rights to require any information which is not required on the application form itself, but which the Director of Public Works, or the Borough Engineer, feels is necessary in order to properly evaluate the application.

- D. The issuing authority for any permit shall be the Director of Public Works.
- E. If the applicant proposes the closing of a street, prior notice shall be given to the Police Department and comment shall be received from the Police Department prior to the issuance of any permit.

§ 166-10. Permit limitations.

In granting any permit, the Director may attach such other conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include, but shall not be limited to:

- A. Limitations on the period of the year in which the work may be performed.
- B. Restrictions as to the size and type of equipment.
- C. Designation of routes upon which materials may be transported.
- D. The place and manner of disposal of excavated materials.
- E. Requirements as to the laying of dust, the cleaning of streets and other things offensive or injurious to the neighborhood, the general public or any portion thereof.
- F. Regulations as to the use of streets in the course of the work.

§ 166-11. Permit fee and deposit.

Each application for an excavation permit shall be accompanied by the following:

- A. A permit fee as follows which will be used toward application costs and engineer's inspection costs:
 - (1) For minor excavations in which work will be completed in one day or less and do not require the closing of a street: \$100 per permit. **[Amended 6-7-2004 by Ord. No. 2004-7]**
 - (2) For major excavations in which work will not be completed within one day or less and/or require the closing of a street: \$300 per permit. **[Amended 6-7-2004 by Ord. No. 2004-7]**
 - (3) If the inspection fees exceed \$100 or \$300, as above respectively, the applicant will be backcharged for the excess and shall pay the same to the Borough Clerk within 30 days of billing. **[Amended 6-7-2004 by Ord. No. 2004-7]**
 - (4) Public utilities shall be exempt from said permit fee.
- B. A deposit or bond in lieu thereof as follows:
 - (1) Five hundred dollars, which may be posted in check or cash in lieu of said bond. Said bond shall be in favor of the Borough of Metuchen, made with a good and solvent bonding company licensed to do business in the State of New Jersey, as surety and shall be conditioned on payment to the Borough of Metuchen of all moneys representing damages which may be sustained by the Borough of Metuchen for all sums necessary to complete or correct the improvement of the

street which is opened and for all other requirements made of the applicant under the applicable sections of this article.

- (2) Each public utility desiring to obtain permits pursuant to this article shall file each year with the Borough Clerk one certificate of insurance and one performance bond for the entire year in the amount of \$5,000, which bond shall be conditioned upon the public utility complying with the applicable sections of this article.
- (3) Whenever the Borough Engineer, or the Director of Public Works, shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the Engineer, or the Director of Public Works, to be reasonably necessary for the completion of such work.
- (4) After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the Borough for the cost of doing the work as set forth in the notice.

§ 166-12. Insurance requirements.¹³⁷

Each applicant, prior to receipt of a permit, shall provide the Borough with an acceptable certificate of insurance indicating that he or she is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by the applicant, his or her subcontractor or anyone directly or indirectly employed by him or her. Such insurance shall cover collapse, explosive hazards and underground work by equipment on the street and all operations, including labor, equipment, materials and all else involved in work under the permit and shall include protection against liability arising from completed operations. The liability insurance shall be a minimum of \$500,000 combined single limit. Said insurance shall also contain a clause holding the Borough of Metuchen, its agents and servants and employees, harmless against any claim or damages which may arise out of any liability resulting from the applicant's work.

§ 166-13. Replacement of surface; tunneling.

- A. All types of finished pavement shall be completely broken and removed to a minimum distance of six inches back from all sides of the excavation or trench to the level of the surface upon which the pavement rests.
- B. No tunneling shall be permitted, except that, where practicable, an earth drill may be used to bore a hole of the same diameter as the pipe or conduit being installed, such drilling to be permitted only with the approval of and under the supervision of the Department of Public Works of the Borough.

§ 166-14. Extent of excavation and disturbing additional pavement.

When the excavation involves passing the center line of the roadway, no opening or excavation in any street shall extend beyond the center line of the street until the previously open section has been backfilled and the surface of the street restored in a safe and acceptable condition. No more than 250 feet measured longitudinally shall be opened in any street at any one time, except by specific approval of the Director of Public Works. No person to whom a permit has been issued under the provisions of this article shall disturb more pavement than the permit provides for without first applying for and receiving permission to do so.

137. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

§ 166-15. Backfilling and restoring opening.

- A. All pavement cuts, openings and excavations shall be properly made, backfilled and surfaced by the permittee according to the requirements of this article and the instructions of the Director of Public Works, along with being in accordance with the New Jersey Department of Transportation Standard Specifications and other applicable regulations.
- B. The Director must be notified by the permittee during the forty-eight-hour period preceding the beginning of backfilling of the date and approximate time at which backfilling will begin.
- C. No backfilling shall be started prior to inspection and approval of the installed work by the proper Borough officials and unless and until the Director of Public Works or a Borough inspector designated by the Director of Public Works is present.
- D. Backfilling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compacting shall be done by mechanical means, such as tamping, vibrating or rolling as required. All backfilling or excavations in or within 10 feet of any pavement or shoulder area shall be done in thin layers. Each layer is to be tamped by manual or mechanical means. Layers that are hand-tamped shall not exceed three inches in thickness. Layers that are power-tamped shall not exceed 12 inches in thickness. Excavated material is to be removed from site.
- E. The contractor shall backfill with recyclable concrete or other suitable pervious material. Pavement repair shall be completed with bituminous concrete to a minimum depth of two-inches with four-inch stabilized base.
- F. If the Director finds that paving surfaces adjacent to the street opening may be damaged where a number of trenches are laid in close proximity to one another, or where the equipment use may cause such damage, he or she may require the permittee to backfill and restore that area.
- G. After excavation is commenced, the work of making and backfilling the same shall be prosecuted with due diligence.
- H. In no case shall any opening made by a permittee be considered in the charge or care of the Borough, or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening except in the exercise of the police power when it is necessary to protect life and property.
- I. The Borough reserves the right to require restoration other than specified above, dependent on the specifics of the trench opening application and the recommendation of the Borough Engineer. If the particular existing street pavements exceed these criteria, higher type repairs may be required. All materials and workmanship to be in accordance with the New Jersey Department of Transportation Standard Specifications. The permittee may be required to place a temporary surface over openings made and this fill shall be topped with a minimum of at least two inches of bituminous mixture which is suitable to maintain the opening in good conditions until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restoration in safe traveling condition until such time as permanent restorations are made.
- J. If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise have failed to complete the excavation work covered by such permit, or shall fail to adhere to other requirements of this article,

the Borough shall have the right to do all work necessary to restore the street, eliminate violations and to complete the excavation work. The permittee shall be liable for the actual cost thereof and 25% of such cost in addition for general overhead and administrative expenses.

§ 166-15.1. Repaving of roads required. [Added 7-8-2019 by Ord. No. 2019-14]

- A. Notwithstanding anything in this article to the contrary, in the event that a permittee excavates a street opening of a length greater than three feet, repaving of the street shall be required in accordance with the following requirements:
- (1) For a street that has been paved within the past five years of the permit application, the permittee shall be required to repave the full width of the road, to a distance of a minimum of 50 feet from the ends of the trench. The method of paving and the materials to be used shall be at the discretion of the Borough Engineer.
 - (2) For a street that has not been paved within the past five years of the permit application and which affects only one lane of the street, the permittee shall be required to repave the road from the center line to the curb in which the trench is located to a distance of a minimum of 50 feet from the ends of the trench. The method of paving and the materials to be used shall be at the discretion of the Borough Engineer.
 - (3) For a street that has not been paved within the past five years of the permit application and which affects more than one lane of the street, the permittee shall be required to repave the full width of the road, to a distance of a minimum of 50 feet from the ends of the trench. The method of paving and the materials to be used shall be at the discretion of the Borough Engineer.
- B. The Borough Engineer may require the length of the repaved area to be increased to a maximum of 100 feet from the ends of the opening, based on the proximity to other roadways, utility concerns or other good cause.
- C. The restoration of the pavement shall be done no less than 60 days after the opening and no more than 120 days after the opening. This will allow for any settlement in the trench to take place before the final pavement is placed. Exceptions to this time frame may be allowed by the Borough Engineer dependent upon the time of year, which can affect the availability of paving materials.

§ 166-16. Protection of facilities and responsibility for damages.

- A. All utility facilities shall be exposed sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary, and all utility companies shall be notified by the permittee at least three working days before work is started.
- B. Pipe drains, pipe culverts or all other facilities encountered shall be protected adequately by the permittee.
- C. Any person whose facilities are damaged by the permittee may make the necessary repairs and file a claim against the permittee with the Borough for the fair and proper cost of such repairs. The Director shall not authorize the release of the performance bond until the claim has been resolved. In the event of damage, responsibility for repair or replacement shall be assumed by the permittee.

§ 166-17. Preservation of monuments.

Monuments of concrete, iron or other lasting material set for the purpose of locating or preserving the

lines of any street or property subdivision or a precise survey reference point or a permanent survey bench mark within the Borough shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the Borough Engineer. Permission shall be granted only upon condition that the permittee shall pay all expenses incident to the proper replacement of the monument.

§ 166-18. Commencement of work; permitted hours.

Work for which a permit has been issued shall commence within 10 days after the issuance of the permit therefor. If not so commenced, the permit shall be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional permit fee as originally required. All work shall be completed within 30 days from the date of the issuance of the permit. Work authorized by a permit shall be performed between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless the permittee obtains a written consent from the Director to do the work at an earlier or later hour. Such permission shall be granted only in case of an emergency.

§ 166-19. Safeguards.

- A. Every permittee shall place around the project and maintain in proper operating condition such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Director to be necessary for the protection of the public. Additional safety requirements may be prescribed by the Director.
- B. Whenever any person fails to provide or maintain the safety devices required by the Director, such device shall be installed and maintained by the Borough. The cost incurred shall be paid by the permittee prior to the release of the performance bond.
- C. No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this chapter.

§ 166-20. Drainage and discharge of water.

When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage to the satisfaction of the Director. No person shall divert or discharge water into, upon or across any street, avenue, road, highway or sidewalk in the Borough so that a nuisance is created, or a hazardous or dangerous condition is created or the pavement or road surface is damaged thereby.

§ 166-21. Excess materials.

When any earth, gravel or other excavated material is caused to roll, flow or wash upon any street, the permittee shall cause the same to be removed from the street within eight hours after deposit. In the event the earth, gravel or other excavated material so deposited is not removed, the Director shall cause such removal and the cost incurred shall be paid by the permittee prior to the release of the performance bond.

§ 166-22. Access.

Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Residents shall be notified by permittee at least 12 hours before start of operation requiring the closing of normal access or accesses to property. Free access must be provided at all times to fire hydrants.

§ 166-23. Traffic safety and control.

- A. Prior to starting any excavation in a Borough street which requires a street opening permit from the Director of Public Works or Borough Engineer, if applicable, the applicant must comply with the following:
- (1) Obtain the necessary street opening permit.
 - (2) The immediate work area is to be protected with barricades and signs of such quantity and location so as to afford vehicle operations ample warning that road construction is in progress. Barricades shall be located so as to provide a safe passage of vehicles around the work site. Barricades and signs shall be in accordance with the standards of Part VI of the Uniform Manual on Traffic Control Devices, published by the United States Department of Transportation, as amended.
- B. For all openings or projects which will not be completed within one working day, or which will necessitate the partial or total closing of the street, the following additional regulations will apply, unless waived by the Director of Public Works:
- (1) The location and description of traffic control devices must be shown on a sketch. All devices must be positioned in accordance with the aforesaid Manual on Uniform Traffic Control Devices. This sketch will be forwarded to the Traffic Safety Unit for its comments.
 - (2) Construction work will only be permitted at the times specified on the application.
 - (3) Streets to be closed must be closed and opened at the times specified on the application. If the street is to be closed, advance notice shall be given to the Traffic Safety Unit of the Metuchen Police Department for its comment, and comment shall be received before closing of the street takes place.
 - (4) Construction equipment will not be stored or parked within the roadway after working hours.
 - (5) If a uniformed police officer is requested for traffic control, this request will be made by the contractor to the Traffic Safety Unit.
 - (6) If flagpersons are to be utilized, they shall be dressed, positioned and equipped in accordance with Part VI of the Manual of Uniform Traffic Control Devices.
 - (7) Work areas shall be properly protected and lighted from sunset to sunrise.
 - (8) At least 24 hours notice must be given to the Borough Clerk and the Metuchen Police Department.
 - (9) Copies of the Manual on Uniform Traffic Control Devices are on file with the Borough Engineer and the Traffic Safety Unit and are available from the Federal Highway Administration of the New Jersey Department of Transportation for reference.
 - (10) If the project for which the permits are sought involves more than one street or more than two blocks along the same street, the application must include a "phasing schedule," which shall be subject to review of the Director of Public Works or Borough Engineer, as applicable, which schedule shall provide for an orderly and workmanlike progression, where one phase of the project shall be completed and the roadway closed prior to the opening of roadways in the succeeding phase. The purpose of this phasing schedule shall be to avoid unnecessary and unreasonable disruption of traffic in several areas of the Borough at the same time. Failure to

adhere to the schedule shall be grounds for revocation of the permit. **[Added 3-21-2000 by Ord. No. 2000-6]**

§ 166-24. Safety.

All excavating work shall be done in a manner conforming to the safety requirements of the New Jersey Department of Labor and any other applicable State and Federal Laws and regulations.

§ 166-25. Openings in new streets.

- A. No permit shall be issued by the Director of Public Works to any person given notice under this article which would allow an excavation or opening in paved and improved street surface less than five years old unless the applicant can clearly demonstrate that public health or safety requires that the proposed work be permitted or unless an emergency condition exists.
- B. If, by special action of the Borough, a permit is issued to open any paved and improved street surface less than five years old, a surcharge shall be made for the opening except that the surcharge shall be waived in the event the work is of an emergent nature. The surcharge shall be on a sliding scale and shall be equal to 2% of the cost of restoring the opening for each unelapsed month or fraction thereof of the five-year restricted period, but in no event shall the surcharge be less than \$250.

§ 166-26. Expiration and nontransferability of permits.

Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he or she shall, prior to the expiration of the permit, present in writing to the Director a request for an extension of time, setting forth therein the reasons for the requested extension. If in the opinion of the Director such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work. Permits are not transferable from one person to another, and the work shall not be done in any place other than the location specifically designated in the permit.

§ 166-27. Revocation of permit.

- A. Any permit may be revoked by the Director, after notice to the permittee, for:
 - (1) Violation of any condition of the permit or of any provision of this article.
 - (2) Violation of any provision of any other applicable ordinance or law relating to the work.
 - (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others. A permittee may be granted a period of three days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.
- B. Written notice of any such violation or condition shall be served upon the permittee or his or her agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified or by certified United States mail addressed to the person to be notified.
- C. When any permit has been revoked and the work authorized by the permit has not been completed, the Director shall do such work as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the Borough shall be recovered

from the bond the permittee has made or filed with the Borough.

§ 166-28. State highways.

The provisions of this article shall apply in those instances where the highway is maintained by the State of New Jersey, subject to the provisions of any agreement between the Borough and the State of New Jersey. Permittee shall notify the Borough Clerk and the Police Department 24 hours before any work is commenced. Said notice shall be in writing.

§ 166-29. County highways.

Where a county road is involved, an applicant shall apply and secure a permit from Middlesex County. The Borough Clerk and Police Department shall be notified 24 hours before work is commenced. Said notice shall be in writing.

§ 166-30. Public utilities and contractors of the Borough.

The provisions of this article shall not apply to public utility companies having contracts with the Borough or operating under special ordinances or statutes; nor to any person constructing sidewalks, pavement or public sewers or doing any other work in or on any of the streets, avenues, roads or highways under and in pursuance of a contract entered into between such person and this Borough, provided that these provisions or the equivalent are incorporated in any said contract, specifications or requirements. In the event that these provisions or the equivalent are not incorporated in any said contract, specification or requirements, the provisions of this article shall apply.

§ 166-31. Permit restrictions; definition.

- A. No permit for a street opening shall be given by the Borough Clerk for the purpose of installing a connection between a building or a private sewer and a public sewer, unless the applicant has a sewer connection permit granted by the Borough.¹³⁸
- B. Copies of all permits issued by the Borough Clerk shall be transmitted to the Police Department of the Borough and the Building Inspector.
- C. The definition of street, avenue, road or highway herein shall include any sidewalk area and the area between property lines as such street, avenue, road or highway as laid out on the appropriate Borough maps and subdivision.

§ 166-32. Violations and penalties.¹³⁹

Any violation of this article may be heard on summons or complaint before the Metuchen Municipal Court filed by any resident or official of the Borough. The penalty for a violation of this article shall be as provided in Chapter 1, General Provisions, Article 1, plus the cost to the Borough for correction of the violation. The cost of correction to the Borough shall include straight or overtime pay to any Borough employees and material costs.

§ 166-33. Enforcing officer.

The Director of Public Works is the enforcing authority under the terms of this article and its predecessors.

¹³⁸.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

¹³⁹.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

In the absence of the Director of Public Works, or his or her inability to attend to the requirements of this article and its predecessors, the Borough Engineer shall be entitled to perform the Director of Public Works' duties under this article and its predecessors.

ARTICLE 4

Construction and Maintenance of Sidewalks

[Adopted 9-26-1966 as Article III of Ch. 22 of 1966 Code; amended in its entirety 3-19-2018 by Ord. No. 2018-04]

§ 166-34. Permit required.

Prior to the work of laying or repairing any sidewalk or curb, a permit therefor shall be obtained from the Zoning Official by the owner of the premises or the person performing such work. Dependent upon the proposed work, one of the following two permits shall be required: 1) partial sidewalk/curb/apron permit; or 2) entire sidewalk/curb/apron construction, replacement and/or an ADA ramp permit.

§ 166-35. Information; fees. [Amended 10-19-2020 by Ord. No. 2020-18]

- A. Applications for said permit shall state the location of the proposed work, the name of the owner and the name of the contractor, if any.
- B. Within 30 days of the completion of the work, the permittee shall so notify the Zoning Official. The work shall then be inspected by the Director of the Department of Public Works or the Borough Engineer in accordance with § 166-40. In the event of any deficiencies, the permittee shall correct same in accordance with Subsection C, below.
- C. Correction of any deficiencies shall be done by the permittee. In the event that the permittee shall fail to correct any cited deficiencies within 45 days, or such additional period as agreed to by the Director of Public Works or the Borough Engineer, based on a good cause request for an extension, the permittee shall be deemed in violation of this section and subject to the penalties prescribed in § 166-42.2. The Borough may, but shall not be required to, take action to effect such repairs. Nothing contained herein shall limit the liability of the permittee to the Borough for the correction of these deficiencies. Should the Borough elect to make such repairs, the permittee shall be liable to the Borough for the cost of repairs, which sum shall be deemed to be a lien on the appurtenant private property of the permittee to the extent allowed by law.
- D. The permit fees shall be as follows:
 - (1) The permit fee for a partial sidewalk/curb apron permit shall be \$150 (\$50 permit/application fee and \$100 inspection fee). The inspection fee is the cost of the inspection pursuant to this chapter and is not to be construed as an escrow account, subject to a return. An additional inspection fee of \$75 shall be assessed for a partial sidewalk/curb apron permit for each inspection after the initial two inspections due to a failed inspection.
 - (2) The permit fee for an entire sidewalk/curb/apron construction, replacement and/or ADA ramp permit shall be \$550 (\$50 permit/application fee and \$500 inspection fee escrow). The \$500 inspection fee escrow shall be replenished in the event that multiple inspections are required and the cost of which exceeds the \$500 inspection fee escrow. In the event that there remain inspection fees in escrow after the final approval required herein by the Borough, said amounts shall be returned to the person or entity who made said payment to the Borough for the inspection fee escrow.

§ 166-36. Expiration of permit.

The permit required by § 166-34 shall expire at the expiration of one year from the date of issuance thereof.

§ 166-37. Specifications.

Any new sidewalk or curb constructed after January 1, 1988, or any present sidewalk or curb repaired thereafter shall conform with the specifications for such work as contained herein.

- A. Curbs shall be constructed of concrete and shall extend, in depth, 20 inches from top to bottom.
- B. Curb thickness shall be nine inches at the finished grade of the street and thence downward the entire depth. The thickness shall taper from the grade of the street toward the property line so that, at its top, the curb shall be eight inches thick.
- C. The height of the curb above street grade at the curbline shall be six inches.
- D. There shall be a one-and-one-quarter-inch radius on the top of the curb facing the street and a one-and-one-half-inch radius on the top of the curb toward the property.
- E. The front face of the curb shall have a smooth rubbed finish to the street grade line.
- F. Expansion joints shall be placed approximately every 20 feet; however, no expansion joints shall be placed in any driveway depression. A one-half-inch bituminous expansion joint shall be provided at least once in every 100-foot section length of curb. Sawed joints two inches in depth may be provided in every other twenty-foot section of curb, in lieu of the bituminous expansion joint.
- G. In case of private driveways crossing any sidewalk, the curb may be depressed across the entire width of the driveway by providing a sloping section at either side with a slope of five inches per foot. The depressed portion of the curb shall maintain a full 20 inches of concrete.
- H. All curb construction shall comply with current New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction and the Borough of Metuchen drawings pertaining thereto in design, materials, construction and workmanship.¹⁴⁰
- I. Concrete shall be 4,500 pounds per square inch, air entrained.
- J. In cases where downspout water is discharged at the curb, three-inch pipe must be placed under the sidewalk and a three-inch plastic insert through the entire thickness of the curb. This will outlet the water into the gutter. Outlet openings shall be placed three inches from the top of the curb in areas designated by the Borough Engineer.
- K. Curb radii of less than a fifty-foot arc and all driveway curb depressions shall be reinforced with a minimum of two, one-half-foot reinforcement rods. Reinforcement rods shall be constructed in a manner acceptable to the Borough Engineer. Curb radii exceeding a fifty-foot arc shall be installed without reinforcement rod.
- L. All sidewalks and curbing shall be constructed, reconstructed and repaired in accordance with this article and according to the following specifications:
 - (1) New sidewalks constructed on streets of the Borough of Metuchen shall be of concrete construction and shall comply with the current New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction. Sidewalks shall be scored in general into four-foot sections. A one-half-inch bituminous expansion joint shall be provided at least once in every five-section length of sidewalks. A one-half-inch bituminous expansion joint shall be provided where the sidewalk meets a curb, driveway, concrete private walkway or building

140. Editor's Note: See curb detail illustrations included at the end of this chapter.

and at such other places as may be directed by the Borough Engineer. All utility poles, traffic posts, water hydrants, fire hydrants, sign posts and other objects positioned within the sidewalk must be separated with a one-half-inch bituminous expansion joint providing a clearance of six inches of concrete for each object positioned within the sidewalk.

- (2) The thickness of all finished walks shall be at least four inches, except where crossing a driveway in which case the thickness shall be six inches, laid on an approved four-inch to eight-inch stone base. All sidewalks shall maintain a 1/4 inch per foot slope toward the curb. The front edge of the sidewalk shall be elevated one inch above the top of the curb and the back edge shall be one inch higher than the front edge. Finished sidewalks shall have a broomed abrasive surface.
 - (3) Sidewalks shall not be constructed with a curb as a single integral unit.
- M. Where sidewalks are a part of the driveway the sidewalk shall maintain grade, with no depression, as to provide a safe and easy walkway. That portion of the driveway that provides access to private property between the curb and the sidewalk shall be constructed of concrete with a minimum thickness of six inches reinforced with wire mesh. A one-half-inch bituminous expansion joint shall be provided where the driveway abuts the sidewalk and/or curb. That portion of the sidewalk that constitutes the driveway shall be six inches in thickness and reinforced with six-by-six #10/10 wire mesh. Driveways shall be installed as directed in Chapter 110, Land Development.
- N. All details of construction not mentioned in this article shall be in accordance with approved engineering specifications.

§ 166-38. Establishment of grade.

All sidewalks shall be laid at the grade established by ordinances of the Borough.

§ 166-39. Line and grade.

In all cases where requested, the line and grade for any sidewalk shall be approved by the Borough Engineer.

§ 166-40. Inspections.

The construction and repair of all sidewalks and curbs shall be subject to an inspection by the Director of the Department of Public Works or the Borough Engineer and shall be finished to the reasonable satisfaction of the Director of Public Works or the Borough Engineer as the case may be. The Director of Public Works or the Borough Engineer shall prepare a list of deficiencies, if any, and shall forward or hand a copy to the permittee.

§ 166-41. Maintenance.

Sidewalks and curbs shall be maintained at all times in a safe condition and in such a manner and condition as to avoid any hazard or damage to any pedestrian, person or vehicle lawfully using same. The maintenance of the curb and sidewalk immediately adjacent to a property is the responsibility of the owner of that adjacent property.

§ 166-42. Construction or repair by Borough.

The Mayor and Council shall have the authority to construct or repair any sidewalks or curb adjacent to any

property located in the Borough so that the same conforms with this article and to assess the cost thereof to the adjacent owner. Such action by the Mayor and Council shall be in conformity with state law regarding special assessments.

§ 166-42.1. Enforcement. [Amended 4-29-2024 by Ord. No. 2024-13]

The Zoning Officer, Director of the Department of Public Works, the Borough Engineer, Building Code Official, Police Department, Enforcement Officer/Official, and/or other subcode official, as their jurisdiction may arise, shall be responsible for the enforcement of these sections of this article.

§ 166-42.2. Violations and penalties.

Any person who shall violate any of the provisions of this article or any order promulgated hereunder shall, upon conviction, be punished by at least a minimum fine of \$100 and a maximum fine not exceeding \$2,000 in addition to compliance with the requirement of applying and obtaining the required permit. Each day on which a violation of this article exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine. Nothing herein shall limit the rights and remedies of the Borough of Metuchen for a violation of this article pursuant to this article and prescribed by law.

ARTICLE 5

Fences and Other Encroachments; Dangerous Conditions
[Adopted 9-7-1971 by Ord. No. 71-23]**§ 166-43. Compliance. [Amended 12-18-1972 by Ord. No. 72-24]**

It shall be unlawful for any occupant or owner of property to erect, construct or maintain any fence, stoop, step, platform, window, cellar door, area, descent into a cellar or basement, bridge, sign or any post, erection or projection or any other obstruction or similar encroachment in, over or upon any sidewalk, street, highway or any other public right-of-way, unless the same is permitted by Chapter 110, Land Development, or any provision of this Code or any other ordinance of the Borough.

§ 166-44. Unlawful obstructions. [Amended 12-18-1972 by Ord. No. 72-24]

It shall be unlawful for any person other than a designated public official to place any obstruction in, over or upon any sidewalk, street, highway or any other public right-of-way, unless specifically authorized and permitted by any municipal ordinance, regulation or any law.

§ 166-45. Discharging or diverting water. [Added 3-18-1974 by Ord. No. 74-5]

No person shall divert or discharge water into, upon or across any street, avenue, road, highway, sidewalk or public right-of-way in the Borough so that a nuisance is created, a hazardous or dangerous condition is created or the pavement or road surface is damaged thereby.

§ 166-46. Designated enforcing officers. [Amended 4-29-2024 by Ord. No. 2024-13]

The Zoning Officer and/or Enforcement Officer/Official, within their given jurisdictions, are hereby designated as the enforcing officers of this article.

§ 166-47. Correction or removal of violations.

- A. In the event of any violations of this article, the enforcing officer is authorized to send a notice by certified or registered mail to the owner or occupant of the premises on which a fence or other encroachment has been unlawfully erected or maintained allowing said owner or occupant 10 days within which to correct any violation. Upon failure of the owner or occupant to correct the violation within the time specified, the enforcing officer is authorized to have the fence or other encroachment summarily removed. When the fence or other encroachment has been removed by the Borough the actual cost thereof plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the Borough and such charge shall be due and payable by such owner at the time of payment of such bill.
- B. When the full amount due the Borough is not paid by such owner within 30 days after the removal of such fence or other encroachment, as provided for above, then, and in that case, the enforcing officer shall cause to be filed in the Borough Tax Collector's office a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which such work was done. The filing of such sworn statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection until final payment has been made. Such costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of 8% in the event same is not paid in full on or before the date the tax bill upon which such

charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectable as provided by law.

§ 166-48. Removal of immediately dangerous obstructions.

Nothing in this article shall prevent the Chief of Police, the Director of Public Works or any other Borough official from immediately removing any unlawful obstruction or barricade which presents an immediate danger to the safety of the public in respect to the use of the streets and highways.

§ 166-49. Issuance of summons for violations.

Nothing in this article shall prevent any police officer of the Borough from issuing a summons for any violation of this article.¹⁴¹

141. Editor's Note: Former § 22-52, dealing with violations of this article, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 2. See § 166-1 for provisions regarding violations.

ARTICLE 6

Repair of Motor Vehicles on Streets
[Adopted 2-18-1975 by Ord. No. 75-3]

§ 166-50. Prohibited acts.

No person engaged in the business of repairing or cleaning motor vehicles or conveyances or in replacing parts for same, including but not limited to glass windshield repairs and replacements, shall use the sidewalks or streets or other public rights-of-way in the Borough for such repairs, cleaning or replacement, except for emergency work to be solely limited to that required to remove any such vehicle or conveyance from the sidewalk, street or public right-of-way.¹⁴²

142. Editor's Note: Former § 22-69, dealing with violations of this article, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 2. See § 166-1 for provisions regarding violations.

ARTICLE 7

Access to Dead-End Streets**[Adopted 7-2-1990 by Ord. No. 90-15]****§ 166-51. Findings and purposes.**

- A. Wistar Avenue, a municipal roadway, runs approximately north-south a distance of a few hundred feet north of Mason Drive with its pavement terminating approximately two feet from the municipal border with the Township of Edison. Several abutting homeowners within the Borough have properties which front on the sidelines of Wistar Avenue. Additionally, a portion of a property owned by a resident within the Township of Edison, whose street address is 53 Bryant Avenue, is, in part, nearly adjacent to the Borough boundary at the stub end of Wistar Avenue.
- B. No portion of property whose address is 53 Bryant Avenue in Edison is within the Borough. Nor has Wistar Avenue ever been extended into the Township of Edison, and no agreement exists with Edison to allow its extension at some future time. The property's frontage on Bryant Avenue in Edison already affords a convenient means of access to that Edison landholder.
- C. By this chapter, the Mayor and Council desire to end the sporadic and previously quite intermittent access to the rear of that Edison property from Wistar Avenue in Metuchen. For that purpose, the Department of Public Works is directed to erect and maintain a barrier at the end of the pavement on Wistar Avenue, and the Police Department is directed to take all necessary action to enforce the dead-end status of Wistar Avenue at the municipal line and to prevent any interference with the maintenance of the barrier.

§ 166-52. Access to dead-end streets by non-Borough property owners.

It shall be unlawful for any person to obtain direct vehicular access to a dead-end municipal street in the Borough where such property already possesses a noncircuitous means of access to its property from the public street network of the Township of Edison.

§ 166-53. Dead-end streets enumerated.

In accordance with the provisions of the preceding section, the following street is hereby designated a roadway that dead-ends at the municipal boundary and declares unlawful any attempt to interfere with any barrier erected by the Borough of Metuchen to prevent unlawful access to its street network by unauthorized persons.

Name of Street	Location
Wistar Avenue	North of Mason Drive, just south of the municipal boundary with the Township of Edison

ARTICLE 8

Fiber Optic Cable**[Adopted 6-3-1996 by Ord. No. 96-5]****§ 166-54. Findings and purposes.**

- A. The Borough of Metuchen has recently received multiple requests from entities engaged in the telecommunications business seeking the Borough's permission to use the Borough rights-of-way, Borough streets and/or existing easements previously granted by the Borough to the public utilities for the purpose of installing fiber optic cable, either overhead on existing utility poles or within underground conduits. The Borough is desirous of being supportive of this emerging innovative technology, creating and expanding an information superhighway and desires to establish a uniform mode of dealing with such requests.
- B. These requests from telecommunications providers require substantial review by Borough officials, including its engineering and Public Works Departments, before permission can be granted since it will often involve the excavation of Borough streets, placement of construction vehicles partially blocking traffic on the Borough streets and the need for additional police services during inspection of the construction. For those purposes, the imposition of an administrative fee, geared to the magnitude of the installation, constitutes an appropriate balance between the needs of the telecommunications provider and of the Borough to protect and promote the public safety and welfare of its inhabitants.

§ 166-55. Permit application.

- A. Every applicant for installation of fiber optic cable or other telecommunication device desired to be installed either within an existing public utility easement or on public property or public right-of-way located within the Borough shall submit to the Borough Clerk:
 - (1) Three copies of a plat showing the proposed location of the fiber optic cable installation.
 - (2) A depiction or narrative indicating whether the proposed installation is overhead or underground.
 - (3) Copies of any and all easements proposed to be used which have previously been granted to other utilities and assigned to the applicant.
 - (4) Any agreement by the prior utility to allow concurrent use of the existing easement.
- B. Every application, once completed, shall be reviewed and a report prepared by the Borough Engineer for submission to the Borough Council for final action. Each application must be accompanied by a check made payable to the Borough in the amount of \$500 per linear mile (or part thereof) in which the fiber optic cable is to be installed. The application shall also be accompanied by a certificate of insurance in the amount of at least \$1,000,000 in general liability coverage which names the Borough as an additional insured on that policy, as well as a form of Indemnification Agreement, approved as to form by the Borough Attorney, which will hold the Borough and its officials harmless from any loss, claim or damage arising out of the installation, maintenance or use of the fiber optic cable to be installed by the applicant.

§ 166-56. Exceptions.

The regulations established herein shall not be applicable to existing utility companies paying a gross

receipts tax to the State of New Jersey or to any entity paying a franchise fee, pursuant to statute, as a cable television provider within the Borough.

§ 166-57. Severability.

If any subsection, paragraph or provision of this article be declared to be invalid by the final judgment of the court of competent jurisdiction, such findings shall not affect the remaining positions hereof which shall remain in full force and effect. This article shall prevail to the extent of any inconsistency between its provisions and of those previously adopted ordinances, but the provisions of the current street opening permit shall be considered supplementary to and not displaced by this article.

METUCHEN CODE

Chapter 169

SWIMMING POOLS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Borough Swimming Pool Facilities
[Adopted 2-17-1969 by Ord. No. 69-5]**§ 169-1. Definitions. [Amended 4-5-1982 by Ord. No. 82-6]**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADULT — Anyone 18 years of age or older, unless otherwise specified in this article.

AGE — The individual's age on May 1 of each season.

AREA — The total area as stated in the definitions of pool apron area, pool area and pool patio, plus the entire parking area as provided in the plans and specifications of the swimming pool.

CHILD — Anyone under the age of 18 years, unless otherwise specified in this article.

METUCHEN POOL COMMISSION — The Metuchen Pool Commission for the Borough public swimming pool established by Article 2 of Chapter 10, Commissions and Committees.

POOL APRON AREA — The fifteen-foot-wide area of concrete immediately surrounding the pool.

POOL AREA — The entire fenced area surrounding the pool.

POOL PATIO — The remainder of concrete area surrounding the pool.

SEASON — The period of pool operation during a calendar year.

UNIFORMED VOLUNTEER — A member in good standing of the Metuchen Volunteer Fire Department; the Metuchen Auxiliary Police Force or the Metuchen EMS. [Added 4-5-2009 by Ord. No. 2009-6]

§ 169-2. Purpose.

There are hereby created and established rules and regulations for the use and operation of the Borough swimming pool facilities, known as the swimming pool utility of the Borough. Use of the swimming facilities shall be subject to such rules and regulations as may be promulgated by the Borough Council by ordinance or resolution, which shall be posted at all times upon the bulletin board of the swimming facilities, and a copy thereof shall be filed with the Borough Clerk for public inspection.

§ 169-3. Membership and fees. [Last amended 2-18-1992 by Ord. No. 92-2]

- A. Membership is limited to residents of the Borough and nonresidents of the Borough, under the provisions hereinafter set forth in this section.
- B. Memberships shall be limited to 1,300 families or the equivalent thereof. For the purpose of this section, an individual membership or a senior citizen membership shall count as 1/2 membership.
- C. In accordance with the authority delegated to the municipality by N.J.S.A. 40:61-22.26, the governing body hereby establishes the ranges for the fees, charges, rents and other assessments which can be made in the name of the governing body and under its delegated authority upon the patrons to the municipal swimming pool, as set forth in Subsection E below.
- D. The Metuchen Pool Commission shall adopt by resolution a budget on an annual basis, no later than January 15. In establishing its budget, the Metuchen Pool Commission shall attempt to ensure, to the extent practicable, that the pool is operated on a self-sustaining basis without requiring any general

revenues to finance its operation. The rates stated within the budget shall be set by resolution of the Borough Council as consistent with §§ 10-11 and 10-12 of this Code, inclusive.

- E. Maximum fee for annual membership fees shall be as follows: **[Last amended 4-8-2024 by Ord. No. 2024-12]**

RESIDENT MEMBERSHIPS RATES: (Early Registration Period as set by Pool Commission)

(1)	Resident Family: (equivalent membership: one)	\$515
(2)	Resident Family Plus	\$665
(3)	Resident Individual	\$270
(4)	Resident Senior	\$90

RESIDENT RATES: (Upon Expiration of Early Registration Period)

(1)	Resident Family (equivalent membership: one)	\$590
(2)	Resident Family Plus	\$725
(3)	Resident Individual	\$305
(4)	Resident Senior	\$100

NONRESIDENT RATES: (Early Registration Period as set by Pool Commission - Thirty-day period)

(1)	Nonresident Family	\$755
(2)	Nonresident Family Plus	\$875
(3)	Nonresident Individual	\$435
(4)	Nonresident Senior	\$240

NONRESIDENT RATES: (Upon Expiration of Early Registration Period)

(1)	Nonresident Family	\$840
(2)	Nonresident Family Plus	\$955
(3)	Nonresident Individual	\$490
(4)	Nonresident Senior	\$260
	Guest Fee	\$10 per person

Miscellaneous Fee Schedule - Membership Required:

General Event	\$5
Swim Lessons	\$30 per 6 lessons
Swim Clinic	\$75
Master Swim	\$25 per season
Camp Rentals	\$225 per hour

Long Course Rentals	\$215 per hour
Pool Adult Fitness	\$25 per season
Party Reservation	\$50 for 3 hours and \$10 guest fee for each and every non-pool member

- F. Renewal of nonresident memberships will be received after March 15, except as provided under Subsection J.
- G. Application for a new nonresident membership will be received after April 15.
- H. Application for resident membership will be received at anytime.
- I. The Metuchen Pool Commission may designate a reduced fee for those residents making application, including full payment, prior to March 15 of each year.
- J. The Metuchen Pool Commission may adopt, by resolution, an early renewal policy for all classes of membership under which a member may apply and pay the appropriate fee on or before to October 31 of the prior year. Fees for the early renewal program shall not be less than the fees for the current year.
- K. The last date for which membership applications shall be accepted from year to year shall be determined by the Metuchen Pool Commission and duly publicized each year.
- L. The balance due on all memberships must be paid on or prior to the date of the opening of the pool season.
- M. No fee shall be returnable for any reason after the first day of each season, except by special approval of the Metuchen Pool Commission. The Metuchen Pool Commission may adopt a membership refund policy, which includes the charging of a fee for administrative processing of the membership application and approved refunds.
- N. Each uniformed volunteer, as defined herein,¹⁴³ shall be entitled to a resident family membership, at no fee or charge for such membership. **[Added 5-4-2009 by Ord. No. 2009-6]**
- O. Additional fees. **[Added 12-21-2009 by Ord. No. 2009-18; amended 5-19-2014 by Ord. No. 2014-5]**
 - (1) Bathing caps: \$5.
 - (2) Goggles: \$5.
 - (3) Swim lessons: \$30 (per session/per child). Two sessions are offered per summer. Each session consists of six lessons, two per week for the three weeks.
 - (4) Adult fitness swimming: \$25.
 - (5) Hourly charges for pool rental: \$75/hour for outside organizations, such as camp groups, day care, church groups et. al. that rent the pool for recreational purposes; \$65/hour for all others.
 - (6) Family Fun Day: \$12.95 per adult; \$6.95 per child.

143. Editor's Note: See § 169-1, Definitions.

- (7) Party area reservation: \$50 for three hours and appropriate guest fee for all non-pool members.

§ 169-4. Hours of pool operation.

- A. The hours of operation shall be as follows:

- (1) Monday through Friday, 12:00 noon to 8:00 p.m.; Saturdays and holidays, 10:00 a.m. to 8:00 p.m.; Sundays, 12:00 noon to 8:00 p.m. (daylight saving time).
- (2) Monday through Friday, 10:00 a.m. to 12:00 noon, recreation program.

- B. The Metuchen Pool Commission shall have the option to set periods of pool operations and to adjust pool hours as required by circumstances or special activities.¹⁴⁴

§ 169-5. Identification cards. [Amended 3-3-1980 by Ord. No. 80-9]

- A. All members will be issued identification cards which must be shown for admission to the area.
- B. Identification cards are not transferable.
- C. Illegal transfer of cards will result in revocation or suspension of membership.
- D. Lost identification cards must be reported to the pool manager immediately and can be replaced by payment of the fee specified in § 169-3 therefor. **[Amended 9-15-1997 by Ord. No. 97-20]**

§ 169-6. Guests; number; fee. [Amended 3-31-1970 by Ord. No. 70-10; 3-3-1980 by Ord. No. 80-9; 5-2-1983 by Ord. No. 83-9; 9-15-1997 by Ord. No. 97-20]

- A. A fee of \$5 shall be charged for each adult guest admission on weekdays, and a fee of \$8 shall be charged for each adult guest admission on weekends and holidays. A fee of \$2.50 shall be charged after 5:00 p.m. Children under age 10: \$3, weekdays; \$4 weekends and seniors: \$1, weekdays; \$2, weekends and holidays. **[Amended 11-1-2004 by Ord. No. 2004-18]**
- B. Members of the pool may obtain a weeklong guest pass for out-of-town guests (beyond a fifty-mile radius) for a fee of \$24 per person. No refunds shall be granted under this policy.
- C. Guests must be accompanied by a member during the entire stay at the pool.

§ 169-7. Rules and regulations; enforcement.

- A. Rules and regulations shall be determined by the Metuchen Pool Commission for the operation of the pool. Interpretation and enforcement of rules and regulations shall be the responsibility of the pool manager.
- B. Rules and regulations shall be published and posted and strictly enforced.
- C. The Metuchen Pool Commission may change or amend rules and regulations as circumstances require.
- D. The pool manager or the assistant manager may close or limit the swimming facilities whenever in their judgment such action is deemed necessary or desirable for the protection of health or safety of

¹⁴⁴Editor's Note: Original § 23-13, as amended, dealing with membership fees, which immediately followed this section, was deleted 2-18-1992 by Ord. No. 92-2.

such persons entitled to use such facilities.

- E. The pool manager and the assistant manager and all lifeguards, when on duty at the swimming facilities, shall have authority to prohibit any act or action contrary to public safety and any act or actions in violation of rules and regulations herein before provided. **[Amended 9-15-1997 by Ord. No. 97-20]**
- F. The pool manager and assistant manager and members of the Police Department of the Borough shall have the power of expulsion or suspension of the privileges otherwise granted to the holder of the membership card.
- G. The Metuchen Pool Commission shall be the final arbitrator on any disputes arising from enforcement or interpretation of these rules and regulations.
- H. Any person or persons who shall violate any duly posted rule or regulation of the Metuchen Pool Commission shall be subject to immediate ejection from the pool area. The Metuchen Pool Commission reserves the right to revoke any membership for dangerous acts, improper conduct or repeated violations of the rules and regulations. Any person or persons who shall destroy or damage pool property through gross carelessness or willful misconduct may be held financially liable for such destruction or damage as may be determined by a court of law.

§ 169-8. Applicability of other provisions.

The provisions of this article shall not relieve any person of the duty to observe other provisions as set forth in any state statute or ordinance of the Borough as hereinafter provided.

§ 169-9. Water quality and testing.

- A. The Metuchen Pool Commission is empowered to set safety and health standards in accordance with acceptable practices as set forth by the Borough Board of Health as to water quality.
- B. Water testing shall be on a basis of not less than once per week by a competent testing laboratory and by the pool manager on a daily, hourly basis during periods of pool operations.

§ 169-10. Violations and penalties. [Added 9-15-1997 by Ord. No. 97-20]

Penalties for violation of the provisions of this article shall be as provided in Chapter 1, General Provisions, Article 1.

TAXATION

Chapter 172

TAXATION

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Tangible Household Personal Property and Personal Effects
[Adopted 9-26-1966 as Art. I of Ch. 24 of the 1966 Code]**§ 172-1. Exemption.**

All tangible household personal property and personal effects located within the Borough shall not be assessed and taxed.

§ 172-2. Applicability.

This article shall apply to taxes on tangible household personal property and personal effects due and payable in the year 1962 and thereafter so long as this article shall be in effect and shall not affect the obligation, lien or duty to pay any taxes, interest or penalties which have accrued or may accrue by virtue of any assessment made or which may be made with respect to taxes levied for any year prior to the year 1962; nor shall this article affect the legal authority to assess and collect taxes which may be or have been due and payable prior to January 1, 1962, together with such interest and penalties as would have accrued thereon under any provisions of law amended or repealed hereby; nor shall this article invalidate any assessments or affect any proceedings for the enforcement thereof pending upon the effective date of this article or upon January 1, 1962, or during the period between such dates.¹⁴⁵

145. Editor's Note: Former § 24-2, dealing with the senior citizen's deduction, which immediately followed this section, was deleted 9-15-1997 by Ord. No. 97-20.

ARTICLE 2

Home Improvement Tax Exemption Program**[Adopted 12-20-1993 by Ord. No. 93-38]****§ 172-3. Title.**

This article shall be known as the "Home Improvement Tax Exemption Program for the Southeast Quadrant."

§ 172-4. Findings and purposes.

- A. The New Jersey Legislature has enacted a law enabling certain qualified municipalities to offer a five-year limited tax exemption for certain home improvements, N.J.S.A. 40A:21-1 et seq., as amended.
- B. The southeast quadrant has previously been designated as an eligible neighborhood for community development grants.
- C. More than 25% of the dwelling units in the southeast quadrant are over 40 years old.
- D. The Mayor and Council of the Borough of Metuchen have found the southeast quadrant, as defined hereinafter, to be in need of rehabilitation and that granting these areas qualified status for this tax exemption program will encourage homeowners to improve their properties.
- E. The Mayor and Council hereby finds that the adoption of this article will encourage the rehabilitation of residential properties in the designated neighborhood of the southeast quadrant which will improve these properties, the designated neighborhood and the entire Borough.

§ 172-5. Definitions.

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

ASSESSOR — The Assessor of the Borough of Metuchen charged with the duty of assessing real property for the purpose of general taxation.

COMPLETION — Substantially ready for the use for which it was intended. On or before October 1 of any year following the date of the completion of the improvement, the Assessor shall determine the true taxable value of the improvement.

DWELLING — Each residential living unit within a one- or two-family building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof. A dwelling shall include individual residences within a horizontal property regime or a condominium, to the extent allowed by N.J.S.A. 40A:21-3(k). **[Amended 9-15-1997 by Ord. No. 97-20]**

EXEMPTION — Any portion of the Assessor's full and true value of any improvement not regarded as increasing the taxable value of the property.

HOME IMPROVEMENT — The improvement of a dwelling which does not change its permitted use and shall include modernization, rehabilitation, renovation, alteration or repair of a dwelling.

SOUTHEAST QUADRANT — That neighborhood within the Borough lying to the south of the railroad tracks formerly operated by the Lehigh Valley Railroad, to the east of Main Street and extending in those

directions to the Borough line.

§ 172-6. Application of program.

- A. Eligibility. Owners of dwellings more than 20 years old in the southeast quadrant are hereby eligible to receive a five-year property tax exemption for home improvements up to the limits set out by this article upon completing the application process delineated in Subsection B of this section.
- B. Application process. In order to receive the five-year property tax exemption, all eligible homeowners making a home improvement must submit a written application to the Tax Assessor on a form prescribed by the Division of Taxation within 30 days of the completion of the improvement.
- C. Approval. Every complete application for exemption of one or more home improvements, filed within the time specified, shall be approved and allowed by the Assessor.
- D. Recording. The granting of any exemption under this article shall be recorded and made a permanent part of the official tax records of the Borough of Metuchen. Such record must also include a notice of the termination date of the exemption.
- E. Notice to taxpayers. The Tax Collector of the Borough of Metuchen shall send a notice prepared or approved by the New Jersey Department of Community Affairs describing the exemption program and the application procedure with the mailing of annual property tax bills to each owner of a dwelling located in the southeast quadrant during the first year following adoption of this article.

§ 172-7. Five-year tax deferral.

Taxpayers fulfilling the requirements set out in § 172-6 shall be exempted for a period of five years from any increase in their assessed taxable value arising from the first \$25,000 of full and true increased value of the dwelling which results from home improvements made to that dwelling so long as the dwelling is more than 20 years old; and provided, however, that during the same period, the assessment on such dwelling shall in no case, except from damage of the elements, be less than the assessment thereon existing immediately prior to such home improvements.

§ 172-8. Additional exemption for improvements.

Additional improvements completed during a period in which the individual dwelling is subject to a previously granted exemption in an amount less than the maximum exemption permissible for each unit hereunder shall be qualified for an additional exemption under the terms and conditions herein specified; provided, however, that in no tax year shall the total deduction for any individual dwelling exceed the maximum amount specified herein.

§ 172-9. Limitations.

The exemption set forth in this article shall be granted only to and for the taxpayer who owns the dwelling at the time the home improvement is completed. Exempt status under this article shall not be transferred if the dwelling is sold during the period of exemption. A subsequent purchaser can qualify for a full separate exemption under this article by making further home improvements on the dwelling after title has been vested in him or her.

ARTICLE 3

**Metuchen Senior Citizens Housing Project
[Adopted 8-16-2010 by Ord. No. 2010-11]****§ 172-10. Purpose.**

The Project¹⁴⁶ (35 Lincoln Avenue, Lot 150, Block 208) meets an existing housing need.

§ 172-11. Determinations and findings.

The Council does hereby make the determinations and findings herein contained by virtue of, pursuant to and in conformity with the requirements of the deed restrictions and the manner in which the Project has existed and operated since its inception and with the intent and purpose that the Department of Community Affairs, Federal Housing Administration, of the Department of Housing and Urban Development and other public/private agencies, authorities and lenders overseeing or extending financing to the Project and sponsor for the Project shall rely hereon now and in the future.

§ 172-12. Exemption from real property taxes.

The Council does further ordain and adopt this article for the intent and purpose that from the date of final adoption of this article that the Project, including both the land and improvements thereon, shall be exempt from real property taxation so long as the deed restrictions shall continue in effect, provided that payments in lieu of taxes for municipal services supplied to the Project are made to the Borough in such amounts and manner as are set forth in the agreement for payment in lieu of taxes dated September 25, 2006, between Metuchen Associates, LLC and the Borough ("the September 26, 2006, PILOT"), which September 26, 2006, PILOT shall be amended to expressly state that the exemption of the Project from real property taxation and the sponsor's obligation to make payments in lieu of taxes shall extend to and including October 31, 2042, and to further state that the sponsor shall make payment to the municipality in an amount equal to 6.28% of the Project revenues, as defined in such restated and amended September 26, 2006, PILOT up to and including October 31, 2042.

§ 172-13. Authorization to execute agreement.

The Council hereby authorizes and directs the Mayor of the Borough of Metuchen to execute, on behalf of the Borough, an agreement restating and amending same to extend the term of the September 25, 2006, PILOT and the grant of tax exemption upon the above-stated terms, provided Metuchen Associates, LLC, confirms its concurrence that not less than 63 units shall be reserved as set forth above.

146. Editor's Note: "The Project" refers to the Metuchen Senior Citizens Housing Project, a one-hundred-twenty-two unit senior housing project on a site described as Lot 150, Block 208, commonly known as 35 Lincoln Avenue.

ARTICLE 4

Local Cannabis Transfer and User Tax
[Adopted 10-24-2022 by Ord. No. 2022-19]**§ 172-14. Purpose.**

The purpose of this article is to implement the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the "Act" or "CREAMMA") set forth at N.J.S.A. 24:6I-46 and N.J.S.A. 40:48I-1, which authorize a municipality to impose transfer and user taxes on cannabis establishments.

§ 172-15. Definitions.

All terms herein shall be defined as set forth in section 3 of CREAMMA, N.J.S.A. 24:6I-33.

§ 172-16. Cannabis transfer tax.

- A. All cannabis establishments operating in the Borough shall be subject to the following transfer tax on the sale of cannabis or cannabis related items:
 - (1) Class 3 Cannabis Wholesalers: One percent (1%) of receipts from each sale.
 - (2) Class 5 Cannabis Retailers: Two percent (2%) of the receipts from each sale.
- B. The transfer tax imposed pursuant to this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis.
- C. The transfer tax shall be collected or paid, and remitted to the Borough by the cannabis establishment purchasing or receiving the cannabis or cannabis item. The transfer tax shall be stated, charged and shown separately on any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable or equivalent value of the transfer for the cannabis or cannabis item.

§ 172-17. Cannabis user tax.

- A. Any concurrent license holder operating more than one cannabis establishment shall be subject to a two percent (2%) user tax. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to this article, from the license holder's establishment that is located in the Borough to any of the other license holder's establishments, whether located in the Borough or in another municipality.
- B. The user tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis.
- C. The user tax shall be stated, charged and shown separately on any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable or equivalent value of the transfer for the cannabis or cannabis item.

§ 172-18. Collection of cannabis transfer and user tax.

In accordance with the provisions of CREAMMA:

- A. Every cannabis establishment required to collect the transfer and user taxes imposed by this article shall be personally liable for the transfer and user tax imposed, collected, or required by this article and CREAMMA.
- B. Any cannabis establishment collecting a transfer tax or user tax shall have the same right with respect to collecting the tax from another cannabis establishment or the consumer as if the tax was a part of the sale and payable at the same time. With respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the tax was part of the purchase price of the cannabis or cannabis item and payable at the same time, provided that the Borough's Chief Financial Officer is joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
- C. No cannabis establishment required to collect the transfer and user taxes imposed by this article shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.

§ 172-19. Remittance of cannabis taxes; delinquencies.

- A. All revenues collected from the transfer tax and user tax imposed pursuant to this article shall be remitted to the Borough's Chief Financial Officer on a monthly basis.
- B. The Borough shall enforce the payment of delinquent taxes or transfer fees imposed by this article in the same manner as provided for municipal real property taxes.
- C. In the event that the transfer tax or user tax imposed by this article is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid Borough taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of Borough taxes, and shall be on a parity with and deemed equal to the Borough lien on the parcel for unpaid property taxes due and owing in the same year.
- D. The Borough shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance of cannabis taxes and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.
- E. No licensed cannabis establishment operating in the Borough shall be permitted to renew a license issued pursuant to Chapter 72 of this Code should any transfer or user tax imposed by this article be delinquent.

TAXICABS

Chapter 175

TAXICABS

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Ch. 25 of the 1966 Code. Amendments noted where applicable.]

ARTICLE 1
General Provisions

§ 175-1. Eligibility for driving licensed vehicles.

No licensed hack, cab or taxicab, licensed in accordance with this chapter, shall be driven or used within the Borough except by the owner thereof or by a duly licensed driver. Any person, upon being found guilty of violating this section, shall be punished as provided by § 175-17.

§ 175-2. Smoking regulations for drivers. [Added 2-16-1988 by Ord. No. 88-4]

No driver of a hack, cab or taxicab, subject to licensing under this chapter, shall smoke or possess lighted tobacco products in his or her licensed vehicle without first requesting and obtaining permission from all passengers riding therein.

§ 175-3. Smoking regulations for passengers. [Added 2-16-1988 by Ord. No. 88-4]

No passenger shall smoke or possess lighted tobacco products in any hack, cab or taxicab which is subject to licensing under this chapter in which vehicle the driver or owner has prominently displayed a sign, readily visible to passengers, with the words "No Smoking" or the equivalent language in block letters at least two inches high.

§ 175-4. Persons other than passengers in or about vehicle.

Any owner or driver of any hack, cab or taxicab used for the transportation of passengers or baggage, licensed under this chapter, who shall permit or allow any person other than a passenger being transported for hire in and about such vehicle, whether the same is in motion or otherwise, upon being found guilty of violating this section may have his or her license revoked and in addition thereto shall be punished as provided by § 175-17.

§ 175-5. Soliciting.

It shall be unlawful for the owner, operator or driver of any hack, cab or taxicab to hire to use or employ any person to ask for or solicit travelers or citizens for employment. Upon any such person being found guilty of violating this section such owner, operator or driver may have his or her license revoked and in addition thereto shall be punished as provided by § 175-17.

§ 175-6. Public stands.

The Mayor and Council are hereby authorized to designate such places within the Borough as public stands for hacks, cabs or taxicabs licensed as provided by this chapter as may be deemed expedient and proper and also to make such regulations and give such directions with respect to the place and position to be occupied by the vehicles aforesaid while waiting for employment at any railroad station, bus station, street or highway and as may be necessary to preserve order and promote the public convenience. Any person who shall refuse or neglect to obey the designation or regulation herein referred to shall, upon being found guilty of violating this section, be punished as provided by § 175-17.

§ 175-7. Regulation and preservation of order.

It shall be the duty of the Chief of Police and his or her officers to regulate and preserve order among the owners, operators and drivers licensed as provided by this chapter at any public cab stand or station

authorized by this chapter. Any person who shall neglect or refuse to obey the directions of the Chief of Police or the officer designated shall be punished as provided by § 175-17.

§ 175-8. Card or sign to be displayed. [Amended 2-16-1988 by Ord. No. 88-4]

- A. There shall be conspicuously displayed in the rear passenger area of every hack, cab or taxicab subject to licensing under this chapter a card or sign not less than 8 1/2 inches by 11 inches long, containing:
- (1) The name of the owner of the taxicab.
 - (2) The owner's license number.
 - (3) The owner's phone number.
 - (4) The name of the taxi driver.
 - (5) The driver's taxi license number.
 - (6) The telephone number of the Metuchen Police Department
 - (7) The maximum charges as set forth in amended § 175-10.
- B. The aforesaid sign shall be displayed in such a manner to be conveniently read by passengers. The Chief of Police is empowered to prescribe a specific format for this sign. If any owner or driver of a licensed vehicle shall violate any portion of this section, he or she shall be punished as provided for in § 175-17. There shall be conspicuously displayed on every hack, cab or taxicab subject to licensing under this chapter on each side of the vehicle in block letters at least three inches high the name of the owner of the taxicab, his or her telephone number, with a separate number for each taxicab of the particular owner for purposes of identification.

§ 175-9. Operator's badge. [Amended 2-16-1988 by Ord. No. 88-4; 10-15-2012 by Ord. No. 2012-8]

Whenever any license is issued to the owner, operator or driver of any hack, cab or taxicab for the transportation of passengers or baggage within the Borough, a badge containing the number of such license shall be furnished by the Chief of Police to such owner, operator or driver, who shall wear the same in a conspicuous place upon his or her person while engaged in such occupation, which badge shall bear the photograph of the license holder.

§ 175-10. Charges. [Amended 5-4-1970 by Ord. No. 70-15; 6-6-1977 by Ord. No. 77-10; 8-20-1984 by Ord. No. 84-19; 2-16-1988 by Ord. No. 88-4; 10-5-1992 by Ord. No. 92-30]

The maximum charges that may be made or requested by owners and operators or drivers of taxicabs, who are subject to licensing under this chapter, for transportation of passengers and other services incidental thereto either entirely within the Borough or originating or terminating within the Borough are hereby fixed as follows:

- A. For one or two passengers, except senior citizens, as measured from the point of dispatch which shall be considered to be the taxi stand operated by the licensed taxicab company in the Borough:
- (1) Length of trip within the Borough of Metuchen: All fares herein listed shall be computed from point of dispatch.

Distance	Fare
Up to 1 mile from point of dispatch	\$1.75
Over 1 mile, up to 2 miles	\$2.25
Over 2 miles, up to 2 1/2 miles	\$2.50
Over 2 1/2 miles	\$2.75
Maximum fare under the subsection	\$2.75

- (2) For each additional mile traveled outside the Borough of Metuchen within the County of Middlesex and north of the Raritan River: \$3.00.

- B. Other and additional charges shall be as follows:

Type of charge	Fee
For each additional passenger	\$0.50
For each stop in route (except the picking up of additional passengers covered above)	\$0.50
For handling or hauling packages which driver is to deliver, each	\$0.50

- C. Waiting time per hour shall be \$14.

- D. Senior citizens age 62 and above, as well as handicapped persons, shall receive a 25% reduction in the total fare as listed above in Subsections A, B and C, and as to the following destinations, the total fixed maximum charge, inclusive of senior citizen and handicapped persons reduction, for transportation in either direction shall be:

Location	Fare
Roosevelt Hospital	\$3.00
Menlo Park Mall	\$3.00
John F. Kennedy Hospital	\$3.00
Metropark Train Station	\$4.00
Woodbridge Mall	\$4.75
Newark Airport	\$27.50
City of New Brunswick	\$10.25

- E. The rates herein fixed shall be displayed and posted conspicuously in each taxicab, hack or cab under the control and discretion as to size and place of the Chief of Police.

ARTICLE 2

Licenses

§ 175-11. Owner's licenses; issuance; fees. [Amended 8-20-1984 by Ord. No. 84-19; 2-16-1988 by Ord. No. 88-4; 10-5-1992 by Ord. No. 92-30; 6-7-2004 by Ord. No. 2004-7; 12-21-2009 by Ord. No. 2009-18; 2-22-2011 by Ord. No. 2011-1; 10-15-2012 by Ord. No. 2012-8]

- A. The Chief of Police of the Borough is hereby authorized to grant licenses and renewals thereof to persons of the Borough, who, as individuals, shall be over the age of 21 years, to conduct the business of renting, leasing or hiring of hacks, cabs and taxicabs, not to exceed 25 taxi vehicles in number, for the transportation of passengers and also for the operation of such vehicles for transportation of baggage within the Borough.
- B. All owners' and operators' licenses shall be issued for the term of one year; and upon the issuing of same, each licensee shall pay to the Borough Treasurer the sum of \$200 for each taxicab desired to be licensed, to a maximum of \$2,000 for the entire taxicab fleet. **[Amended 11-5-2012 by Ord. No. 2012-9]**

§ 175-12. Drivers' licenses; issuance; term; fees. [Amended 2-16-1988 by Ord. No. 88-4; 6-7-2004 by Ord. No. 2004-7; 12-21-2009 by Ord. No. 2009-18; 2-22-2011 by Ord. No. 2011-1; 10-15-2012 by Ord. No. 2012-8; 11-5-2012 by Ord. No. 2012-9]

The Chief of Police is hereby authorized to grant licenses to persons of good moral character over the age of 21 years, exclusive of owners, as he or she shall think proper to drive or operate hacks, cabs and taxicabs for the transportation of passengers and for the transportation of baggage within the Borough. All such licenses shall be issued for a term of one year and shall expire on September 1 of each year; and upon the issuing of same, each licensee shall pay to the Treasurer of the Borough the sum of \$40.

§ 175-13. Operating without license. [Amended 2-16-1988 by Ord. No. 88-4; 10-15-2012 by Ord. No. 2012-8]

Any person who shall hire out, keep or use for hire, or cause to be kept or used for hire, or drive for hire any hack, taxicab or cab for the transportation of passengers or baggage between locations within the Borough or from a point within the Borough to a point outside the Borough, except for those taxicab companies principally conducting business in and licensed by another municipality, shall be and hereby is required to first obtain a license as provided in §§ 175-11 and 175-12. No person shall operate or permit a taxicab owned or controlled by him/her to be operated as a taxicab upon the streets of the Borough unless the owner of the vehicle shall first obtain a taxicab license from the Chief of Police. Nothing in this section or other sections of this chapter shall be construed to require the licensing of any taxicab operating from an office outside the Borough which enters the Borough in response to a specific call by a patron within the Borough or carrying patrons from any point outside the Borough to any point within the Borough. However, the within chapter shall not be construed to excuse or exempt any taxicab from the requirements set forth in N.J.S.A. 48:16-2. Any person found guilty of violating this or any other section of this chapter shall be punished in accordance with the provisions of § 175-17.

§ 175-14. Exemptions.

The provisions contained in §§ 175-11, 174-12 and 175-13 shall not be construed to apply to the hiring out by funeral directors and others of automobiles and other vehicles for special occasions.

§ 175-15. Identification to be filed by licensees. [Amended 10-15-2012 by Ord. No. 2012-8]

Every person receiving a license under the provisions of this article shall file with the Chief of Police the automobile license, taxicab license, driver's license and such other identification as the Chief of Police may direct as reasonably necessary. Any person found guilty of violating this section may have his or her license revoked by the Mayor and Council in their discretion, and in addition thereto shall be liable to punishment as provided in § 175-17.

§ 175-16. Permitting unlicensed person to operate.

Any licensed taxicab owner, operator or driver who has received a license to operate taxicabs from the Borough who permits any person not licensed by the Borough as a taxicab owner, driver or operator to operate any taxicab of which he or she is the owner, driver or operator may have such license revoked in addition to the penalty hereinafter prescribed for such violation. Any person found guilty of violating this section shall be punished as provided in § 175-17.

ARTICLE 3
Enforcement

§ 175-17. Violations and penalties. [Amended 10-16-1978 by Ord. No. 78-26]

Anyone violating either article of this chapter shall be punished in accordance with the provisions of Chapter 1, General Provisions, Article 1.

Chapter 178**THEATERS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Art. II of Ch. 26 of the 1966 Code. Amendments noted where applicable.]

§ 178-1. License required.

It shall be unlawful for any person, either as owner, lessee, manager or agent, to operate and maintain a motion picture theater or place of amusement in the borough unless a license shall have first been obtained from the Mayor and Council for that purpose for designated premises.

§ 178-2. Application for license.

- A. Application for licenses required by § 178-1 shall be in writing, signed by the applicant and filed with the Borough Clerk. If the applicant is a corporation, the application shall be signed by the president and secretary thereof duly authorized to sign such application, with the corporate seal affixed thereto. All applications shall set forth the following:
- (1) Full name and address of applicant, if an individual or, if a corporation, name, state of incorporation, location of principal office and name and address of registered agent in this state.
 - (2) Description and diagram of location of land involved.
 - (3) Description and diagram of structure or layout to constitute or be used or devoted to the amusement or means of recreation contemplated.
 - (4) Description of equipment to be employed and method of functioning of the same.
 - (5) Names and addresses of persons offered as references as to character and responsibility of applicant.
 - (6) Relationship of applicant to premises involved (as owner, tenant, etc.).
- B. All statements set forth in the application shall be deemed representations by the applicant. The issuance and continuance in effect of any license shall be conditioned upon the truth of such representations and compliance by the applicant with the provisions of this chapter and other ordinances of the borough.

§ 178-3. Fee.¹⁴⁷

The license fee for each motion picture theater shall be \$35.

§ 178-4. Term; expiration date; renewals.

All licenses granted under the provisions of this chapter shall be issued for the current year in which the application is made, shall expire on December 31 of such year and shall be renewed annually.

147.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

§ 178-5. Requirements.

No license shall be granted or issued under the provisions of this chapter unless the premises licensed shall be constructed and maintained in such manner as to comply with the rules and regulations of the Board of Fire Underwriters, the laws of the state and the provisions of this Code and other ordinances of the borough.

§ 178-6. Premises ineligible for licensing.

No license shall be granted or issued under the provisions of this chapter for any premises:

- A. Which is occupied as a tenement house, hotel, lodging house or residence.
- B. Where paints, varnishes, lacquers or other highly inflammable materials are manufactured, stored or kept for sale.
- C. Where rosin, turpentine, hemp, cotton or any other explosives are stored or kept for sale.
- D. Which is situated within 500 feet of the nearest wall of a building occupied as a school, hospital, church, garage, theater, motion-picture theater or other place of public amusement or assembly or which is within 100 feet of any lot upon which is located any gasoline supply or service station; provided, however, that this subsection shall not apply to any motion picture theater in existence prior to the adoption of this article; and provided, further, that renewal of licenses may be granted where the motion picture theater in question was in operation prior to the opening of such school, hospital, garage, theater, motion picture theater or other place of public amusement or assembly or of such gasoline supply or service station.

§ 178-7. Violations and penalties. [Added 10-16-1978 by Ord. No. 78-26]

Any person violating any of the provisions of this chapter shall be punished in accordance with the provisions of Chapter 1, General Provisions, Article 1.

Chapter 181**TREES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 9-26-1966 as Ch. 32 of the 1966 Code. Amendments noted where applicable.]

§ 181-1. Disturbance of trees.

No person shall, without a written permit from the Shade Tree Commission, cut, break, climb with spikes, injure or remove any living tree in a public highway or injure, misuse or remove any device placed to protect such tree.

§ 181-2. Attaching items to trees.

No person shall, without a written permit from the Shade Tree Commission, attach or keep attached to a tree in a public highway or to the guard or stake intended for the protection of such tree, a rope, wire, sign, poster or any other device.

§ 181-3. Root impediments.

No person shall, without a written permit from the Shade Tree Commission, place or maintain upon the ground in a public highway stone, cement or other substance which shall impede the free entrance of water and air to the roots of any tree in such highway without leaving an open space of ground outside the trunk of such tree not less than four square feet in area.

§ 181-4. Protection of trees during construction.

Throughout the period of erection or repair of a building or structure, the owner thereof shall place such guards around all nearby trees on the public highway as shall effectually prevent injury to such trees.

§ 181-5. Electrical wires over highway.

Every person having a wire charged with electricity running through or over a public highway shall securely fasten such wire so that it shall not come in contact with the trunk, or any limb, branch or twig, of any tree there.

§ 181-6. Trees unacceptable as shade trees for street planting.¹⁴⁸

The species acer saccharinum (silver maple) and all populus (poplars) are not acceptable as shade trees for street planting and are prohibited.

§ 181-7. Sterilization of pruning tools.

All pruning tools used on trees under the jurisdiction of the Shade Tree Commission shall be sterilized before entering each tree in the discretion of this Commission.

§ 181-8. Interfering with Shade Tree Commission or its employees.

No person shall prevent, delay or interfere with the Shade Tree Commission or its employees in the

¹⁴⁸Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

planting, pruning, spraying or removing of a tree in a public highway or in the removal of stone, cement or other substance about the trunk of a tree.

§ 181-9. Violations and penalties.¹⁴⁹

Any person or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in Chapter 1, General Provisions, Article 1.

149.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 2).

Chapter 185**VEHICLES AND TRAFFIC**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 5-5-2003 by Ord. No. 2003-6.¹⁵⁰ Amendments noted where applicable.]

§ 185-1. Definitions; word usage; official time standard. [Amended 6-26-2023 by Ord. No. 2023-18; 3-25-2024 by Ord. No. 2024-07]

- A. Words and phrases. Whenever any words and phrases are used in this chapter, the meaning respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of the State of New Jersey shall be deemed to apply to such words and phrases used herein.
- B. The following words and phrases, which are not defined in Subtitle 1 of Title 39 of the Revised Statutes of the State of New Jersey, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter.

PARKING AUTHORITY — The Parking Authority of the Borough of Metuchen.

PARKING METER or KIOSK or MOBILE PAYMENT APPLICATION — Any mechanical device, meter or electronic mobile payment application ("payment application") not inconsistent with this chapter placed, erected or utilized by the Borough of Metuchen and/or Parking Authority for the regulation of parking by authority of this chapter. Each parking meter, kiosk or payment application installed or utilized shall record a certain number of minutes or hours by the use of a clock mechanism determining the period of time for which parking privileges may be granted upon the payment of the required fee in or by such device or application. References herein to "parking meter" and/or "kiosk" and/or "payment application" shall be used interchangeably throughout Chapter 185. Any and all references to "meter" or "parking meter" or "kiosk" shall also include "payment application."

PARKING METER SPACE — Any space within a parking meter zone, which is either adjacent to a parking meter, in the vicinity of a kiosk or in an area designated by the Borough of Metuchen and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street or lot adjacent to or adjoining the parking meters or in the vicinity of a kiosk or that has been designated by the Borough of Metuchen with the appropriate signage.

PARKING METER ZONE — Any restricted on-street parking area or off-street parking lot designated by the Borough Council as a Parking Meter Zone as set forth in § 185-12B and § 185-35 upon which parking meters or kiosks are installed and in operation, or an electronic mobile payment application has been established and in operation.

- C. Official time standard. Whenever certain hours are named in this chapter, they shall mean either eastern standard time or eastern daylight savings time as may be in current use.

§ 185-2. Authorization for closing of any street.

- A. The Chief of Police of this municipality is hereby authorized to provide by regulation for the closing of any street or portion thereof to motor vehicle traffic on any day or days whenever he finds that such closing is necessary for the preservation of the public safety, health or welfare.
- B. Any regulations promulgated by the Chief of Police and in accordance with Subsection A above shall

150.Editor's Note: This chapter repealed former Ch. 185, Vehicles and Traffic, adopted 12-6-1999 by Ord. No. 99-21, as amended.

provide for the posting of proper warning signs of such closing on any street or portion thereof during the time the same is closed in pursuance thereof

- C. Any violation of this regulation promulgated thereunder shall be punished by a fine not to exceed \$50.
- D. Any regulation adopted that mandates the closing of any street for a period greater than 48 consecutive hours shall not become effective unless and until it has been submitted to and approved by the Commissioner of the Department of Transportation.

§ 185-3. Towing of vehicles.

Any vehicle parked in violation of this chapter shall be deemed a nuisance and a menace to the safe and proper regulation of traffic, and any peace officer may provide for the removal of such vehicle. The owner shall bear the reasonable costs of removal and storage, which may result from such removal before regaining possession of the vehicle.

§ 185-4. Violations and penalties.

- A. Unless another penalty is expressly provided by New Jersey Statute, every person convicted of a violation of a provision of this chapter or any supplement thereto shall be liable to a penalty of not more than \$500 or imprisonment for term not exceeding 15 days, or both.
- B. Local (supplemental) Violations Bureau Schedule. **[Amended 5-17-2010 by Ord. No. 2010-10; 12-3-2018 by Ord. No. 2018-25]**

Section	Designated Offenses	Penalty
§ 185-8.1	Failure to park on an angle	\$39
§ 185-8.2	Parking on private property	\$53
§ 185-9	Parking prohibited - state of emergency	\$49
§ 185-10	No parking during snow emergency	\$49
§ 185-11	No stopping or standing	\$49
§ 185-12B	Parked over metered time limit	\$44
§ 185-12E	Failure to put meter in operation	\$53
§ 185-12F	Manner of parking	\$35
§ 185-12G	Tampering with meter	\$37
§ 185-12H	Using slugs	\$37
§ 185-14	Parking in prohibited areas	\$49
§ 185-15	Parking during prohibited hours	\$49
§ 185-16	Parked without permit or permit expired	\$49
§ 185-17	No trucks parked overnight	\$49
§ 185-19	Trucks off truck route	\$129

Section	Designated Offenses	Penalty
§ 185-25	Prohibited turns	\$105
§ 185-28	Parking in bus stop	\$49
§ 185-29	Parking in a taxi stand	\$49
§ 185-29.2	Parking/occupying ride-share zone	\$49
§ 185-29.3	Discharging or picking up passengers within 500 feet of Metuchen Train Station outside of the designated ride-share zones.* *Penalties not enforced when discharging or picking up persons with a disability.	\$49
§ 185-35A(1)(a)	Parking without permit (off-street)	\$44
§ 185-35A(1)(b)	Failure to park within marked space	\$39
§ 185-35A(1)(d)	Parked over meter limit (off-street)	\$39
§ 185-35A(1)(e)	One-way only	\$129
§ 185-35A(4)	Parking with permit in nonsticker parking	\$44
§ 185-35A(1)(c)	Head-on parking only	\$36

§ 185-5. Effect of chapter.

If any part or parts of this chapter are, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter.

§ 185-6. Repealer.

All former traffic ordinances of the Borough of Metuchen are hereby repealed, and all ordinances or parts of ordinances in conflict with or inconsistent with the provisions of this chapter are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this chapter.

§ 185-7. Traffic controls for street and highway construction and maintenance operations for municipal roads.

- A. When the Borough of Metuchen committee finds and declares that problems of traffic control occur when traffic must be moved through or around street construction, maintenance operations and utility work, above or below the ground which requires blocking the street and obstructing the normal flow of traffic; and that such obstructions are or can become dangerous when not properly controlled. In order to better promote the public health, safety, peace and welfare, it is necessary to establish controls and regulations directed to the safe and expeditious movement of traffic through and around construction and maintenance zones and to provide safety for the work forces performing these operations.
- B. The Borough of Metuchen in the County of Middlesex, State of New Jersey, does hereby adopt the current Manual on Uniform Traffic Control Devices for Streets and Highways, hereafter known as the MUTCD, except as hereby supplemented and amended, as it controls and regulates whenever construction, maintenance operations or utility work obstructs the normal flow of traffic. Any person,

contractor or utility that fails to comply with the provisions of the MUTCD while performing such work is in violation of this section.

- C. Preconstruction meeting. It shall be the responsibility of the person, contractor, or in the case of a public utility as required under the public utility agreement, Section 16:25-9.2, wishing to conduct work on, under or above the street to contact the Police Department of the Borough of Metuchen, in order to arrange a preconstruction meeting and submit plans for the safe movement of traffic during such period of construction or work. Any person, contractor or utility who fails to comply with this section prior to the start of such work or whose plans are not approved by the Police Department of the Borough of Metuchen is in violation of this section.
- D. Emergency contact telephone numbers. The person, contractor or utility shall provide at least two emergency contact telephone numbers to be called in case of emergency problems at the construction or maintenance site prior to the start of any work. If for any reason, emergency contact cannot be made, or if the emergency contact person does not respond to a call from the Police Department to correct such hazardous condition, the Borough of Metuchen may respond to correct the hazardous condition(s). The reasonable fees for such emergency services by the Borough of Metuchen shall be charged to the person, contractor, or utility responsible for the condition.
- E. Hours. There shall be no construction, maintenance, operations, or utility work on any roadway in the Borough before the hour of 9:00 a.m. or after 4:00 p.m. The officer in charge of the Borough Police Department may adjust this time limit to permit work prior to 9:00 a.m. or after 4:00 p.m. If the officer in charge determines that the construction or maintenance operations prior to 9:00 a.m. or after 4:00 p.m. would substantially delay traffic or cause a safety or health hazard, the work shall then be permitted only between 9:00 a.m. or after 4:00 p.m.
- F. Road closing. Road closings and/or traffic detours shall not be permitted unless approved by the Borough Police Department.
- G. Traffic directors. Traffic directors shall be posted at all construction or maintenance sites when determined by the Borough Police Department that same is necessary to provide for the safe and expeditious movement of traffic.
- H. Stop work. The Borough Police Department shall have the authority to stop work, including the removal of equipment and vehicles, stored material within the street right-of-way, backfilling of open excavations and/or related work, in order to abate any nuisance and/or safety hazard or for any violation of this section.
- I. Site preparation. It is to be expressly understood that no materials, vehicles or equipment are to be placed in the roadway or sidewalk until all construction, signs, light devices and pavement markings are installed.
- J. Violations and penalties.
 - (1) Any person, contractor or utility who commits a violation of this section shall, upon conviction thereof, for a first offense pay a fine of not less than \$100 nor more than \$500 and/or be imprisoned in the county jail for a term not exceeding 90 days. For a second offense, upon conviction thereof, pay a fine of not less than \$250 and/or be imprisoned in the county jail for a term not exceeding 90 days.
 - (2) A separate offense shall be deemed committed on each day during or on which violation occurs or continues.

§ 185-8. Parking regulations not exclusive.

The provisions of this chapter imposing a time limit on parking shall not relieve any person of the duty to observe other more restrictive provisions prohibiting or limiting the stopping or standing or parking of vehicles as set forth in N.J.S.A. 39:4-138, any other New Jersey Statute or as hereinafter provided.

§ 185-8.1. Angle parking.

No person shall park a vehicle on streets or parts of streets described in the following section except at the angle designated and only within the painted white stall lines.

Name of Street	Side	Angle	Location
Pennsylvania Avenue	North	45°	From Main Street (C.R.531) to Station Place
Pennsylvania Avenue	South	45°	From Station Place to Pleasant Place
Middlesex Avenue	North	45°	From a point 45 feet east of Michael Drive to a point 245 feet east therefrom

§ 185-8.2. Parking violations on private property.

- A. Findings and purposes. Local merchants have reported to the Mayor and Council that their limited private off-street parking facilities designated for their short-term customers and suppliers have become invaded by long-term commuter parkers who have taken spaces necessary for the operation of those businesses. By this section, the Mayor and Council wish to reaffirm existing municipal power to enforce properly posted signs in these private parking areas which advise customers of the business(es) on the premises. Since such public enforcement is in aid of the private merchant, issuance of the summonses delineated herein shall be had primarily at the instance of the merchant identifying vehicles which are parked without the consent of the business owner or for a period in excess of the time for which consent has been given. For these purposes, this section had been adopted pursuant to general municipal power set forth generally in N.J.S.A. 40A:48-2 and, in particular, that authority provided by N.J.S.A. 39:4-56.6 et seq.
- B. Parking illegally on private property without permission. No person shall park or leave unattended a vehicle on private property without the consent of the owner or other person in control or possession of the property or for a period in excess of the limited time for which consent had been given by prominent written signs displayed in the parking lot, except in case of emergency or disablement of the vehicle, in which case the owner or operator shall arrange for the expeditious removal of the vehicle. In the event of disablement, it is the responsibility of the owner or person in control of the vehicle to notify the property owner.
- C. Enforcement of violation by municipal police. Any municipal police officer, specific policeman or duly authorized Parking Authority person may, upon request of the property owner wherein a vehicle is parked in violation of the preceding subsection, enter upon the property and issue a summons for its violation. Persons violating this section shall be subject to a fine of \$26. Notwithstanding the foregoing, any vehicle parked or left standing in violation of the provisions of this section may also be subject to all removal and impounding remedies provided in this chapter or by law.
- D. Private remedies of the property owner. Nothing contained in this section shall be construed to limit or restrict in any way the private remedies of the owner or possessor of the property upon which the

illegal vehicle is left as provided for in N.J.S.A. 39:4-56.6.

§ 185-9. Parking prohibited during state of emergency.

- A. Upon the declaration of an emergency, there shall be no parking upon the streets where temporary EMERGENCY NO PARKING signs are displayed. The Chief of Police or, in his absence, the ranking police officer is authorized to declare an emergency and to direct the posting of EMERGENCY NO PARKING signs when weather conditions, accidents, road construction, fire or public celebrations dictate or require avoidance of hazards or other conditions which interfere with the free flow of traffic. Notification that EMERGENCY NO PARKING signs are being or will be posted shall be given to the operator or owner of any vehicle which has been parked prior to the posting of the signs.
- B. The effectiveness of this subsection is contingent upon the signs being erected as required by law.

§ 185-10. Temporary parking prohibition for snow plowing and removal.

- A. Removal. Whenever snow has fallen and the accumulation is such that it covers the streets and highways, an emergency shall exist and no vehicle shall be parked on the streets or highways or portions thereof indicated. The above parking prohibitions shall remain in effect after the snow has ceased until the streets have been plowed sufficiently and to the extent that parking will not interfere with the normal flow of traffic.
- B. Any unoccupied vehicle parked or standing in violation shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any police officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of the vehicle.

Name of Street	Sides	Location
Carlton Road	East	Entire length
Elm Court	South	Entire length
Kate Lane	North	Entire length
Newman Street	West	From High Street to Rose Street
Roosevelt Court	West	Entire length
Rose Street	West	From High Street to Whitman Avenue
Van Buren Avenue	North	Entire length
Victory Court	South	Entire length

§ 185-11. Stopping or standing prohibited during certain hours on certain streets.

No person shall stop or stand a vehicle between the hours specified on any day upon any of the streets or parts of streets described.

Name of Street	Side	Hours	Location
Amboy Avenue (C.R.501)	North	All	From Halsey Street to Route NJ 27 (Lake Avenue)
Amboy Avenue (C.R.501)	North	All	From McCoy Avenue to a point 50 west of Eggert Avenue
Amboy Avenue (C.R.501)	South	All	From James Place to Ethel Place
Amboy Avenue (C.R.501)	South	All	From Route NJ 27 (Lake Avenue) to a point 155 feet east therefrom
Amboy Avenue (C.R.501)	South	All	From a point 137 feet east of Graham Avenue to a point 66 feet east of Main Street (C.R.531)
Bridge Street	East	All	Entire length
Bridge Street	West	All	From New Durham Road (C.R.501) to Connor Avenue
Bridge Street	West	All	From a point 235 feet south of Connor Avenue to Route NJ 27 (Middlesex Avenue)
Carpenter Place	East	All	From Amboy Avenue (C.R.501) to a point 90 feet south therefrom
Central Avenue (C.R.669)	Both	All	From Plainfield Avenue (C.R.531) to a point 150 feet south therefrom
Central Avenue (C.R.669)	East	All	From a point 265 north of Durham Avenue to Maple Avenue
Central Avenue (C.R.669)	East	All	From School Street to a point 165 feet north of Durham Avenue
Central Avenue (C.R.669)	West	All	From Copperfield Lane to a point 100 feet south of Durham Avenue
Central Avenue (C.R.669)	West	All	From Liberty Street to a point 53 feet south of West Chestnut Avenue
Central Avenue (C.R.669)	West	All	From Middlesex Avenue (C.R.501) to a point 200 feet north therefrom
Clive Street	East	All	From Christol Street to Hofer Court
Clive Street	West	All	From Plainfield Avenue (C.R.531) to Hofer Court
Durham Avenue	North	All	From Central Avenue (C.R.669) to Gulton Street
Durham Avenue	South	All	From Hampton Street to a point 115 feet east of Central Avenue (C.R.669)

Name of Street	Side	Hours	Location
Durham Avenue [Added 4-21-2008 by Ord. No. 2008-6]	South	All	From Main Street westward to William Street
East Walnut Street [Added 3-15-2004 by Ord. No. 2004-4; repealed 10-19-2009 by Ord. No. 2009-14]			
Eggert Avenue	Both	All	From Woodbridge Avenue (C.R.660) to a point 140 feet south therefrom
Eggert Avenue	West	All	From Amboy Avenue (C.R.501) to a point 85 feet north therefrom
Grove Avenue	Both	All	From Norris Avenue to Christol Street
Grove Avenue	East	All	From Woodbridge Avenue (C.R.660) to a point 85 feet north therefrom
Grove Avenue	East	All	From Woodside Avenue to a point 150 feet north of Route NJ 27 (Middlesex Avenue)
Grove Avenue	West	All	From East Chestnut Avenue to Woodside Avenue
Grove Avenue	West	All	From Woodbridge Avenue (C.R.660) to a point 200 feet north therefrom
High Street	North	Mon. through Sat.	From Thomas Street to Lake Avenue
John Street	East	All	From New Durham Road (C.R.501) to a point 145 feet north therefrom
John Street	West	All	From New Durham Road (C.R.501) to a point 175 feet north therefrom
Main Street (C.R. 531) [Added 2-7-2005 by Ord. No. 2005-1]	Both	All	From West Cedar Street to a point 140 feet north therefrom
Main Street (C.R.531)	East	All	From Highland Avenue to Route NJ 27 (Middlesex Avenue)
Main Street (C.R.531)	East	All	From Spring Street to Amboy Avenue (C.R.501)
Main Street (C.R.531)	West	All	From a point 152 feet north of Route NJ 27 (Middlesex Avenue) to a point 165 south of Route NJ 27 (Middlesex Avenue)

Name of Street	Side	Hours	Location
Middlesex Avenue (C.R.501)	North	All	From Central Avenue (C.R.669) to New Durham Road (C.R.501)
Middlesex Avenue (C.R.501)	South	All	From Memorial Parkway to Route NJ 27 (Lake Avenue)
Middlesex Avenue (Route NJ 27) [Added 5-1-2006 by Ord. No. 2006-9]	East	All	Beginning at a point 824 feet south of the southerly curblineline of Grove Avenue and extending to a point 260 feet north of the northerly curblineline of Grove Avenue (mileposts 22.6 to 22.7)
Middlesex Avenue (Route NJ 27) [Added 5-1-2006 by Ord. No. 2006-9]	East	All	Beginning at the northerly curblineline of Lake Avenue and extending to the southerly curblineline of Main Street (mileposts 21.6 to 22.08)
Middlesex Avenue (Route NJ 27) [Added 5-1-2006 by Ord. No. 2006-9]	West	All	Beginning at a point 220 feet south of the southerly curblineline of Center Street and extending to the northerly curblineline of Lake Avenue (approx. mile posts 21.87 to 21.60)
Middlesex Avenue (Route NJ 27) [Added 5-1-2006 by Ord. No. 2006-9]	West	All	Beginning at a point 1,175 feet north of the northerly curblineline of Grove Avenue and extending to a point 824 feet south of the southerly curblineline of Grove Avenue (mileposts 22.6 to 22.96)
Middlesex Avenue (Route NJ 27) [Added 5-1-2006 by Ord. No. 2006-9]	West	All	Beginning at a point 31 feet north of Linden Avenue and extending to a point 80 feet south of the southerly curblineline of Center Street (mileposts 22.08 to 22.27)
New Street	North	All	From Route NJ 27 (Lake Avenue) to a point 135 feet east therefrom
New Street	South	All	From Route NJ 27 (Lake Avenue) to a point 140 feet east therefrom
New Durham Road (C.R.501)	North	All	From a point 320 feet east of John Street to a point 235 feet west of Bridge Street
New Durham Road (C.R.501)	South	All	From a point 175 feet west of Bridge Street to a point 200 feet east of Michael Drive

Name of Street	Side	Hours	Location
Oak Avenue (North)	West	All	From Route NJ 27 (Middlesex Avenue) to a point 102 feet north therefrom
Oak Avenue (South)	East	All	From a point 126 feet south of Route NJ 27 (Middlesex Avenue) to Oak Avenue southerly terminus
Plainfield Avenue (C.R.531)	North/ East	All	From a point 55 feet west of University Avenue to Willow Road
Plainfield Avenue (C.R.531)	South	All	From Central Avenue (C.R.669) to a point 177 feet east therefrom
Plainfield Avenue (C.R.531)	South	All	From a point 107 feet east of Columbia Avenue to Main Street (C.R.531)
Plainfield Avenue (C.R.531)	West	All	From Metuchen Borough corporate line - Edison Township corporate line to Central Avenue (C.R.669)
Wernik Place	South	All	Entire length

§ 185-12. Parking time limited on certain streets. [Amended 3-15-2004 by Ord. No. 2004-4; 10-4-2004 by Ord. No. 2004-16; 4-4-2005 by Ord. No. 2005-5; 6-6-2005 by Ord. No. 2005-8; 5-1-2006 by Ord. No. 2006-8; 10-19-2009 by Ord. No. 2009-14; 12-21-2009 by Ord. No. 2009-19; 12-7-2015 by Ord. No. 2015-14; 10-4-2016 by Ord. No. 2016-23; 2-20-2018 by Ord. No. 2018-02; 6-18-2018 by Ord. No. 2018-14; 7-16-2018 by Ord. No. 2018-17; 3-25-2024 by Ord. No. 2024-07]

A. Time limit parking.

- (1) No person shall park a vehicle for longer than 15 minutes in any parking space or areas so designated by the Parking Authority in consultation with the Borough of Metuchen Police Department and Borough Engineer as "fifteen minute" parking, which shall be identified as such with the appropriate signage.
- (2) No person shall park a vehicle for longer than the time limit between the hours of 8:00 a.m. to 6:00 p.m. on any day (except Saturdays, Sundays and public holidays) upon any of the streets or parts of streets described here in the following section, except in areas covered by other parking restrictions.

Name of Street	Sides	Time Limit	Location
Amboy Avenue (C.R. 501)	Both	2 hrs.	From Lake Avenue west for the entire length
Amboy Avenue (C.R. 501)	North	2 hrs.	From Graham Avenue to Halsey
Amboy Avenue (C.R. 501)	North	2 hrs.	From Kempson Place to Carlton Road

Name of Street	Sides	Time Limit	Location
Amboy Avenue (C.R. 501)	South	2 hrs.	From a point 155 feet east of Route NJ 27 (Lake Avenue) to Graham Avenue
Amboy Avenue (C.R. 501)	South	2 hrs.	From a point 45 east of Carlton Road to Green Street
Amboy Avenue (C.R. 501)	South	2 hrs.	From a point 100 feet east of Green Street to Linsley Place
Barnstable Street	Both	2 hrs.	Entire length
Bissett Place	Both	2 hrs.	From Main Street (C.R. 531) to a point 155 feet east therefrom
Bounty Street	Both	2 hrs.	Entire length
Calvin Place	East	2 hrs.	Entire length
Carlton Road	East	2 hrs.	From Amboy Avenue (C.R. 501) to Clinton Place
Carlton Road	West	2 hrs.	Entire length
Center Street	East	2 hrs.	From a point 50 feet north of Route NJ 27 (Middlesex Avenue) to West Chestnut Avenue
Center Street	West	2 hrs.	From Route NJ 27 (Middlesex Avenue) to West Chestnut Avenue
Central Avenue (C.R. 669)	East	2 hrs.	From Middlesex Avenue (C.R.501) to School Street
Charles Street	Both	2 hrs.	From Main Street (C.R.531) to George Street
Clarendon Street	Both	2 hrs.	From Rector Street to Beverly Court
Clinton Place	North	2 hrs.	From Main Street (C.R.531) to a point 140 feet east therefrom
Durham Avenue	North	2 hrs.	From Main Street to a point 225 feet west therefrom
Durham Avenue	North	2 hrs.	From a point 60 feet east of William Street to Center Street

Name of Street	Sides	Time Limit	Location
Durham Avenue	South	2 hrs.	From Center Street to a point 115 feet east of Central Avenue (C.R. 669)
East Chestnut Avenue	Both	2 hrs.	From Main Street (C.R.531) to Linden Avenue
East Walnut Street	North	2 hrs.	From a point 205 feet east of Main Street (C.R.531) to a point 361 feet east therefrom
East Walnut Street	South	2 hrs.	From a point 135 feet east of Main Street (C.R.531) to a point 402 feet east therefrom
East Walnut Street	South	2 hrs.	Entire length
Elm Avenue	Both	2 hrs.	Entire length
Franklin School Way	Both	2 hrs.	Entire length
Franklyn Place	Both	4 hour	Entire length
George Street	Both	2 hrs.	Entire length
Graham Avenue	Both	2 hrs.	Entire length
Grant Court	Both		Entire length
Green Street	Both	2 hrs.	Entire length
Halsey Street	Both	2 hrs.	From Amboy Avenue (C.R.501) to a point 360 feet north therefrom
Hanson Avenue	Both	2 hrs.	From Kempson Place to Peltier Avenue
Hanson Street [Added 4-29-2024 by Ord. No. 2024-14]	Both	2 hours for nonresidents of Hanson Street	Entire length
Henry Street	Both	2 hrs.	From Barnstable Street to Jonesdale Avenue
Highland Avenue	Both	2 hrs.	From Robins Place to Huxley Road
High Street	North	2 hrs.	From Main Street (C.R.531) to Thomas Street
High Street	North	2 hrs.	From Prospect Street to a point 284 feet west therefrom
High Street	South	2 hrs.	From Thomas Street to Honey Court

Name of Street	Sides	Time Limit	Location
Hillside Avenue	Both	2 hrs.	From Robins Place to Dellwood Road
Homer Place	Both	2 hrs.	Entire length
Home Street	Both	2 hrs.	Entire length
Howell Street	Both	2 hrs.	Entire length
Jersey Avenue	East	2 hrs.	From a point 171 feet north of Durham Avenue to a point 72 feet north therefrom
Jonesdale Avenue	Both	2 hrs.	Entire length
Kempson Place	Both	2 hrs.	Entire length
Lake Avenue	Both	4 hour	From Franklyn Place to a point 85 feet north of High Street
Lake Avenue	Both	2 hrs.	From Route NJ 27 (Essex Avenue) to Franklyn Place
LaPorta Court	West	2 hrs.	Entire length
Laureldale Place	Both	2 hrs.	Entire length
Library Place	North	2 hrs.	From a point 205 feet east of Main Street (C.R. 531) to Linden Avenue
Lincoln Avenue	Both	2 hrs.	Entire length
Linden Avenue	Both	2 hrs.	From Route NJ 27 (Middlesex Avenue) to Maple Avenue
Linsley Place	Both	2 hrs.	Entire length
Main Street (C.R.531)	Both	2 hrs.	From Spring Street to Lincoln Avenue
Main Street (C.R. 531)	East	2 hrs.	From East Walnut Street to Charles Street
Main Street (C.R. 531)	East	2 hrs.	From a point 180 feet north of Library Place to Christol Street
Main Street (C.R. 531)	East	2 hrs.	From a point 115 feet north of Myrtle Avenue to a point 70 feet south of East Walnut Street

Name of Street	Sides	Time Limit	Location
Main Street (C.R. 531)	East	15 mins.	From a point 60 feet south of Woodbridge Avenue (C.R.660) to a point 90 feet south therefrom
Main Street (C.R. 531)	West	2 hrs.	From Charles Street to a point 75 feet north of West Walnut Street
Main Street (C.R. 531)	West	2 hrs.	From Plainfield Avenue (C.R.531) to Library Place
Main Street (C.R. 531)	West	2 hrs.	From a point 40 feet south of West Walnut Street to a point 155 feet north of Brunswick Avenue
Main Street (C.R. 531)	West	15 mins.	From a point 50 feet south of Woodbridge Avenue (C.R.660) to a point 100 feet south therefrom
Maple Avenue	Both	2 hrs.	From Central Avenue (C.R.669) to Linden Avenue
Martin Street	Both	2 hrs.	Entire length
Mason Drive	South	2 hrs.	From Grove Avenue to Mason Drive easterly terminus
McCoy Street [Added 4-29-2024 by Ord. No. 2024-14]	Both	2 hours for nonresidents of McCoy Street	Entire length
Memorial Parkway	South	2 hrs.	From Rose Street to a point 315 feet east of therefrom
Memorial Parkway	West	2 hrs.	From Middlesex Avenue to Rose Street
Middlesex Avenue (C.R. 501)	North	2 hrs.	From a point 45 feet west of Route NJ 27 (Lake Avenue) to a point 83 feet west therefrom
Peltier Avenue	Both	2 hrs.	Entire length
Pleasant Place	Both	2 hrs.	Entire length
Prospect Street	West	2 hrs.	From a point 153 feet south of Essex Avenue (Route 27) to High Street
Railroad Place	Both	2 hrs.	Entire length

Name of Street	Sides	Time Limit	Location
Rayle Court	Both	2 hrs.	Entire length
Rector Street	Both	2 hrs.	Entire length
Robins Place	Both	2 hrs.	Entire length
Rose Street	Both	2 hrs.	From Spring Street to Memorial Parkway
Rose Street	East	2 hrs.	From Newman Street to High Street School
Rowland Place	Both	2 hrs.	Entire length
School Street	North	2 hrs.	Entire length
School Street	South	2 hrs.	From Central Avenue (C.R.669) to a point 100 feet west of Center Street
Simpson Place	East	2 hrs.	Entire length
Smith Street	Both	2 hrs.	From Durham Avenue to a point of 411 feet north of McAdams Avenue extending 476 feet on the west of Smith Street
Spring Street	Both	2 hrs.	Entire length
Stockton Street	Both	2 hrs.	Entire length
Sydney Street [Added 4-29-2024 by Ord. No. 2024-14]	Both	2 hours for nonresidents of Sydney Street	Entire length
Talmadge Avenue	Both	2 hrs.	Entire length
Tulsa Avenue	Both	2 hrs.	Entire length
Vorhees Place	Both	2 hrs.	Entire length
Washington Place	Both	2 hrs.	Entire length
West Chestnut Avenue	Both	2 hrs.	Entire length
West Walnut Street	Both	2 hrs.	Entire length
William Street	East	2 hrs.	Entire length
William Street	West	2 hrs.	From Durham Avenue to a point 170 feet north of Route NJ 27 (Middlesex Avenue)
Wilmer Place	Both	2 hrs.	Entire length

- (3) All parking spaces and/or areas identified as "fifteen minute" parking, as set forth in Subsection A(1) shall supersede the time limits and locations set forth in Subsection A(2).

B. Metered time limit parking.

- (1) No person shall park a vehicle for longer than 15 minutes in any parking space or areas so designated by the Borough, and/or the Parking Authority in consultation with the Borough of Metuchen Police Department and Borough Engineer as "fifteen-minute" parking, which shall be identified as such with the appropriate signage.
- (2) No person shall park a vehicle for longer than the time limit between the hours listed on any day (except Sundays and public holidays) upon any of the streets or parts of streets described.

Name of Street	Sides	Time Limit	Hours	Location
Amboy Avenue (C.R. 501)	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 45 feet of Carlton Road to a point 215 feet west therefrom
Amboy Avenue (C.R. 501)	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 46 feet west of Main Street (C.R.531) to Graham Avenue
Amboy Avenue (C.R. 501)	South	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 35 feet east of Graham Avenue to a point 102 feet east therefrom
Amboy Avenue (C.R. 501)	South	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 66 feet east of Main Street (C.R.531) to a point 245 feet east therefrom
Center Street	East	2 hrs.	8:00 a.m. to 6:00 p.m.	From New Street to a point 90 feet south of Route NJ 27 (Middlesex Avenue)
Center Street	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 58 feet north of New Street to a point 81 feet north therefrom
Center Street	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From Route NJ 27 (Middlesex Avenue) to a point 194 feet north of New Street

Name of Street	Sides	Time Limit	Hours	Location
Central Avenue (C.R. 669)	East	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 235 feet south of Middlesex Avenue to a point 290 feet south of Middlesex Avenue
Central Avenue (C.R. 669)	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 412 feet south of Middlesex Avenue to a point 461 feet south of Middlesex Avenue
Halsey Street	West	2 hrs.	24 hours a day	From a point 400 feet north of Amboy Avenue (C.R. 501) to Halsey Street northerly terminus
Highland Avenue	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From Main Street (C.R.531) to a point 198 feet east therefrom
Hillside Avenue	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 40 feet west of Inn Place to a point 60 feet
Hillside Avenue	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From Robins Place to Inn Place
Hillside Avenue	South	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 40 feet east of Main Street (C.R.531) to a point 40 feet west of Station Place
Hillside Avenue	South	2 hrs.	8:00 a.m. to 6:00 p.m.	From Station Place to Robins Place
Main Street (C.R. 531)	East	2 hrs.	8:00 a.m. to 6:00 p.m.	From Bissett Place to a point 75 feet north therefrom
Main Street (C.R. 531)	East	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 40 feet north Clinton Place to a point 70 feet north therefrom

Name of Street	Sides	Time Limit	Hours	Location
Main Street (C.R. 531)	East	2 hrs.	8:00 a.m. to 6:00 p.m.	From Hillside Avenue to Highland Avenue
Main Street (C.R. 531)	East	2 hrs.	8:00 a.m. to 6:00 p.m.	From Pennsylvania Avenue to a point 60 feet south of Hillside Avenue
Main Street (C.R. 531)	East	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 230 feet north of Route NJ 27 (Middlesex Avenue) to Durham Avenue
Main Street (C.R. 531)	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From Amboy Avenue (C.R.501) to Spring Street
Main Street (C.R. 531)	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From Bissett Place to a point 67 feet south therefrom
Main Street (C.R. 531)	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From Durham Avenue to a point 165 feet north of Route NJ 27 (Middlesex Avenue)
Main Street (C.R. 531)	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From Highland Avenue to a point 60 feet north of New Street
Main Street (C.R. 531)	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From New Street to Pennsylvania Avenue
Main Street (C.R. 531)	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 163 feet south of Woodbridge Avenue (C.R.660) to Clinton Place
Main Street (C.R. 531)	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 45 feet south of Wernik Place to a point 68 feet south therefrom

Name of Street	Sides	Time Limit	Hours	Location
New Street	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 105 feet west of Main Street (C.R.531) to a point 45 feet east of Pearl Street
New Street	North	24 hrs.	24 hrs./day	From Pearl Street to a point 108 feet west of Center Street
New Street	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 45 feet west of Pearl Street continuing 119 feet west and from a point 158 feet west of Pearl Street continuing 60 feet west
New Street	South	24 hrs.	24 hrs./day	From a point 140 feet east of Route NJ 27(Lake Avenue) to Pearl Street
New Street	South	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 53 feet east of Pearl Street to a point 90 feet west of Main Street (C.R.531)
New Street	South	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 48 feet east of Woodmont Way continuing 247 feet east
Pearl Street	Both	2 hrs.	8:00 a.m. to 6:00 p.m.	From Route 27 to New Street
Pearl Street	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From 36 feet south of the intersection of New Street continuing 137 feet south and beginning 155 feet north of the end of Pearl Street and continuing 21 feet north

Name of Street	Sides	Time Limit	Hours	Location
Pennsylvania Avenue	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 35 feet east of Main Street (C.R.531) to a point 40 feet east therefrom
Pennsylvania Avenue	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 125 feet east of Main Street (C.R.531) to a point 30 feet east therefrom
Station Place	West	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 40 feet south of Hillside Avenue to a point 170 feet south therefrom
Wernik Place	North	2 hrs.	8:00 a.m. to 6:00 p.m.	From a point 27 feet west from Main Street (C.R.531) to a point 187 feet west therefrom
Wernik Place	North	2 hrs.	24 hrs./day	From a point 214 feet west of Main Street (C.R. 531) to a point 132 feet west therefrom

(3) All parking spaces and/or areas identified as "fifteen-minute" parking, as set forth in Subsection B(1) shall supersede the time limits and locations set forth in Subsection B(2).

- C. Designation of parking spaces. The Borough Council is authorized to provide for the marking off of individual parking spaces in the parking meter zones, said parking spaces to be designated by lines painted or marked on the curbing or surface of the street or lot. At each space so marked off, it shall be unlawful to park any vehicle in such a way that said vehicle shall not be entirely within the limits of the space so designated.
- D. Installation of parking meters, kiosks and/or utilization of mobile payment application. In said parking meter zones, the Parking Authority shall cause parking meters or kiosks to be installed upon the curb, sidewalk or area immediately adjacent to the parking spaces or arrange for the use of a mobile payment application for payment of fees for parking spaces provided in this section. No parking meters shall be installed in areas where parking is prohibited pursuant to the provisions of N.J.S.A. 39:4-138. The Parking Authority shall be responsible for the regulation, control, operation, maintenance and use of such parking meters, kiosks and the mobile payment application system. Each method of payment utilized shall be so set as to display a signal showing legal parking upon the deposit of the appropriate coin or currency, lawful money of the United States of America, credit or debit card or other acceptable method of payment as determined by the Parking Authority, for the

period of time prescribed in this section. Each method of payment shall be so arranged that upon the expiration of the lawful time limit, it will indicate by that the lawful parking period has expired, and in such case the right of such vehicle to occupy such space shall cease, and the operator, owner, possessor or manager thereof shall be subject to the penalties provided.

- E. Operation of parking meters, kiosks or mobile payment application. Except in a period of emergency determined by an officer of the Police or Fire Department, or in compliance with the directions of a police officer or traffic control sign or signal, when any vehicle shall be parked in any parking space alongside or next to which a parking meter is located or is designated by the appropriate signage as metered parking, the operator of such vehicle shall, upon entering said parking meter space, immediately deposit or cause to be deposited in said meter, kiosk or mobile payment application such proper coin or currency, lawful money of the United States of America, credit or debit card or other acceptable method of payment as determined by the Parking Authority as is required for such parking meter and as is designated by proper directions on the meter, kiosk, signage or mobile payment application, and when required by the directions on the meter, kiosk, signage or mobile payment application, the operator of such vehicle, after the deposit of the proper coin, or currency, or lawful money of the United States of America, credit or debit card or other acceptable payment methods as determined by the Parking Authority shall also set in operation the timing mechanism on such meter, kiosk, or mobile payment application in accordance with directions properly appearing thereon or therein, and failure to deposit such proper coin, currency, or lawful money of the United States of America, credit or debit card or other acceptable payment method as determined by the Parking Authority and to set the timing mechanism in operation when so required shall constitute a violation of this chapter. Upon the deposit of such coin, currency, lawful money of the United States of America, credit or debit card or other acceptable payment method as determined by the Parking Authority (and the setting of the timing mechanism in operation when so required), the parking space may be lawfully occupied by such vehicle during the period of time which has been prescribed for the part of the street in which said parking space is located, provided that any person placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by the previous occupant of the space shall not be required to deposit a coin, currency or other method of payment so long as his occupancy of said space does not exceed the indicated unused parking time. If said vehicle shall remain parked in any such parking space beyond the parking time limit set for such parking space and if the meter shall indicate such illegal parking, then and in that event such vehicle shall be considered as parking overtime and beyond the period of legal parking time, and such parking shall be deemed a violation of this chapter.
- F. Manner of parking. When a parking meter space is parallel with the adjacent curb or sidewalk, no person shall park or permit the parking of any vehicle in such parking space in any other position than with the foremost part of such vehicle nearest to the parking meter; when a parking meter space is diagonal to the curb or sidewalk, no person shall park or permit the parking of any vehicle in such parking space in any other position than with the foremost part of such vehicle nearest to the parking meter; when a parking meter shall have been installed at the head of and immediately adjacent to any parking space on a municipal off-street parking lot, no person shall park or permit the parking of any vehicle in such parking space in any other position than with the foremost part of such vehicle nearest to the parking meter; provided, however, that in municipal off-street parking lots, signs shall be erected indicating that head-on parking only is permitted. In any event, a vehicle shall be parked within the lines marked on the pavement measuring such parking space.
- G. Tampering with parking meter, kiosk and mobile payment application. It shall be unlawful and a violation of the provisions of this chapter for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter or kiosk installed or mobile

payment application utilized under the provisions of this chapter.

- H. Slugs. It shall be unlawful and a violation of the provisions of this chapter for any person to deposit or cause to be deposited in any parking meter any slug, device or metal substance or other substitute for lawful coins.
- I. Purpose of meter deposits, money and payments collected. The coins, currency, lawful money of the United States of America, credit or debit card or other acceptable payments required to be deposited in parking meters, kiosks or on the mobile payment application and any required administrative fees as provided herein are hereby levied and assessed as fees to provide for the proper regulation and control of traffic upon the public streets and also the cost of supervising and regulating the parking of vehicles in the parking meter and time limit parking zones created thereby, and to cover the cost of the purchase, supervision, protection, inspection, installation, operation, maintenance, control and use of the parking meters, kiosks and a mobile payment application described herein. The Parking Authority shall be permitted to charge an administrative fee for the use of credit or debit card payments and/or the use of the mobile payment application.
- J. Collection of coins, currency, lawful money of the United States of America, credit or debit card or other acceptable payments from meters; disposition thereof. It shall be the duty of the Borough Council to designate some proper person or persons to make regular collections of the moneys deposited in said meters, kiosks and/or other methods of payments received, and to verify and record the same. It shall also be the duty of such person or persons so designated to remove from the parking meters or kiosks the locked containers therein containing the coins, currency, lawful money of the United States or other necessary payment method information so deposited or entered in said meters or kiosks and to deliver such locked containers to the Treasurer, or his/her designee, who shall unlock them, count and record the funds so collected and arrange for the proper deposit of said funds in the appropriate depository as approved by the Borough Council. In addition, said person or persons as designated by the Borough Council shall also verify and record the credit or debit card payment information or other approved payment method by the Parking Authority from the meters, kiosks and/or mobile payment application with the amount of funds deposited into the appropriate depository, as well as those retained by such Parking Authority approved third parties and to provide such record and accounting to the Treasurer, or his/her designee in the usual manner provided by law.
- K. For purposes of clarification, to the extent the term "coin" and/or "coins" is referenced in this section of the Code as it relates to the deposit of monies in parking meters, kiosks and mobile payment application, the term shall also include payments by coins or currency of the United States of America, credit or debit card payments or other payments as determined by the Parking Authority described on the parking meter, kiosk, or mobile payment application and/or the appropriate signage.

§ 185-13. Parking prohibited for street cleaning.

No person shall cause or permit to be parked any motor vehicle upon any street between the specified hours and days described.

Name of Street	Side	Hours and Days	Location
(Reserved)			

§ 185-14. Parking prohibited at all times on certain streets.

No person shall park a vehicle at any time upon any streets or parts thereof described.

Name of Street	Side	Location
Amboy Avenue	Both	From Route NJ 27 (Lake Avenue) to a point 75 feet west therefrom
Amboy Avenue (C.R.501)	North	From Carlton Road to a point 45 feet west therefrom
Amboy Avenue (C.R.501)	North	From Main Street (C.R.531) to a point 187 feet east therefrom
Amboy Avenue (C.R.501)	North	From Pierson Avenue to Sidney Place
Amboy Avenue (C.R.501)	South	From Goodwill Place to Pierson Avenue
Amboy Avenue (C.R.501)	South	From a point 340 feet east of Main Street (C.R.531) to a point 181 feet east therefrom
Bissett Place	South	From Carlton Road to a point 155 feet east of Main Street (C.R.531)
Brunswick Avenue	South	Entire length
Carlton Road	East	From Clinton Place to Woodbridge Avenue (C.R.660)
Center Street	East	From a Route NJ 27 (Middlesex Avenue) to a point 50 feet north therefrom
Central Avenue	Both	From Middlesex Avenue (C.R.501) to Route NJ 27 (Lake Avenue)
Central Avenue [Added 9-17-2018 by Ord. No. 2018-23]	East	From Lake Avenue to a point 400 feet north therefrom
Charles Street	North	From George Street to Charles Street easterly terminus
Clinton Place	South	Entire length
Name of Street	Side	Location
Delaware Avenue	Both	From Oakland Avenue to Upland Avenue
Durham Avenue	North	From Center Street to Central Avenue (C.R.669)
Durham Avenue	South	From Main Street (C.R.531) to Center Street
East Walnut Street	North	From Main Street (C.R.531) to a point 205 feet east therefrom
East Walnut Street [Repealed 10-19-2009 by Ord. No. 2009-14]		
Green Street [Added 8-22-2022 by Ord. No. 2022-14]	Both	From the Middlesex Greenway proceeding twenty-five (25) feet north up to the driveway entrance to the Green Street Apartment Complex
Grove Avenue	East	From Oakland Avenue to Dellwood Road

Name of Street	Side	Location
Grove Avenue	West	From Dellwood Road to Henry Street
Highland Avenue	South	From Main Street (C.R.531) to Robins Place
High Street	North	From Prospect Street to a point 167 feet east therefrom
High Street	South	From Honey Court to Main Street (C.R.531)
High Street	South	From Lake Avenue to Thomas Street
Hillside Avenue [Added 3-6-2017 by Ord. No. 2017-01]	North	From Main Street (C.R. 531) to Inn Place
Hillside Avenue	North	From Inn Place to a point 40 feet west therefrom
Hillside Avenue [Added 6-18-2018 by Ord. No. 2018-14]	North	From 25 feet west of Inn Place continuing 64 feet west
Hillside Avenue	North	From Main Street (C.R.531) to a point 140 feet east therefrom
Hillside Avenue	South	From Main Street (C.R.531) to a point 40 feet east therefrom
Hillside Avenue	South	From Station Place to a point 40 feet west therefrom
Hunt Place	Both	Entire length
Inn Place	Both	Entire length
James Place	West	From Amboy Avenue (C.R.501) to a point 100 feet south therefrom
Kentnor Street	West	Entire length
Lake Avenue	East	From a point 85 feet north of High Street to a point 130 feet south of High Street
Lake Avenue	East	From Burr Drive to Brunswick Avenue
Lake Avenue	West	From Ferndale Place to Whitman Avenue
Lake Avenue	West	From a point 85 feet north of High Street to a point 235 feet south of High Street
LaPorta Court	East	Entire length
Lawrence Street [Added 6-21-2010 by Ord. No. 2010-12]	West	282 feet north therefrom
Name of Street	Side	Location
Leonard Street	Both	Entire length
Library Place	South	Entire length
Main Street (C.R.531)	Both	From Charles Street to Lincoln Avenue
Main Street (C.R.531)	East	From Amboy Avenue (C.R.501) to Bissett Place

Name of Street	Side	Location
Main Street (C.R.531)	East	From a point 75 feet north of Bissett Place to a point 40 feet north of Clinton Place
Main Street (C.R.531)	East	From East Walnut Street to a point 70 feet south therefrom
Main Street (C.R.531)	East	From Hillside Avenue to a point 60 feet south therefrom
Main Street (C.R. 531) [Added 10-4-2004 by Ord. No. 2004-16]	East	From a point 100 feet north of Route NJ 27 (Middlesex Avenue) to a point 92 feet north therefrom
Main Street (C.R.531)	East	From Myrtle Avenue to a point 115 feet north therefrom
Main Street (C.R.531)	East	From a point 60 feet south of Woodbridge Avenue (C.R.660) to Pennsylvania Avenue
Main Street (C.R.531)	West	From a point 67 feet south of Bissett Place to Amboy Avenue (C.R.501)
Main Street (C.R.531)	West	From Brunswick Avenue to a point 155 feet north therefrom
Main Street (C.R.531)	West	From a point 39 feet north of Clinton Place to a point 45 south of Wernik Place
Main Street (C.R.531)	West	From New Street to a point 60 feet north therefrom
Main Street (C.R.531)	West	From a Pennsylvania Avenue to a point 50 feet south of Woodbridge Avenue (C.R.660)
Main Street (C.R.531)	West	From a point 75 feet north of West Walnut Street to a point 40 feet south of West Walnut Street
Main Street (C.R.531)	West	From a point 245 feet north of West Walnut Street to a point 40 feet south therefrom
Mason Drive	North	From Grove Avenue to Mason Drive easterly terminus
Memorial Parkway [Amended 6-6-2005 by Ord. No. 2005-10]	East	From Middlesex Avenue to Rose Street
Memorial Parkway	South	From Middlesex Avenue (C.R.501) to Rose Street
Middlesex Avenue	North	From Bridge Street to Michael Drive
Middlesex Avenue	South	From Bridge Street to New Durham Road (C.R.501)
New Street [Added 6-18-2018 by Ord. No. 2018-14]	North	From Lake Avenue to Center Street

Name of Street	Side	Location
New Street	North	From Pearl Street to a point 45 feet east therefrom
New Street [Added 6-18-2018 by Ord. No. 2018-14]	South	From Lake Avenue to Woodmont Way
New Street	South	From Main Street (C.R.531) to a point 90 feet west therefrom
New Street	South	From Pearl Street to a point 53 feet east therefrom
Newman Street	West	From Route NJ 27 (Essex Avenue) to High Street
Oakland Avenue	North	From Grove Avenue to a point 1,380 feet east therefrom
Oakland Avenue	South	From Delaware Avenue to Upland Avenue
Pearl Street [Added 6-18-2018 by Ord. No. 2018-14]	East	From New Street to southern terminus
Pearl Street [Added 6-18-2018 by Ord. No. 2018-14]	West	From end of Pearl Street continuing 155 feet north
Pennsylvania Avenue	North	From Station Place to Pleasant Place
Pennsylvania Avenue	South	From Main Street (C.R.531) to Station Place
Prospect Street	East	From the Prospect Street southerly terminus to a point 635 feet north of High Street
Safety Place	Both	Entire length
School Street	North	From Center Street to a point 100 feet west therefrom
Station Place	East	Entire length
Whitman Avenue	North	From Lake Avenue to a point 110 feet west therefrom
William Street	West	From Route NJ 27 (Middlesex Avenue) to a point 170 feet north therefrom
Woodbridge Avenue (C.R.660)	Both	Entire length

§ 185-15. Parking prohibited during certain hours on certain streets.

No person shall park a vehicle between the hours specified any day (except Sundays and public holidays) upon any of the streets or parts of streets described.

Name of Street	Side	Hours	Location
Aylin Street	Both	7:00 a.m. to 6:00 p.m.	From Liberty Street to Aylin Street westerly terminus
Central Avenue (C.R.669)	East	7:00 a.m. to 6:00 p.m.	From Maple Avenue to a point 150 feet south of Plainfield Avenue (C.R.531)
Durham Avenue	North	7:00 a.m. to 6:00 p.m.	From Gulton Street to Metuchen Borough corporate line - Edison Township corporate line
Durham Avenue	North	8:00 a.m. to 4:00 p.m. on school days only	From a point 28 feet west of LaPorta Court to a point 185 feet west therefrom
Durham Avenue	South	7:00 a.m. to 6:00 p.m.	From Hampton Street to Metuchen Borough corporate line - Edison Township corporate line
High Street [Added 2-20-2018 by Ord. No. 2018-02]	South	7:00 a.m. to 6:00 p.m., Monday through Friday	From Prospect Street to a point 450 feet west therefrom
Liberty Street	Both	7:00 a.m. to 6:00 p.m.	Entire length
Library Place	North	8:00 a.m. to 4:00 p.m. on school days only	From Main Street (C.R.531) to a point 205 feet east therefrom
Main Street (C.R.531)	East	8:00 a.m. to 4:00 p.m. on school days only	From Library Place to a point 180 feet north therefrom
Simpson Place	West	8:00 a.m. to 4:00 p.m. on school days only	Entire length

§ 185-16. Parking by permit during certain hours on certain days on certain streets.

- A. No person shall park a vehicle on streets or parts of streets as described within the following sections unless an appropriate and current parking permit as issued by the Borough of Metuchen is displayed on said vehicle for those streets or parts of streets as described or listed within the following sections, except in areas covered by other parking restrictions.
- B. Exceptions. The following vehicles shall be exempt from these provisions:
- (1) Contractors, service and delivery vehicles. Contractors, service and delivery vehicles bearing the name and address of a commercial business may park without a permit during the time they are rendering service to a residence within a permit area described in this section.
 - (2) Emergency vehicles. Emergency vehicles, public service, telephone and other public utility vehicles may park without a permit during the time they are rendering service or repairs within a permit area described in this section.
 - (3) The Chief of Police, or in his absence the ranking police officer, has the authority to make further exceptions to this provision as necessary.

- C. Issuance of permits. Application for parking permits under this section shall be made in writing on forms provided by the Police Department. Permits shall be granted only to persons who are residents on said street or portion thereof upon which parking is restricted by this section. Applicants shall provide a valid New Jersey vehicle registration for each such vehicle and their current Metuchen address shall be displayed on same. If the vehicle registration does not contain the applicant's address, then their driver's license, or other official form of identification, shall be used to verify place of residence. A permit, valid for up to four years, shall be issued for every noncommercial vehicle owned or principally operated by such person. Permits will be displayed on the left rear side window and expire on December 31. The Chief of Police has the authority to make exceptions to the provisions regulating the issuance of said permits.
- D. Criteria for street selection. Additional streets may be included. Whenever the Mayor, Borough Administrator or Chief of Police shall determine that certain streets exclusively or primarily servicing residential land uses, or portions of such streets, are being used for parking by the operators of vehicles who do not reside on said streets, and the average number of such vehicles parking in such manner is in excess of 25% of the number of parking spaces on such streets and the total number of parking spaces actually occupied exceeds 65% of the total number of parking spaces on such streets on the weekdays of any month, as disclosed by an engineering or traffic study, then he shall recommend to the Borough Council that such streets be included within this section, subject to approval from the Commissioner of Transportation.

Street	Side	Location	Days	Hours
Amboy Avenue (C.R.501) [Amended 6-18-2018 by Ord. No. 2018-14]	Both	From Lake Avenue west for the entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Amboy Avenue (C.R.501)	North	From Graham Avenue to Halsey Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Amboy Avenue (C.R.501)	North	From Kempson Place to Carlton Road	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Amboy Avenue (C.R.501)	South	From a point 45 feet east of Carlton Road to Green Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Amboy Avenue (C.R.501)	South	From a point 100 feet east of Green Street to Linsley Place	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Amboy Avenue (C.R.501)	South	From a point 155 feet east of Route NJ 27 (Lake Avenue) to Graham Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Barnstable Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Bissett Place	North	From Carlton Road to a point 155 feet east of Main Street (C.R.531)	Mon. to Fri.	8:00 a.m. to 6:00 p.m.

Street	Side	Location	Days	Hours
Bounty Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Calvin Place	East	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Carlton Road	East	From Amboy Avenue (C.R.501) to Clinton Place	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Carlton Road	West	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Center Street	East	From a point 50 feet north of Route NJ 27 (Middlesex Avenue) to West Chestnut Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Center Street	West	From Route NJ 27 (Middlesex Avenue) to West Chestnut Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Central Avenue (C.R.669)	East	From Middlesex Avenue (C.R.501) to School Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Charles Street	Both	From Main Street (C.R.531) to George Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Clarendon Court	Both	From Rector Street to Beverly Court	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Clinton Place	North	From Carlton Road to a point 140 feet east of Main Street (C.R.531)	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Durham Avenue	North	From Main Street (C.R.531) to a point 225 west therefrom	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Durham Avenue	North	From a point 60 feet east of William Street to Center Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m. to
Durham Avenue	South	From Center Street to a point 115 feet east of Central Avenue (C.R.669)	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
East Chestnut Avenue	Both	From Main Street (C.R.531) to Linden Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.

Street	Side	Location	Days	Hours
East Walnut Street	North	From a point 205 feet east of Main Street (C.R.531) to a point 361 feet east therefrom	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
East Walnut Street [Amended 10-19-2009 by Ord. No. 2009-14]	South	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Elm Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Elm Court	Both	Entire length	All	8:00 a.m. to 8:00 p.m.
Franklin School Way	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Franklyn Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
George Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Graham Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Green Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Halsey Street	Both	From Amboy Avenue (C.R.501) to a point 360 feet north therefrom	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Hanson Avenue	Both	From Kempson Place to Peltier Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Henry Street	Both	From Barnstable Street to Jonesdale Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Highland Avenue	Both	From Robins Place to Huxley Road	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Highland Avenue	North	From a point 198 feet east of Main Street (C.R.531) to Robins Place	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
High Street [Amended 6-18-2018 by Ord. No. 2018-14]	North	From a Main Street (C.R.531) to Thomas Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
High Street [Added 2-20-2018 by Ord. No. 2018-02]	North	From Prospect Street to a point 284 feet west therefrom	Mon. to Fri.	8:00 a.m. to 6:00 p.m.

Street	Side	Location	Days	Hours
High Street [Added 6-18-2018 by Ord. No. 2018-14]	South	From Thomas Street to Honey Court	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Hillside Avenue	Both	From Robins Place to Dellwood Road	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Homer Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Home Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Howell Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Jonesdale Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Kempson Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Lake Avenue	Both	From Route NJ 27 (Essex Avenue) to a point 85 feet north of High Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
LaPorta Court	West	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Laureldale Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Library Place	North	From a point 205 feet east of Main Street (C.R.531) to Linden Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Lincoln Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Linden Avenue	Both	From Route NJ 27 (Middlesex Avenue) to Maple Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Linsley Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Main Street (C.R.531)	Both	From Spring Street to Lincoln Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Main Street (C.R.531)	East	From East Walnut Street to Charles Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.

Street	Side	Location	Days	Hours
Main Street (C.R.531)	East	From a point 180 feet north of Library Place to Christol Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Main Street (C.R.531)	East	From a point 115 feet north of Myrtle Avenue to a point 70 feet south of East Walnut Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Main Street (C.R.531)	West	From Charles Street to a point 75 feet north of West Walnut Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Main Street (C.R.531)	West	From Plainfield Avenue (C.R.531) to Library Place	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Main Street (C.R.531)	West	From a point 40 feet south of West Walnut Street to a point 155 feet north of Brunswick Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Maple Avenue	Both	From Central Avenue (C.R.669) to Linden Avenue	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Martin Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Mason Drive	South	From Grove Avenue to Mason Drive easterly terminus	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Memorial Parkway	South	From Rose Street to a point 315 feet east therefrom	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Middlesex Avenue (C.R.501)	North	From a point 45 feet west of Route NJ 27 (Lake Avenue) to a point 83 feet west therefrom	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Peltier Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Pleasant Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.

Street	Side	Location	Days	Hours
Prospect Street [Added 12-21-2009 by Ord. No. 2009-19; amended 2-20-2018 by Ord. No. 2018-02]	West	From a point 153 feet south of Essex Avenue (Route 27) to High Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Railroad Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Rayle Court	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Rector Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Robins Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Rose Street	Both	From Spring Street to Memorial Parkway	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Rose Street	East	From Newman Street to High Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
School Street	North	From Central Avenue (C.R.669) to a point 100 feet west of Center Street	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
School Street	South	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Simpson Place	East	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Spring Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Stockton Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Talmadge Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Thomas Street	East	Entire length	Mon. to Fri. Sat. and Sun.	5:00 p.m. to 9:00 p.m.; 8:00 a.m. to 5:00 p.m.
Thomas Street	West	From a point 366 feet south of High Street to Brunswick Avenue	Mon. to Fri. Sat. and Sun.	5:00 p.m. to 9:00 p.m. to 8:00 a.m. to 5:00 p.m.
Tulsa Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.

Street	Side	Location	Days	Hours
Voorhees Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Washington Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
West Chestnut Avenue	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
West Walnut Street	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
William Street	East	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
William Street	West	From Durham Avenue to a point 170 feet north of Route NJ 27 (Middlesex Avenue)	Mon. to Fri.	8:00 a.m. to 6:00 p.m.
Wilmer Place	Both	Entire length	Mon. to Fri.	8:00 a.m. to 6:00 p.m.

§ 185-17. Parking of certain trucks, vehicles, and trailers prohibited.

No person shall park any truck or vehicle over four tons gross vehicle weight (GVW), a school bus, any other type of bus, recreational vehicle, camper, boat or trailer between the hours specified upon any of the streets or parts of streets described.

Name of Street	Side	Hours	Location
All municipal streets	Both	9:00 p.m. to 6:00 a.m.	Entire length
Main Street (C.R.531)	Both	All	From Route NJ 27 (Middlesex Avenue) to the Metuchen Borough corporate line - Edison Township corporate line
Sidney Place	Both	All	Entire length

§ 185-18. Routes for trucks over 4 tons.

Pursuant to N.J.S.A. 40:67-16.1, the streets or parts of streets as described are hereby designated as route for vehicles over 4 tons. All trucks having a total combined registered gross weight of vehicle plus load in excess of 4 tons shall be excluded from all streets, except from those streets listed which form a part of the system of truck routes. Vehicles will be permitted on all streets for the purpose of the pick up and delivery of materials.

Name of Street	Location
	(Reserved)

§ 185-19. Vehicles over designated weight excluded from certain streets.

Vehicles over the gross vehicle weight (GVW) are hereby excluded from the streets or parts of streets described except for the pickup and delivery of materials on such streets.

Name of Street	Location
All municipal streets	Entire length

§ 185-20. One-way streets.

The following described streets or parts of streets are hereby designated as one-way streets in the direction indicated. Parking on these streets will be permitted on the sides indicated below.

Name of Street	Direction	Limits	Parking Permitted
Bissett Place	West	Entire length	North side: Entire length South side: From Main Street (C.R.531) to a point 155 feet east therefrom
Delaware Avenue	East	Oakland Avenue to Upland Avenue	None
Durham Avenue	West	From Main Street (C.R.531) to Central Avenue (C.R.669)	North side: From Main Street (C.R.531) to a point 225 feet west therefrom From a point 60 feet east of William Street to Center Street South side: From Center Street to a point 115 feet east of Central Avenue (C.R.669)
Library Place	East	Entire length	North side
Memorial Parkway	West	From Route NJ 27 (Lake Avenue) to Rose Street	South side from Rose Street to a point 315 feet east therefrom
Middlesex Avenue	East	From Bridge Street to New Durham Road (C.R. 501)	North side
Newman Street	South	From High Street to Rose Street	Both sides

Name of Street	Direction	Limits	Parking Permitted
Oak Avenue	North	From Route NJ 27 (Middlesex Avenue) to a point 102 feet north therefrom	East side
Oak Avenue	South	From Route NJ 27 (Middlesex Avenue) to a point 126 feet north therefrom	West side
Pennsylvania Avenue	East	Entire length	North side: From Main Street (C.R.531) to Station Place South side: From Station Place to Pleasant Place
Talmadge Avenue	East	Entire length	Both sides

§ 185-21. Through streets.

Pursuant to the provisions of N.J.S.A. 39:4-140; the streets or parts of streets described are hereby designated as through streets. Stop signs shall be installed on the near-right side of each street intersecting the through street except where yield signs are provided for in the designation.

Name of Street	Limits
Barnstable Street	From Woodbridge Avenue (C.R.660) to Barnstable Street northerly terminus
Bridge Street	From Route NJ 27 (Middlesex Avenue) to New Durham Road (C.R.501)
Carlton Road	From Amboy Avenue (C.R.501) to Woodbridge Avenue (C.R.660)
Center Street	From Route NJ 27 (Middlesex Avenue) to Durham Avenue
Charles Street	From Main Street (C.R.531) to Charles Street easterly terminus
Christol Street	From Main Street (C.R.531) to 100 feet past Crest Drive
Clarendon Court	From Grove Avenue to Rector Street
Clive Street	From Plainfield Avenue (C.R.531) to Metuchen Borough corporate line - Edison Township corporate line
Concord Avenue	From Beacon Hill Drive to southerly terminus at Lexington Drive
Connor Avenue	From Bridge Street to Metuchen Borough corporate line - Edison Township corporate line
Delaware Avenue	From Oakland Avenue to Hazelwood Avenue
Division Street	From Lake Avenue to Rose Street

Name of Street	Limits
Dolores Drive	From Lisa Lane to Metuchen Borough corporate line - Edison Township corporate line
Durham Avenue	From Central Avenue (C.R.669) to Metuchen Borough corporate line - Edison Township corporate line
Durham Avenue	From Main Street (C.R.531) to Central Avenue (C.R.669)
Graham Avenue	From High Street to Graham Avenue northerly terminus
Grove Avenue	From Route NJ 27 (Middlesex Avenue) to Metuchen Borough corporate line - Edison Township corporate line
Grove Avenue	From Woodbridge Avenue (C.R.660) to Route NJ 27 (Middlesex Avenue)
Hanson Avenue	From Eggert Avenue to easterly terminus
Hanson Avenue	From Kempson Place to Eggert Avenue
High Street	From Lake Avenue to Rose Street
High Street	From Main Street (C.R.531) to Lake Avenue
High Street	From Rose Street to High Street westerly terminus
Hillside Avenue/Huxley Road	From Main Street (C.R.531) to Clarendon Court
Homestead Road	From Route NJ 27 (Middlesex Avenue) to northerly terminus at Salem Court
Jonesdale Avenue	From Woodbridge Avenue (C.R.660) to Jonesdale Avenue northerly terminus
Lake Avenue	From Route NJ 27 (Essex Avenue) to High Street
Lake Avenue/Whitman Avenue	From High Street to Metuchen Borough corporate line - Edison Township corporate line
Liberty Street	From Central Avenue (C.R.669) to Liberty Street westerly terminus
Linden Avenue	From Route NJ 27 (Middlesex Avenue) to Christol Street
Maple Avenue	From Main Street (C.R.531) to Central Avenue (C.R.669)
Marsh Place	From Metuchen Borough corporate line - Edison Township corporate line to Marsh Place northerly terminus
Mason Drive	From Grove Avenue to Metuchen Borough corporate line - Edison Township corporate line
Michael Drive	From New Durham Road (C.R.501) to Middlesex Avenue
Middlesex Avenue	From Bridge Street to New Durham Road (C.R.501)
Midland Avenue	From Main Street (C.R.531) to Central Avenue (C.R.669)
New Street	From Route NJ 27 (Lake Avenue) to Main Street (C.R.531)
New York Avenue	From Grove Avenue to Beechwood Avenue

Name of Street	Limits
Norris Avenue	From Grove Avenue to Clive Street
Oak Avenue	From Route NJ 27 (Middlesex Avenue) to Christol Street
Oakland Avenue	From the Metuchen Borough corporate line - Edison Township corporate line to Grove Avenue
Pennsylvania Avenue	From Main Street (C.R.531) to Pleasant Place
Poplar Street	From Lake Avenue to Summit Avenue
Rector Street	From Route NJ 27 (Middlesex Avenue) to Hillside Avenue
Rose Street	From Whitman Avenue to High Street
Rose Street	From High Street to Route NJ 27 (Essex Avenue)
Ross Avenue	From East Chestnut Avenue to Christol Street
Stoneham Place	From Grove Avenue to Stoneham Place easterly terminus
Wakefield Drive	From Route NJ 27 (Middlesex Avenue) to Wakefield Drive westerly terminus
Waltham Avenue	From Route NJ 27 (Middlesex Avenue) to Waltham Avenue northerly terminus
West Chestnut Avenue	From Main Street (C.R.531) to Central Avenue (C.R.669)
Wester Avenue	From the Metuchen Borough corporate line - Edison Township corporate line to Wester Avenue westerly terminus
Willow Road	From Plainfield Avenue (C.R.531) to Willow Road northerly terminus
Woodside Avenue	From Grove Avenue to Wakefield Drive
University Avenue	From Plainfield Avenue (C.R.531) to Midland Avenue

§ 185-22. Stop intersections.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections described are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

Intersection	Stop Sign(s) On
Cliffwood Place and Spring Street	Cliffwood Place
Delaware Avenue and Hazelwood Avenue	Delaware Avenue
Edith Avenue and Connor Avenue [Added 4-7-2015 by Ord. No. 2015-06]	Edith Avenue
George Street and Lincoln Avenue	George Street
Hanson Avenue and Eggert Avenue	Hanson Avenue
Hanson Avenue and Kempson Place	Hanson Avenue

Intersection	Stop Sign(s) On
Henry Street and Blair Avenue	Henry Street
Herold Place and McPherson Avenue	Herold Place
Howell Street and Tulsa Avenue	Howell Street
Hunt Place and Bounty Street	Hunt Place
Kate Lane and Newman Street	Kate Lane
Leonard Street and Norcross Avenue	Leonard Street
Mark Circle and East Chestnut Avenue	Mark Circle
McAdams Avenue and Hampton Street	McAdams Avenue
McAdams Avenue and Smith Street New York Avenue and Beechwood Avenue	McAdams Avenue New York Avenue
Norcross Avenue and Aylin Street	Norcross Avenue
Ohio Avenue and Upland Avenue	Ohio Avenue
Park Place and Sylvan Avenue	Park Place
Parkman Avenue and Mason Drive	Parkman Avenue
Robins Place and Highland Avenue	Robins Place
Rose Street and Memorial Parkway	Rose Street
Ross Avenue and East Chestnut Avenue	Ross Avenue
Rowland Place and Linsley Place	Rowland Place
Thomas Street and Brunswick Avenue	Thomas Street
Turner Court and Miller Drive	Turner Court
Washington Place and Pleasant Place	Washington Place
Washington Place and Robins Place	Washington Place
West Cedar Street and Herold Place	West Cedar Street
Wester Avenue and Goodwill Place	Wester Avenue
Windy Hill Road and John Street	Windy Hill Road

§ 185-23. Multiway stop intersections.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections herein described are designated as multiway stop intersections. Stop signs shall be installed as provided herein.

Intersection	Stop Signs On
Beacon Hill Drive and Woodside Avenue [Added 10-3-2022 by Ord. No. 2022-20]	All approaches (Three-way) - Eastbound and Westbound on Woodside Avenue and on Beacon Hill Drive at the intersection of Beacon Hill Drive and Woodside Avenue
Center Street and Durham Avenue [Added 1-29-2024 by Ord. No. 2024-03]	All approaches (Three-way) - Northbound and Southbound on Center Street and Westbound on Durham Avenue at the intersection of Center Street and Durham Avenue
Highland Avenue and Huxley Road [Added 10-29-2019 by Ord. No. 2019-16]	All approaches
High Street and Graham Avenue [Added 2-11-2019 by Ord. No. 2019-02]	All approaches
High Street and Honey Court [Added 2-11-2019 by Ord. No. 2019-02]	All approaches
High Street and Lake Avenue	All approaches
High Street and Rose Street	All approaches
Lake Avenue and Brunswick Avenue [Added 12-18-2017 by Ord. No. 2017-19]	All approaches
Main Street, Plainfield Avenue (C.R. 531), Clive Street and Christol Street [Added 3-6-2006 by Ord. No. 2006-4]	All approaches
Maple Avenue and Center Street [Added 2-17-2015 by Ord. No. 2015-05]	All approaches
Maple Avenue and Linden Avenue [Added 11-7-2016 by Ord. No. 2016-26]	All approaches
Maple Avenue and Oak Avenue [Added 11-7-2016 by Ord. No. 2016-26]	All approaches
Memorial Parkway and Rose Street [Added 3-18-2013 by Ord. No. 2013-3]	Eastbound on Memorial Parkway at Rose Street, westbound on Memorial Parkway at Rose Street, and northbound on Rose Street at Memorial Parkway
Midland Avenue and Harvard Avenue [Added 3-21-2016 by Ord. No. 2016-07]	All approaches
West Chestnut Avenue and Center Street [Added 2-17-2015 by Ord. No. 2015-05]	All approaches

§ 185-24. Yield intersections.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections described are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

Intersection	Yield Sign(s) On
Beverly Court and Clarendon Court	Beverly Court
Concord Avenue and Beacon Hill Drive	Concord Avenue
Edith Avenue and Connor Avenue	Edith Avenue
Miller Drive and Willow Road	Miller Drive
Roosevelt Court and Christol Street	Roosevelt Court
Roosevelt Court and Victory Court	Roosevelt Court
Station Place and Pennsylvania Avenue	Station Place

§ 185-25. Turn prohibitions.

No person shall make a turn at any location listed and only in the manner described.

Intersection	Direction	Turn Prohibited	Movement Prohibited
Bridge Street and Connor Avenue	North	Left	7:00 a.m. to 9:00 a.m. 3:00 p.m. to 6:00 p.m. (Monday to Friday)
Central Avenue (C.R. 669) and School Street	South	Left	All
New Durham Road (C.R. 501) and Renninger Road	East	Right	7:00 a.m. to 9:00 a.m. 3:00 p.m. to 6:00 p.m. (Monday to Friday)

§ 185-26. No turn on red.

No person shall make a right turn on the red signal at any location listed:

Intersection	Direction	Prohibited Turn on Red	Times
Amboy Avenue (C.R. 501) and Eggert Avenue	North	From westbound on Amboy Avenue (C.R. 501) to northbound on Eggert Avenue	All
Amboy Avenue (C.R. 501) and Main Street (C.R. 531)	Both	From eastbound on Amboy Avenue (C.R. 501) to Southbound on Main Street (C.R. 531)	7.00 a.m. to 7:00 p.m.

Intersection	Direction	Prohibited Turn on Red	Times
Amboy Avenue (C.R. 501) and Main Street	Both C.R. 531	From westbound on Amboy Avenue (C.R. 501) to Northbound on Main Street	7:00 a.m. to 7:00 p.m. (C.R. 531)
Central Avenue (C.R. 669) and Durham Avenue	West	From southbound on Central Avenue (C.R. 669) to westbound on Durham Avenue	All
Central Avenue (C.R. 669) and Middlesex Avenue (C.R. 501)	West	From southbound on Central Avenue (C.R. 669) to westbound on Middlesex Avenue (C.R. 501)	All
Durham Avenue and Central Avenue (C.R. 669)	South	From eastbound on Durham Avenue to southbound on Central Avenue (C.R. 669)	All
Eggert Avenue and Amboy Avenue (C.R. 660)	West	From southbound on Eggert Avenue to westbound on Amboy Avenue (C.R. 501)	All
Eggert Avenue and Woodbridge Avenue (C.R. 660)	East	From northbound on Eggert Avenue to eastbound on Woodbridge Avenue (C.R. 660)	All
Hillside Avenue and Main Street (C.R. 531)	North	From westbound on Hillside Avenue to northbound on Main Street (C.R. 531)	7:00 a.m. to 7:00 p.m.
Main Street (C.R. 531) and Amboy Avenue (C.R. 501)	Both	From northbound on Main Street (C.R. 531) to eastbound on Amboy Avenue (C.R. 501)	7:00 a.m. to 7:00 p.m.
Main Street (C.R.531) and Amboy Avenue (C.R.501)	Both	From southbound on Main Street (C.R.531) to westbound on Amboy Avenue (C.R.501)	7:00 a.m. to 7:00 p.m.

Intersection	Direction	Prohibited Turn on Red	Times
Main Street (C.R.531) and Hillside Avenue	East	From northbound Main Street (C.R.531) to eastbound on Hillside Avenue	7:00 a.m. to 7:00 p.m.
Main Street (C.R.531) and New Street	West	From southbound on Main Street (C.R.531) to westbound on New Street	7:00 a.m. to 7:00 p.m.
New Street and Main Street (C.R.531)	South	From eastbound on New Street to southbound on Main Street (C.R.531)	7:00 a.m. to 7:00 p.m.

§ 185-27. Loading zones. [Amended 6-18-2018 by Ord. No. 2018-14]

The locations described are hereby designated as loading zones. No person shall park a vehicle in said location during the times indicated other than for the loading or unloading of goods and materials.

Street	Side	Time Limit	Hours	Location
Center Street [Added 9-13-2021 by Ord. No. 2021-13]	Northbound, easterly side	30 min.	24 hours a day, 7 days a week	Beginning at a point 95 feet south of Route NJ 27 (Middlesex Avenue) and continuing 60 feet south therefrom
Hillside Avenue	North	30 min.	8:00 a.m. to 6:00 p.m.	From 25 feet west of Inn Place continuing 64 feet west
Pearl Street	East	30 min.	8:00 a.m. to 6:00 p.m.	From 110 feet north of the south end of Pearl Street continuing 70 feet north therefrom
Station Avenue	East	30 min.	8:00 a.m. to 6:00 p.m.	From 143 feet north of intersection of Penn Avenue continuing north 25 feet and from 218 feet north of intersection of Penn Avenue continuing north 25 feet

§ 185-28. Bus stops.

The locations described are hereby designated as bus stops. No vehicle other than an omnibus, picking up or discharging passengers, shall be permitted to occupy said location between the hours indicated.

Name of Street			Hours
A.	Amboy Avenue (C.R.501), eastbound, on the southerly side at:		
	(1)	Green Street (far side) beginning at easterly curblane of Green Street and extending 100 feet easterly therefrom	All
	(2)	Vail Place and James Place (mid-block) beginning at a point 50 feet east of Vail Place and extending 105 feet westerly therefrom	All
B.	Amboy Avenue (C.R.501), westbound, on the northerly side at:		
	(1)	Carson Avenue (far side), beginning at westerly curblane of Carson Avenue and extending 100 feet westerly therefrom	All
C.	Center Street, northbound, on the easterly side at:		
	(1)	Route NJ 27 (Middlesex Avenue) (near side), beginning at the southerly curblane of Route NJ 27 (Middlesex Avenue) and extending 90 feet southerly therefrom	All
D.	Center Street, southbound, on the westerly side at:		
	(1)	Route NJ 27 (Middlesex Avenue) and New Street (mid-block) beginning at a point 139 feet north of New Street and extending 55 feet northerly therefrom	All
E.	Central Avenue (C.R.669), northbound, on the easterly side at:		
	(1)	Durham Avenue and Maple Avenue (mid-block), beginning at a point 165 feet north of Durham Avenue and extending 100 feet northerly therefrom	All
F.	Central Avenue (C.R.669), southbound, on the westerly side at:		
	(1)	Durham Avenue and Central Square Park Road, beginning at a point 100 feet south of Durham Avenue and extending 100 feet southerly therefrom	All
G.	Main Street (C.R.531), northbound, on the easterly side at:		
	(1)	Amboy Avenue (C.R.501) and Bissett Place (mid-block), beginning at a point 72 feet north of Amboy Avenue (C.R.501) and extending 100 feet northerly therefrom	All
	(2)	Route NJ 27 (Middlesex Avenue) (far side), beginning at Route NJ 27 (Middlesex Avenue) and extending 100 feet northerly therefrom	All
	(3)	Woodbridge Avenue (C.R.660) (far side) beginning at Woodbridge Avenue (C.R.660) and extending 105 feet northerly therefrom	All
H.	Main Street (C.R.531), southbound, on the westerly side at:		

Name of Street			Hours
	(1)	Route NJ 27 (Middlesex Avenue) (far side), beginning at Route NJ 27 (Middlesex Avenue) and extending 135 southerly therefrom	All
	(2)	Bissett Place and Amboy Avenue (C.R.501) (mid-block), beginning at a point 67 feet south of Bissett Place and extending 110 feet southerly therefrom	All
	(3)	Woodbridge Avenue (C.R.660) (near side), beginning at the prolongation of the northerly curblineline of Woodbridge Avenue (C.R.660) and extending 105 feet northerly therefrom	All
I.	New Street, westbound, on the northerly side at:		
	(1)	Main Street (C.R.531) (far side), beginning at Main Street (C.R.531) and extending 105 feet westerly therefrom	All

§ 185-29. Taxi stands.

The locations described are hereby designated as taxi stands. No vehicle other than a taxi shall be permitted to occupy said locations during the times indicated.

Street	Location	Hours
Pennsylvania Avenue	From a point 75 feet east of Main Street (C.R. 531) to a point 50 feet east therefrom	All
Pennsylvania Avenue	From a point 168 feet east of Main Street (C.R. 531) to a point 13 feet east therefrom	All

§ 185-29.1. Ride-share pickup/dropoff zones. [Added 12-3-2018 by Ord. No. 2018-25]

These §§ 185-29.1 to 185-29.3 shall apply to the operation of all ride-share services within the Borough of Metuchen. "Ride-share service" shall be defined as those participating in any arrangement in which a passenger travels in a private vehicle driven by its owner or its owner's duly authorized representative for a fee, regardless of whether arranged by means of a website or mobile-based application or internet-based application. Ride-share service shall not include taxicabs possessing a license pursuant to Chapter 175 of the Borough's Ordinances.

§ 185-29.2. Designated ride-share pickup/dropoff zones. [Added 12-3-2018 by Ord. No. 2018-25]

The following areas are hereby designated as ride-share pickup/dropoff zones and shall be used only for the pickup or discharge of passengers by ride-share services and like businesses by whatever name employed (hereinafter, "ride-share services"). During the times specified, no vehicle other than a "ride sharing services vehicle" shall be permitted to occupy the below-designated locations, all other vehicles may be towed and subject to the penalties set forth in § 185-4B.

- A. The following areas shall be used only by ride-share services for the pickup or discharge of passengers during the designated times set below:

Locations	Hours
Halsey Street Parking Lot — The area directly next to the sidewalk and fence line adjacent to the railroad tracks. Specifically, the 100 feet in between Utility Pole No. 62345 and Utility Pole No. 6106. The Halsey Street Lot area is to be used by all buses, shuttle vans and vehicles holding five or more passengers.	All
Pennsylvania Avenue Parking Lot - In an area from 61 Pennsylvania Avenue in an easterly direction adjacent to the railroad tracks until the intersection of Pennsylvania Avenue and Pleasant Place so long as traffic is not obstructed. No buses, shuttle vans and vehicles holding five or more passengers are permitted to use the Pennsylvania Avenue Parking Lot for picking up or discharging passengers.	All

§ 185-29.3. Discharging or picking up passengers in designated ride-share zone within 500 feet of Metuchen Train Station. [Added 12-3-2018 by Ord. No. 2018-25]

Except if good cause is shown, on weekdays, Monday through Friday from the hours of 7:00 a.m. through 8:00 p.m., within a 500-foot radius of the Metuchen Train Station, ride-share services, buses, shuttle vans and/or commercial vehicles holding five or more passengers shall only discharge or pick up passengers from the above-designated pickup/dropoff zone.

§ 185-30. Land use reservations.

The lane locations described are designated as lane use reservations and traffic shall move as indicated.

Intersection or Location	Movement
Clive Street and Plainfield Avenue (C.R. 531)	Southbound right lane of Clive Street reserved for right turn only

§ 185-31. Speed limits. [Amended 12-21-2015 by Ord. No. 2015-15; 11-12-2019 by Ord. No. 2019-18]

- A. The speed limits for both directions of traffic along the streets or parts thereof described below and made a part of this chapter are hereby established at the rate of speed indicated.
- B. Regulatory and warning signs shall be erected and maintained to effect the above designated speed limits.

Name of Street	Speed Limit (mph)	Limits	Approval Date
Amboy Avenue	25	Entire length of roadway in the Borough of Metuchen, from the Borough of Metuchen corporate line to the Township of Edison corporate line	
Central Avenue	25	Entire length of roadway in the Borough of Metuchen, from the Borough of Metuchen corporate line to the Township of Edison corporate line	July 17, 1957; May 16, 1973
Grove Avenue	25	Entire length of roadway in the Borough of Metuchen, from the Borough of Metuchen corporate line to the Township of Edison corporate line	December 24, 2015
Main Street	25	Entire length of roadway in the Borough of Metuchen, from the Borough of Metuchen corporate line to the Township of Edison corporate line	
Middlesex Avenue (local)	25	From Bridge Street to New Durham Road (C.R. 501)	June 16, 2003
New Durham Road	25	Entire length of roadway in the Borough of Metuchen, from the Borough of Metuchen corporate line to the Township of Edison corporate line	
Oakland Avenue	25	From Metuchen Borough corporate line - Edison Township corporate line to Grove Avenue	June 16, 2003

Name of Street	Speed Limit (mph)	Limits	Approval Date
Plainfield Avenue	25	Entire length of roadway in the Borough of Metuchen, from the Borough of Metuchen corporate line to the Township of Edison corporate line	
Plainfield Road	25	Entire length of roadway in the Borough of Metuchen, from the Borough of Metuchen corporate line to the Township of Edison corporate line	
Woodbridge Avenue	25	Entire length of roadway in the Borough of Metuchen, from the Borough of Metuchen corporate line to the Township of Edison corporate line	

§ 185-32. Mid-block crosswalks.

The following locations are hereby designated as mid-block crosswalks.

Name of Street	Location
Lincoln Avenue	415 feet east of Main Street (C.R. 531) extending 6 feet east therefrom
Middlesex Avenue [Added 10-15-2012 by Ord. No. 2012-7]	612 feet west of Central Avenue (C.R. 501) extending 6 feet west therefrom

§ 185-33. No passing zones.

No-passing zones are hereby established and shall be maintained upon the following described streets or parts thereof:

Name of Street	Sketch No.	Sketch Date	Approval Date
(Reserved)			

§ 185-34. Handicapped parking.

A. Handicapped parking on streets. In accordance with the provisions of N.J.S.A. 39:4-197, the

following street locations are designated as handicapped parking spaces. Such spaces are for use by persons who have been issued special identification cards or plates or placards by the Division of Motor Vehicles, or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these spaces.

Street	Location
Coan Place [Added 6-6-2005 by Ord. No. 2005-7]	East side of roadway beginning at a point 62 feet south of Amboy Avenue to a point 28 feet south therefrom
Desser Place	West side of roadway beginning at a point 108 feet south of Durham Avenue to a point 22 feet south therefrom
East Walnut Street [Added 3-15-2004 by Ord. No. 2004-3]	South side of roadway beginning at a point 113 feet east of Main Street to a point 22 feet east therefrom
Highland Avenue [Added 10-19-2009 by Ord. No. 2009-16; deleted 8-15-2016 by Ord. No. 2016-18]	
Kelly Street [Added 9-17-2007 by Ord. No. 2007-6]	East side of roadway at a point 371 feet south of Poplar Street to a point 28 feet south therefrom
Midland Avenue [Added 11-17-2003 by Ord. No. 2003-16]	South side of roadway beginning at a point 100 feet west of Colombia Avenue to a point 28 feet west therefrom
Oak Avenue [Added 4-7-2008 by Ord. No. 2008-5]	West side of roadway at a point 50 feet north of Middlesex Avenue to a point 22 feet south therefrom
Oak Avenue [Added 4-7-2008 by Ord. No. 2008-5]	West side of roadway at a point 72 feet north of Middlesex Avenue to a point 22 feet south therefrom
Roosevelt Court	East side of roadway beginning at a point 35 feet south of Christol Street to a point 22 feet south therefrom
Talmadge Avenue [Added 12-3-2007 by Ord. No. 2007-9]	South side of roadway beginning at a point 164 feet west of Main Street to a point 20 feet west therefrom
University Avenue [Added 2-22-2021 by Ord. No. 2021-04]	West side of roadway at a point 24 feet south of Rutgers Street continuing 22 feet south therefrom.
West Walnut Street [Added 12-7-2015 by Ord. No. 2015-13]	North side of roadway at a point 54 feet west of Main Street to a point 68 feet north therefrom

- B. Handicapped parking on streets for private residences. In accordance with the provisions of N.J.S.A. 39:4-197.6, the following on-street locations are designated as handicapped parking spaces in front

of private residences occupied by handicapped persons. Such spaces are for use by persons who have been issued special identification cards or plates or placards by the Motor Vehicle Commission, or a temporary placard issued by the Chief of Police. No other person shall be permitted in these spaces.

Street	Location	Permit Number
(Reserved)		

- C. Handicapped parking in municipal parking lots and board of education property. In accordance with the provisions of N.J.S.A. 39:4-197, the following off-street parking lots and Board of Education property are designated as handicapped parking areas. Such spaces are for use by persons who have been issued special identification cards, plates or placards issued by the Motor Vehicle Commission, or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these areas. [Amended 6-26-2023 by Ord. No. 2023-18]

Property	Location	Number of Spaces
Center Street East Parking Lot	15 Pearl Street	6
Halsey Street Parking Lot	25 Halsey Street	6
Metuchen Borough Hall Parking Lot	500 Main Street	2
Metuchen Public Library	480 Route NJ 27 (Middlesex Avenue)	4
New Street Parking Lot	New Street	5
Pennsylvania Avenue Parking Lot	5 Pennsylvania Avenue	6
Railroad Plaza Parking Lot	Railroad Plaza	3
Senior Citizens Recreation Center	15 Center Street	8
Senior Housing Center	35 Lincoln Avenue	6
South Main Street Parking Lot	South Main Street	4
Station Place Parking Lot	24 Station Place	2

- D. Handicapped parking on private property open to the public and to which the public is invited (retail business). In accordance with the provisions of N.J.S.A. 40:48-2.46, the following off-street parking yards are designated as handicapped parking areas. Such spaces are for use by persons who have been issued special identification cards, plates or placards by the Motor Vehicle Commission, or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these spaces.

Property	Location	Number of Spaces
(Reserved)		

- E. Handicapped parking on all other private property. In accordance with the provisions of N.J.S.A. 39:5A-1, the following off-street parking locations are designated as handicapped parking. Such

spaces are for use by persons who have been issued special identification cards, plates or placards by the Motor Vehicle Commission, or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these spaces.

Property	Number of Spaces	Location
Bank of New York /475 Main Street (C.R. 531)	1	As indicated on site plan
Central Square/Central Avenue (C.R. 669)	4	As indicated on site plan
Homestead Village/Central Avenue (C.R. 669)	4	As indicated on site plan
Franklin Square/Central Avenue (C.R. 669)	2	As indicated on site plan

- F. Handicapped parking on municipal parks. In accordance with the provisions of N.J.S.A. 39:5A-4, the following off-street parking locations are designated as handicapped parking. Such spaces are for use by persons who have been issued special identification cards, plates or placards by the Motor Vehicle Commission, or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these spaces.

Property	Number of Spaces	Location
(Reserved)		

- G. Handicapped parking on postal properties. In accordance with 40 U.S.C. S.C. 318B and a written request from the Postmaster, the off-street locations are hereby designated as handicapped parking, pursuant to P.L. 1989, c. 201(1) effective June 1, 1990. Such spaces are for use by persons who have been issued special identification cards, plates or placards by the Division of Motor Vehicles, or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these spaces.

Property	Number of Spaces	Location
(Reserved)		

- H. Signs, pavement markings, installation and maintenance. The owners of the premises referred to §§ 185-34C and 185-34D, shall provide and install signs and pavement markings for each parking space reserved for the use of handicapped persons, which signs and markings shall be in accordance with the Manual on Uniform Traffic Control Devices. The cost of procurement and installation of the signs and pavement markings shall be the responsibility of the owner said property. The owner shall subsequent to initial procurement and installation, maintain such signs and pavement markings in good condition at no cost or expense to the Borough of Metuchen. The owner shall be responsible for the repair and restoration of same.

§ 185-35. Control for movement and parking of traffic on public and private property.

A. Regulation for the movement and the parking of traffic on municipal and Board of Education property. In accordance with the provisions N.J.S.A. 39:4-197, the following municipal and Board of Education property shall have the movement of traffic controlled by the type of regulation indicated. No person shall operate or park a vehicle in violation of the regulations indicated. **[Amended 5-18-2015 by Ord. No. 2015-08; 12-19-2016 by Ord. No. 2016-33; 6-26-2023 by Ord. No. 2023-18]**

(1) Properties.

(a) Center Street East Lot (15 Pearl Street) regulations:

- [1] No person shall park a vehicle on the property designated by the Parking Authority as "permit parking," unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle, for the aforementioned parking lot, for the specific time frame, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.
- [2] No person shall park a vehicle on the property designated by the Parking Authority as "metered parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by resolution of the Parking Authority and posted on the property.
- [3] All vehicles must park in designated areas and between the lines provided.
- [4] Head-on parking only.

(b) Center Street Lot Parking Lot regulations:

- [1] No person shall park a vehicle on the property designated by the Parking Authority as "metered parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by resolution of the Parking Authority and posted on the property.
- [2] No person shall park a vehicle on the property designated by the Parking Authority as "permit parking," unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle, for the aforementioned parking lot, for the specific time frame, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.
- [3] All vehicles must park in designated areas and between the lines provided.
- [4] Head-on parking only.

(c) Halsey Street Parking Lot regulations:

- [1] No person shall park a vehicle on the property designated by the Parking Authority as "permit parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specific time frame, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.
- [2] No person shall park a vehicle on the property designated by the Parking Authority

as "metered parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by resolution of the Parking Authority and posted on the property.

[3] All vehicles must park in designated areas and between the lines provided.

[4] Head-on parking only.

(d) New Street Parking Lot regulations:

[1] No person shall park a vehicle on the property designated by the Parking Authority as "permit parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specified time frame and, to the extent required by the Parking Authority, is properly displayed on said vehicle.

[2] No person shall park a vehicle on the property designated by the Parking Authority as "metered parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by resolution of the Parking Authority and posted on the property.

[3] All vehicles must park in designated areas and between the lines provided.

[4] Head-on parking only.

[5] One-way. The described property is hereby designated as one-way in the direction indicated below and posted on the property.

Location	Direction
Aisle A-B	Counterclockwise

(e) Metuchen Borough Hall Parking Lot, 500 Main Street, regulations:

[1] Metuchen Borough Hall Parking Lot shall be for Borough Hall employees and Metuchen Borough Hall Business during regular business hours and any after hour activities associated with Borough Hall.

[2] The east side of Main Street beginning from a point 81 feet seven inches north of State Hwy 27 continuing for a distance of 76 feet north will be for Metuchen Borough Hall business.

[3] All vehicles must park in designated marked spaces and between the lines provided on the property.

[4] Violators shall be fined \$250 and be subject to having their car towed at the expense of the vehicle owner.

(f) Pennsylvania Avenue Parking Lot regulations:

[1] No person shall park a vehicle on the property designated by the Parking Authority as "permit parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the

specified time, and to the extent required by the Parking Authority, is properly displayed on said vehicle.

- [2] No person shall park a vehicle on the property designated by the Parking Authority as "metered parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by resolution of the Parking Authority and posted on the property.
- [3] All vehicles must park in designated areas and between the lines provided.
- [4] Head-on parking only.

(g) Railroad Plaza Parking Lot regulations:

- [1] No person shall park a vehicle on the property designated by the Parking Authority as "permit parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specified time, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.
- [2] No person shall park a vehicle on the property designated by the Parking Authority as "metered parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by resolution of the Parking Authority and posted on the property.
- [3] All vehicles must park in designated areas and between the lines provided.
- [4] Head-on parking only.
- [5] One-way. The described property is hereby designated as one-way in the direction indicated below and on the property.

Location	Direction
Aisle A-B	Counter-clockwise

(h) South Main Street Parking Lot regulations:

- [1] No person shall park a vehicle on the property designated by the Parking Authority as "Permit Parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specified time, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.
- [2] No person shall park a vehicle on the property designated by the Parking Authority as "Metered Parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by Resolution of the Parking Authority and posted on the property.
- [3] All vehicles must park in designated areas and between the lines provided.
- [4] Head-on parking only.

- (i) Station Place Parking Lot regulations:
- [1] No person shall park a vehicle on the property designated by the Parking Authority as "permit parking" unless an appropriate and current parking permit is issued by the Parking Authority of the Borough of Metuchen for said vehicle for the aforementioned parking lot, for the specified time, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.
 - [2] No person shall park a vehicle on the property designated by the Parking Authority as "metered parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by resolution of the Parking Authority and posted on the property.
 - [3] All vehicles must park in designated areas and between the lines provided.
 - [4] Head-on parking only.
- (2) Issuance of permits; permit fees. The Parking Authority is hereby authorized to issue permits to owners or drivers of motor vehicles on a periodic basis, as it deems appropriate, including, but not limited to, yearly, semiannually, quarterly, monthly, weekly, daily and hourly, for a fee collected in advance of parking privileges, which fee shall be set at a reasonable rate in accordance with the provisions of N.J.S.A. 40:11A-6(4)(f).
- (3) Effect of the permit. The permit provided for by Subsection A(2) will authorize the legal parking of a vehicle in the aforesaid designated lot in reserved sections designated therefor and the dates thereof.
- (4) Metered parking; time intervals; and rates. The Parking Authority is hereby authorized, as it deems appropriate, to determine and designate metered parking on its property, the specific times and rates to be collected in advance of parking privileges, which rates and fees shall be set at a reasonable rate in accordance with the provisions of N.J.S.A. 40:11A-6(4)(f) and approved by resolution and posted accordingly.
- (5) Authority of Parking Authority. The Parking Authority is hereby authorized to make reasonable regulations for the issuance of the permits provided for by this section, and to erect signs giving notice in each designated parking area of the section reserved for either permit parking or metered parking. The Parking Authority is hereby authorized to determine from time to time the number of spaces in each of such area to be reserved for metered parking and/or for permit parking. The Parking Authority is hereby authorized in its discretion, in consultation with the Borough to determine and designate such spaces in the aforesaid areas as "permit parking" and/or "metered parking" and shall post appropriate signs giving notice thereof.
- (6) Parking by permit parkers in unreserved areas or spaces. It shall be unlawful for permit parkers to park in any area or parking space other than those designated for permit parking pursuant to the provisions of Subsection A without depositing, or otherwise making payment in the meter or kiosk the payments or electronically making the payment of the required fee as determined by the Parking Authority.
- (7) For a vehicle to be parked lawfully in a permit parking area the following provisions must be met:
- (a) Each vehicle parked must have a permit issued by the Parking Authority of the Borough of Metuchen in accordance with the provisions of this section.

- (b) Such permit shall set forth the designated off-street parking lot, the dates for legal parking thereof and shall be displayed in the lower right-hand portion of the rear window or right rear side window of each vehicle in such a manner as to be clearly visible from the rear window when parked or as otherwise directed and if required by the Parking Authority.
 - (c) Vehicle shall be parked head in.
 - (d) Each permit shall be valid only when used for a vehicle designated on the application form.
 - (e) It shall be unlawful and a violation of the provisions of this section to allow for any person to cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked in a permit parking reserved area in any designated off-street parking lot without displaying the proper permit as provided herein or as otherwise directed and if required by the Parking Authority or otherwise complying with this section.
- (8) Enforcement. It shall be the duty of the Police Department, Parking Enforcement Officer and/or Parking Authority of the Borough of Metuchen to enforce the permit and meter time limit parking provisions of this section.
- (9) Parking or standing a vehicle in a parking meter space in the off-street parking meter zones designated and approved by resolution of the Parking Authority and posted on the property shall be lawful only when the designated required fee is deposited in a parking meter or kiosk or otherwise payment is made and is not in excess of the maximum parking time for the amount deposited or paid or is not in excess of the maximum parking time designated for such space.
- B. Regulation for the movement and the parking of traffic on private property open to the public and to which the public is invited (retail business).
- (1) In accordance with the provisions of N.J.S.A. 40:48-2.46, the following private property that is open to the public and to which the public is invited, the movement of traffic shall be controlled by the regulations listed herein. No person shall operate or park a vehicle in violation of the following regulations.

Property	Regulation
(Reserved)	

- (2) The owners of the premises referred to in this section shall provide and install signs and pavement markings as required, which signage and markings shall be in accordance with the current Manual on Uniform Traffic Control Devices (MUTCD). The cost of signs and installations shall be the responsibility of the owner of said property. The owner shall, subsequent to the initial procurement and installation, maintain such signs and pavement markings in good condition at no cost or expense to the Borough of Metuchen.
- (3) The penalty for a violation and conviction of this section shall be not less than \$50 nor more than \$1,000 and/or imprisonment in the county jail for a term not to exceed 90 days, or by a period of community service not to exceed 90 days.
- C. Regulation for the movement and the parking of traffic on all other private property. In accordance with the provisions of N.J.S.A. 39:5A-1, the regulations of Subtitle 1, Title 39, of the Revised Statutes are hereby made applicable to the properties listed below.

(1) Property. Franklin Square. Regulations:

(a) General parking.

- [1] All vehicles must park in designated areas and between the lines provided.
- [2] No person shall stop or stand vehicles upon any of the streets or parts of streets described below.

Name of Street	Side	Hours	Location
All roads and aisles	Both	All	As indicated on site plan ¹⁵¹

- (b) Reserved parking. All vehicles that are granted specialty parking in this section such as police vehicles, ambulances, teachers, etc., must be properly identified and the reserved parking spaces must be shown on the attached site plan.¹⁵²

(c) Through streets and stop intersections.

- [1] Through streets. The following streets or parts of streets are hereby designated as through streets. Stop signs shall be installed on the near-right side of each street intersecting the through street except where yield signs are provided for in the designation.

Name of Street	Limits
Franklin School Way Circle	Along the one-way counter-clockwise section of Franklin School Way Circle

- [2] Stop intersections. The following described intersections are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

Intersection	Stop Sign(s) On
Franklin School Way and Aisle A	Aisle A
Franklin School Way and Aisle B	Aisle B

- (d) One-way streets. The following described streets or parts of streets are hereby designated as one-way streets in the direction described.

151.Editor's Note: Said site plan is on file in the Borough offices.

152.Editor's Note: Said site plan is on file in the Borough offices.

Name of Street	Direction	Limits
Franklin School Way Circle	Counter- clockwise	Entire Length
Road A	West	Between Middlesex Avenue and lots A-B

(e) Speed limits:

[1] The speed limit for both directions of traffic on the following roadways is:

Name of Roadway	Speed Limits (m.p.h.)	Limits
All other roads and aisles	15	Entire length

[2] Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits authorized by the Department of Transportation.

- (f) Tow-away zones. Any vehicle parked or standing as to obstruct or impede a normal flow of traffic, block entrances or exitways, loading zones, oil fills and grassy area pedestrian walkways, or prevent in any way a safety hazard may be removed by towing the vehicles at the owner's or operator's expense.
- (g) Loading zone. The locations described are hereby designated as loading zones. No person shall park a vehicle in said location during the time indicated other than for the loading or unloading of goods and materials:

Name of Street	Hours	Location
Road A	All	As indicated on site plan ¹⁵³
Road B	All	As indicated on site plan ¹⁵⁴

(2) Property: Central Square. Regulations:

(a) General parking.

- [1] All vehicles must park in designated areas and between the lines provided.
- [2] No person shall stop or stand a vehicle upon any of the streets or parts of streets described below:

Name of Street	Side	Hours	Location
All roads	Both	All	on site plan ¹⁵⁵

(b) Through streets and stop intersections.

¹⁵³.Editor's Note: Said site plan is on file in the Borough offices.

¹⁵⁴.Editor's Note: Said site plan is on file in the Borough offices.

¹⁵⁵.Editor's Note: Said site plan is on file in the Borough offices.

- [1] Through streets. The following streets or parts of streets are hereby designated as through streets. Stop signs shall be installed on the near-right side of each street intersecting the through street except where yield signs are provided for in the designation.

Name of Street	Limits
Central Square Park Road	Entire length

- [2] Stop intersections. The following described intersections are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

Intersection	Stop Sign(s) On
Park Square Road and Central Square Park Road	Park Square Road
Park Lane North and Park Lane West	Park Lane North
Park Lane South and Park Square	Park Lane South

- (c) One-way streets. The following described streets or parts of streets are hereby designated as one-way streets in the direction described.

Name of Street	Direction	Limits
Central Square Park Road	North (Counter- clockwise)	Entire length
Park Lane North	North (Counter- clockwise)	Entire length
Park Lane South	East (Counter- clockwise)	Entire length
Park Lane South	South (Counter- clockwise)	Entire length
Park Square Road	North (Counter- clockwise)	As indicated on site plan ¹⁵⁶

- (d) Speed limits.

A. The speed limit for both directions of traffic on the following roadways is:

156.Editor's Note: Said site plan is on file in the Borough offices.

Name of Road	Speed Limits (mph)	Limits
All other roads and aisles	15	Entire length

- B. Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits authorized by the Department of Transportation.
- (e) Tow-away zones. Any vehicle parked or standing as to obstruct or impede a normal flow of traffic, block entrances or exitways, loading zones, oil fills and grassy area pedestrian walkways, or present in any way a safety hazard may be removed by towing the vehicles at the owner's or operator's expense.
- (f) Loading zone. The locations described are hereby designated as loading zones. No person shall park a vehicle in said location during the time indicated other than for the loading or unloading of goods and materials.

Name of Street	Hours	Location
Park Square Road	All	As indicated on site plan ¹⁵⁷

(3) Property: Homestead Village. Regulations: **[Amended 10-3-2005 by Ord. No. 2005-14]**

(a) General parking.

- [1] All vehicles must park in designated areas and between the lines provided.
- [2] No person shall stop or stand a vehicle upon any of the streets or parts of streets described below.

Name of Street	Sides	Hours	Location
All roads	Both	All	As indicated on site plan ¹⁵⁸

- [3] Handicapped parking. All stalls shall be 12 feet wide as shown on the attached site plan¹⁵⁹ and signed with the R7-8 and R7-8P (Reserved Parking Sign and Penalty Plate), in the designated parking areas for persons who have been issued the handicapped parking permits by the Division of Motor Vehicles.
- (b) Speed limits.
- [1] The speed limit for both directions of traffic on the following roadways is:

157.Editor's Note: Said site plan is on file in the Borough offices.

158.Editor's Note: Said site plan is on file in the Borough offices.

159.Editor's Note: Said site plan is on file in the Borough offices.

Name of Roadway	Speed Limits (m.p.h.)	Limits
All roads and aisles	15	Entire length

[2] Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits authorized by the Department of Transportation.

- (c) Tow-away zones. Any vehicle parked or standing as to obstruct or impede a normal flow of traffic; block entrances or exitways, loading zones, oil fills and grassy area pedestrian walkways; or present in any way a safety hazard may be removed by towing the vehicles at the owner's or operator's expense.
 - (d) All sign posts or other necessary materials shall be installed and paid for by the applicant. All signing shall conform to the current Manual on Uniform Traffic Control Devices, pursuant to N.J.S.A. 39:4-198 and N.J.S.A. 39:4-183.27.
 - (e) Unless another penalty is expressly provided for by New Jersey State Statute, every person convicted of violation of this subsection or any supplement thereto shall be liable to a penalty of not more than \$500 or imprisonment for a term not exceeding 15 days, or both.
- (4) Property. Bank of New York, 475 Main Street. Regulations:
- (a) General parking.

[1] All vehicles must park in designated areas and between the lines provided.

[2] No person shall stop or stand vehicles upon any of the streets or parts of streets described below.

Name of Street	Side	Hours	Location
Road A	Both	All	As indicated on site plan ¹⁶⁰
Road B	Both	All	As indicated on site plan ¹⁶¹

- (b) Yield intersections. The following described intersections are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

Intersection	Yield Sign(s) On:
Road A and Road B	Road B, facing incoming traffic of Route NJ 27 (Middlesex Avenue)

- (c) One-way streets. The following described streets or parts of streets are hereby designated as one-way streets in the direction described.

¹⁶⁰.Editor's Note: Said site plan is on file in the Borough offices.

¹⁶¹.Editor's Note: Said site plan is on file in the Borough offices.

Name of Street	Direction	Limits
Road A	South	As indicated on site plan ¹⁶²
Road B	South	As indicated on site plan ¹⁶³

(d) Speed limits.

[1] The speed limit for both directions of traffic on the following roadways is:

Name of Roadway	Speed Limits (mph)	Limits
All roads and aisles	15	Entire length

[2] Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits authorized by the Department of Transportation.

- (e) Tow-away zones. Any vehicle parked or standing as to obstruct or impede a normal flow of traffic, block entrances or exitways, loading zones, oil fills and grassy area pedestrian walkways, or present in any way a safety hazard, may be removed by towing the vehicles at the owner's or operator's expense.
- (f) Turn prohibitions. No person shall make a turn at any location listed and only in the manner described.

Intersection	Turn Prohibited	Movement Prohibited
Route NJ 27 (Middlesex Avenue) and Road B	Left	Westbound on Route NJ 27 (Middlesex Avenue) to southbound Road B

- D. Regulation for the movement and the parking of traffic on municipal park property. In accordance with the provisions of N.J.S.A. 39:5A-4, the regulations of Subtitle 1, Title 39 of the Revised Statutes are hereby made applicable to the properties listed below.

Property	Regulation
	(Reserved)

- E. Regulation for the movement and the parking of traffic on United States Post Office Property. In accordance with 40 U.S.C. S.C. 318B and a written request from the Postmaster, the off-street locations are hereby designated as handicapped parking, pursuant to P.L. 1989 c. 201(1) effective June 1, 1990.¹⁶⁴

162.Editor's Note: Said site plan is on file in the Borough offices.

163.Editor's Note: Said site plan is on file in the Borough offices.

164.Editor's Note: See N.J.S.A. 39:4-206.

Property	Regulation
	(Reserved)

- F. Signs, pavement markings, installation and maintenance. The owners of the premises referred to in §§ 185-35B and 185-35C shall provide and install signs and pavement markings as required, which signage and markings shall be in accordance with the Manual on Uniform Traffic Control Devices. The cost for the procurement and installation of signs and pavement markings shall be the responsibility of the owner of said property. The owner shall subsequent to initial procurement and installation, maintain such signs and pavement markings in good condition at no cost or expense to the Borough of Metuchen. The owner shall be responsible for the repair and restoration or replacement of same.

§ 185-36. School crossings.

The following crosswalks are hereby established as designated school crossings (Pursuant to P.L. 1998 c. 185):

Intersection
Amboy Avenue (C.R.501) and Route NJ 27 (Lake Avenue)
Amboy Avenue (C.R.501) and Simpson Place
Bounty Street and Hunt Place
Bounty Street and Woodbridge Avenue (C.R.660)
Brunswick Avenue and Thomas Street
Central Avenue (C.R.669) and Durham Avenue
Central Avenue (C.R.669) and Plainfield Avenue (C.R.531)
Grove Avenue and Christol Street [Added 4-4-2005 by Ord. No. 2005-3]
Grove Avenue and Mason Drive [Added 4-4-2005 by Ord. No. 2005-3]
Grove Avenue and Route NJ 27 (Middlesex Avenue)
Grove Avenue and Woodbridge Avenue (C.R.660)
Lake Avenue and Brunswick Avenue
Main Street (C.R.531) and Amboy Avenue (C.R.501)
Main Street (C.R.531) and Brunswick Avenue
Main Street (C.R.531) and Christol Street
Main Street (C.R.531) and Durham Avenue
Main Street (C.R.531) and Route NJ 27 (Middlesex Avenue)
Main Street (C.R.531) and Talmadge Avenue
Main Street (C.R.531) and Woodbridge Avenue (C.R.660)
New Durham Road (C.R.501) and Bridge Street

Chapter 193**WRECKERS AND TOWERS**

[HISTORY: Adopted by the Mayor and Council of the Borough of Metuchen 2-3-2003 by Ord. No. 2003-3. This ordinance repealed former Ch. 193, Wreckers and Towers, adopted 7-2-1979 by Ord. No. 79-12, as amended. Amendments noted where applicable.]

§ 193-1. Purpose.

The purpose of this chapter is to provide standards, regulations and rates for all police-requested towing and roadside repair services on roadways within the Borough of Metuchen. Police-requested services shall be rotated among licensees and provided under the supervision of the Police Department of the Borough of Metuchen.

§ 193-2. Definitions.

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

BASIC TOWING SERVICE — The removal and transportation of a vehicle from a highway, street, or other public or private road, or a parking area, or from a storage facility, and other services normally incident thereto.

CRUISING — The operation of an unengaged tow truck along the public streets in any fashion intended or calculated to solicit business.

EMPLOYEE — Any person employed by a licensee to operate a wrecker.

GROSS VEHICLE WEIGHT — The registration weight, the manufacturer's gross vehicle weight rating or actual weight.

WRECKER — A vehicle used to tow or remove other vehicles usually so damaged or disabled that they cannot proceed under their own power. Class I wreckers are capable of towing or removing a category I vehicle and class II wreckers are capable of removing or towing a category II vehicle.

§ 193-3. License.

A license shall be required to perform police-requested towing and roadside repair services on roadways within the Borough of Metuchen. Any person or entity wishing to obtain a license pursuant to this chapter shall submit a license application to the Borough Clerk.

§ 193-4. Term of license.

Licenses shall be issued by the Borough Clerk. Each license shall be issued for a maximum term of one year and shall terminate on January 1st of the year following its issuance.

§ 193-5. License fee.

- A. A fee of \$50 per vehicle shall be paid annually by the license applicant in order to obtain a license for light tow.
- B. A fee of \$100 shall be paid annually by the license applicant in order to obtain a license for heavy tow.

C. License fees shall be nonrefundable for any reason.

§ 193-6. Requirements for licenses.

No person or entity shall be eligible for the issuance of a license unless the following requirements are fulfilled:

- A. All towing equipment utilized by applicants shall be in compliance with state, federal and local laws.
- B. Applicants shall have the following minimum equipment:
 - (1) One wrecker capable of removing an automobile.
 - (2) Safety equipment to be carried on all trucks shall include: A universal towing sling, except flatbeds; J-hooks and chains; one snatch block for three-eighths to one-half inch cable; two high-test safety chains; auxiliary safety light kit to place on rear of towed vehicle; four-lamp or three-lamp revolving amber light or lamp bars of at least 500 candle power pointed to the rear, mounted so as not to be obstructed by the towed vehicle(s) and said lights must be engaged during the removal of the vehicle(s); at least three flares or other suitable warning devices visible for a distance of not less than 1,000 feet from the disabled vehicles; toolbox with assortment of hand tools; rear working lights and rear marker lights; cab lights; bodyclearing lights located to clear towed vehicle; blocking choke for wrecker while working safety cones; shovels and broom; steering wheel lock or tiedown; and an operational fire extinguisher designed for vehicular fires which must be 25lb BC dry chemical; and five gallons of absorbent granules for cleaning up fluid spills.
 - (3) All wreckers must be properly and permanently lettered on both sides according to Title 39 of the Motor Vehicle Code of New Jersey.
- C. License applicants shall submit a detailed list of all wreckers and service vehicles, as well as supplementary/auxiliary equipment owned or leased which will be used in performance of this chapter. A copy of the vehicle registration, amber light permit(s), certificate of insurance for vehicles and property, insurance cards and leases must also be provided with this list. The list must contain the following information; type of vehicle, year/make, capacity and condition of the vehicle.
- D. License applicants shall demonstrate that they maintain a storage facility properly zoned for such use. Each license applicant must have an outdoor storage area large enough to accommodate at least 10 vehicles. Each license applicant may have an indoor, secured storage area sufficient to house at least two vehicles and provide twenty-four-hour security for the same for the storing of impounded vehicles involved in criminal matters.
- E. License applicants shall maintain the following insurance:
 - (1) A garage keeper's liability policy covering fire, theft, and explosion in the minimum amount of \$60,000.
 - (2) A garage liability policy covering the operation of the licensee's equipment or vehicles for an amount of \$300,000 for any one person killed or injured in any one accident; and \$100,000 for all property damage from one accident.
 - (3) Automobile liability insurance in the amount of not less than \$1,000,000 combined single limit for bodily injury and property damage liability.

- (4) Worker's compensation insurance insuring the obligation of the wrecker operator under the New Jersey Workers' Compensation and Occupational Disease Laws.
- (5) Insurance policies shall provide collision coverage for vehicles in tow.
- F. License applicants shall submit the following for the applicant and all employees: name, address, date of birth, social security number, photocopies of all New Jersey Drivers' licenses (including commercial drivers licenses), signature, name and address of an individual to contact in case of emergency. The Metuchen Police Department shall conduct background investigations of all license applicants and their employees. Any person with a criminal record will not be allowed to perform Police Department towing and service and/or be issued a license.

§ 193-7. Licensee standards of conduct and performance.

All licensees shall comply with the following requirements of conduct and performance:

- A. Signs in view of the public shall be posted at storage facilities which contain the licensee's license number, business name, phone number, hours of operation, and towing fee schedule as outlined in this chapter in its entirety.
- B. Outdoor storage areas must be able to be entirely lit from dusk through dawn and must be entirely enclosed by a sturdy fence at least eight feet in height, unless any statute or regulation requires otherwise. Storage areas shall be kept clean so as to be reasonably accommodating to persons who may come upon said premises.
- C. Licensees shall not store towed vehicles on top of one another, shall not park any said vehicles on public roadways or sidewalks, nor shall licensees block any public roadways or sidewalks with towed vehicles.
- D. Employees of licensees must be registered with the Metuchen Police Department prior to performing any services for licensees. Information on employees shall be updated every 90 days in order to keep current with changes in personnel.
- E. Licensees and/or their employees must possess a valid New Jersey driver's license.
- F. Licensees and/or their employees shall be fully trained and knowledgeable in the operation of all required equipment.
- G. Licensees and/or their employees must be equipped with and trained in the basic tools necessary to perform minor roadside repairs.
- H. Licensees and/or their employees must be equipped with and trained in the necessary tools and equipment to perform all facets of the safe and efficient removal of all types of motor vehicles under this chapter regardless of the physical condition of the vehicle.
- I. Licensees are responsible for the removal of all debris from an accident scene, which includes sweeping the roadway. Licensees and/or their employees must be equipped with and trained in the necessary equipment needed to completely remove, and must remove, all nonhazardous debris from the scene of the accident. Debris must be placed in a container or bag. Any minor fluid spills will be picked up by the wrecker operator and may be put out in the regular trash after 24 hours.
- J. Licensees and their employees must wear orange reflective safety vests when engaged in the towing or repair of motor vehicles while on public roadways.

- K. Licensees and their employees must follow the directions of law enforcement personnel.
- L. Licensees and their employees are expected to always act in a professional manner and at all times to be courteous and respectful towards members of the public. Licensees and their employees shall not represent to any member of the public that they are employees of the Borough of Metuchen.
- M. Licensees shall not engage in cruising.
- N. Licensees shall be responsible for all vehicles and contents in their custody that were towed off the roadway under the direction of the police.
- O. Licensees and their employees shall preserve evidence needed for potential criminal and civil cases at the direction of law enforcement personnel. Vehicles involved in criminal matters which are impounded and stored in a licensee's storage area shall not be removed from such storage area until written permission is obtained from the Metuchen Police Department.
- P. Licensees shall notify the Metuchen Police Department on a monthly basis if they are in custody of any unclaimed vehicles. The Police Department will file for titles of abandoned motor vehicles left on a licensee's premises. Any licensee failing to notify the Metuchen Police Department within 30 days that a vehicle has been abandoned shall forfeit storage fees for days in excess of 30 days such vehicle is stored.
- Q. Licensees and their employees shall cooperate with other licensees and their drivers in case of emergency services at the scene of the accidents and/or disasters.
- R. Licensees shall arrive at the scene within 20 minutes from a police request for service. **[Amended 4-17-2017 by Ord. No. 2017-06]**
- S. Wreckers shall be maintained and operated in a safe and prudent manner and in accordance with all existing traffic regulations.
- T. Licensees shall maintain an accurate file of all vehicles towed. Such files shall be maintained for three years.
- U. Licensees shall make their storage facilities open to the public Monday through Friday, 8:00 a.m. to 6:00 p.m.
- V. Licensees must post the fee schedule contained in this section in its entirety on each wrecker in easy view of the public.
- W. Licensees shall fill out an abandoned vehicle form and bring it to the Metuchen Police Department on the thirty first (31st) day of holding a vehicle. If the vehicle is sold at a public auction, the minimum bid will be the cost of the tow and storage fees unless a lower bid is authorized by the licensee.
- X. All licensees must have a phone number where they can be reached 24 hours a day to take calls for police-requested towing and service. Such phone number may not be a beeper number. There will be at least one yearly meeting between all licensees and the Metuchen Police Department. All licensees will have at least one representative present.
- Y. If a licensee fails to respond to a towing or service call in a timely manner, the next licensee on the appropriate list shall be called to handle the call. A wrecker which arrives at the site of a towing or service call after the time to respond has expired shall not be allowed to handle that call, in the event a second licensee has already been called to handle the towing or service call.

- Z. Licensees may not transfer a license issued pursuant to this chapter under any circumstances.
- AA. All towing equipment utilized by licensees shall be in compliance with state, federal, and local laws and shall be inspected by the Metuchen Police Department on an annual basis.
- BB. All towing equipment utilized by licensees shall be in compliance with state, federal, and local laws and shall be inspected by the Metuchen Police Department on an annual basis.

§ 193-8. Maximum fees to be charged by licensees; response times.

- A. The following fees are the maximum fees which may be charged by licensees:

Service	Rate
Towing charge	
All towed vehicles except heavy duty	\$75 for 24 hours
Motorcycles	\$95
Additional charges, light-duty tows	
Winching cable	\$40
Up righting	\$40
Storage	
Storage of all towed vehicles except heavy duty	\$20 per day/day in-day out
Administrative charges	
Moving of vehicles	\$35 per vehicle

- B. In accordance with N.J.S.A. 40:48-2.50, all fees paid to a licensee by the Borough of Metuchen for the storage of motor vehicles shall not exceed the following:
- (1) A limit of \$3 per day for the first 30 days of storage per vehicle;
 - (2) A limit of \$2 per day for the 31st day of storage and any day thereafter, and;
 - (3) A limit of \$400 per vehicle stored regardless of the duration of the storage, except that a waiver may be granted for good cause upon the request of a municipality by the Division of Local Government Services in the Department of Community Affairs.
 - (4) Vehicles stored on the property of the Borough of Metuchen shall be subject to a storage fee of \$20 per day payable to the Borough.
 - (5) Licensees may accept Visa, MasterCard, or cash as payment for services. Checks, if accepted, will be by mutual consent of tow company and motorist.
 - (6) Mileage fees are not permitted within the borders of Metuchen. No other fees or charges are permitted except as set forth above.
- C. Response times. Licensee shall arrive at the scene within 20 minutes of the request made by the Police Department. If a licensee/tower does not respond within the allowed response time, the Police Department may call the next licensee/tower on the approved list and the first licensee/tower shall

forfeit all rights to any fees or charges for their failure to meet the response time requirements of this chapter. In addition a licensee who fails to meet the response time requirement may also be subject to disciplinary action pursuant to Section 193-9, including not limited to a suspension for up to three days or for repeat offenders license revocation and removal from the list set forth in Section 193-10.

§ 193-9. License suspension or revocation.

- A. The Police Chief or his designee may suspend or revoke the license of any licensee if the licensee fails to comply with the requirements of this chapter.
- B. The Chief of Police or his designee shall hold a hearing prior to suspending or revoking any license, except that the Chief of Police or his designee may order an immediate temporary license suspension in the interest of public health and safety and welfare. Licensees shall be given notice of the hearing at least five business days prior to a hearing date. Licensees shall be entitled to a hearing within five business days of any temporary suspension to determine whether any further action is necessary.

§ 193-10. Police-requested towing.

The Police Department shall maintain current rotational lists of wrecker operators for police-requested service calls and towing calls. The Police Department shall maintain a list for service calls and two towing call lists; one for wreckers capable of towing light-duty vehicles and one for wreckers capable of towing heavy-duty vehicles.

§ 193-11. Rules and regulations.

The Chief of Police may promulgate rules and regulations to implement the provisions of this chapter.

Board of Health

Chapter 200

GENERAL PROVISIONS, BOARD OF HEALTH

ARTICLE 1

Adoption of Code by Board of Health

[An ordinance adopting Part III of the Code of the Borough of Metuchen and making certain substantive changes to existing ordinances of the borough is presently proposed before the Board of Health. Upon final adoption, it will be included here as Article 1 of this chapter.]

METUCHEN CODE

AIR POLLUTION

Chapter 203

AIR POLLUTION

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen 2-27-1985. Amendments noted where applicable.]

§ 203-1. Adoption by reference.

The Middlesex County Air Pollution Control Code of December 21, 1983, with further revisions of January 6, 1984, is hereby adopted as the Air Pollution Control Code of the Borough of Metuchen.

§ 203-2. Violations and penalties.¹⁶⁵

Violations of this chapter shall be punishable by a maximum fine of \$2,500.

165.Editor's Note: Added at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

METUCHEN CODE

Chapter 206

ANIMAL WASTE

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen 10-20-1988.

Amendments noted where applicable.]

§ 206-1. Dog waste and cleanup.

No person owning or in control of any dog, cat or other domestic animal shall cause or allow such dog, cat or other domestic animal to soil, defile, urinate or defecate upon private property without permission of the owner of said property or upon any public property, except between the curblines of any public street, provided that:

- A. The person in charge of said dog shall have in his or her possession appropriate sanitary means, including but not limited to implements and plastic bags, to remove any feces so deposited.
- B. The person in charge of said dog shall immediately remove all feces so deposited by appropriate sanitary means, including but not limited to implements and plastic bags, and shall dispose of such feces in a sanitary manner on said person's own property.

§ 206-2. Definitions.

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

CURBLINES — The actual curbs of a public street, or, if there be no curbs on a public street, the edges of the improved portion of the public street.

§ 206-3. Guide-dog exception.

The provisions of this chapter shall not apply to a guide-dog accompanying any blind person.

§ 206-4. Violations and penalties.

Any person who violates any provision of this ordinance shall, upon conviction thereof, be punished by a fine of not less than \$50, nor more than \$100 for each subsequent offense.

§ 206-5. Enforcement.

This chapter will be enforced by the Police Department and/or the Board of Health through its Health Inspector.

FOOD-HANDLING ESTABLISHMENTS

Chapter 210

FOOD-HANDLING ESTABLISHMENTS

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen as indicated in individual article histories. Amendments noted where applicable.]

ARTICLE 1

Licensing**[Adopted 9-26-1966 as Art. II of Ch. 30 of the 1966 Code]****§ 210-1. Required; posting. [Amended 4-20-1995]**

No person shall operate a retail food-handling establishment unless a license to operate same shall have been issued by the Board of Health.¹⁶⁶ Such license shall be posted in a conspicuous place in such establishment.

§ 210-2. Fees. [Amended 4-20-1995; amended by Borough Council 12-19-2016 by Ord. No. 2016-32]

- A. There shall be a charge as set forth in Chapter 87, Fees, for the license, as required by § 210-1.
- B. If there is any change in ownership of a food establishment during the licensing period, immediate application must be made for a new food license. Anyone applying for a food license during the last six months of the licensing period, i.e., July 1 through December 31st, due to a change of ownership or new establishment, except seasonal trucks and seasonal establishments, the food license fee will be prorated to the nearest month.

§ 210-3. Food vending machines. [Amended 4-20-1995]

Food vending machines shall be considered under this chapter as retail food-handling establishments, and the owners thereof shall pay the required fee as listed in Chapter 87, Fees.

§ 210-4. Itinerant establishments. [Amended 4-20-1995]

A person conducting an itinerant retail food-handling establishment shall secure a license, and there shall be a fee charged as listed in Chapter 87, Fees.

§ 210-5. Transferability.

A license or approval of a certificate, permit or license issued by another Board of Health as required by this chapter is not transferable.

§ 210-6. Expiration; renewal. [Amended 3-18-1976; 3-18-1979; amended by Borough Council 12-19-2016 by Ord. No. 2016-32]

Licenses issued or approved under the provisions of this chapter shall expire annually on December 31st of each year, and applications for renewal thereof shall be submitted, together with the required fee, prior to December 1 of each year. In the event that the Board of Health shall sponsor a food-handlers education program during any year, notice of the same shall be given to each retail food establishment licensee or itinerant retail food establishment licensee. No license shall be renewed unless the licensee, proprietor, manager, assistant manager or other persons in charge of a retail food establishment or itinerant retail food establishment shall attend such program or a comparable program approved by the Board of Health. In the event that the food establishment employs 20 or more persons, then at least two supervisory personnel of such food establishment shall be required to attend the aforesaid programs. Based on inspection records made by the Board of Health, the Board shall have the right to waive the above attendance requirement for not more than two successive years.

¹⁶⁶Editor's Note: See N.J.A.C. 8:24-1 et seq.

§ 210-7. Suspension and revocation.¹⁶⁷

A license or approval of certificate, permit or license as required by this chapter may be suspended or revoked for a violation by the holder of any provision of this chapter after an opportunity for a hearing by the Board of Health or its authorized representatives.

§ 210-8. Violations and penalties.¹⁶⁸

Any person who fails to comply with any section of this article shall, upon conviction, be subject to a penalty of not less than \$5 nor more than \$500.

167.Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

168.Editor's Note: Added at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

ARTICLE 2

Food-Handling Course**[Adopted 9-26-1966 as Art. III of Ch. 30 of the 1966 Code]****§ 210-9. Required.**

Each food handler and each person charged with direct supervision of the operation of a restaurant or establishment where food is consumed on the premises in the borough shall, within 12 months of the date of passage of this article or within 12 months from the commencement of his or her employment, if such employment commences after the passage of this article, obtain a certificate certifying that he or she has successfully completed either a course in food-handling provided tuition-free by the Department of Health of the borough or any other food-handling course approved by the Department. Notice of the time and place for each food-handling course shall be published once in a newspaper which the department uses for the required publication of its ordinances at least two weeks prior to the time for giving such course. The Department shall open and accept registration for the required course throughout the year. Written notice of the time and place for each course shall be given to all registrants at least two weeks before the date on which the course is given.

§ 210-10. Owner to employ persons completing course. [Amended 3-23-1970]

No owner, manager or person in charge of employment of any restaurant or establishment where food is consumed on the premises shall knowingly employ a food handler or a direct supervisor in charge of its operation, unless such person has completed a food-handling course as provided under § 210-9, or has registered with the Department of Health for the same.

§ 210-11. Suspension or revocation of license. [Amended 3-23-1970]

Any restaurant or establishment where food is consumed on the premises which willfully fails to comply with § 210-10 of this article may have its license suspended or revoked by the Department of Health for a period not to exceed 90 days upon hearing as required by law.

§ 210-12. Violations and penalties. [Amended 3-23-1970]

Any person who fails to comply with any section of this article shall, upon conviction, be subject to a penalty of not less than \$5 nor more than \$500.

Chapter 213**HEALTH AND SANITATION**

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen 9-26-1966 as Art. I of Ch. 27 of the 1966 Code. Amendments noted where applicable.]

§ 213-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BOARD or BOARD OF HEALTH — The Board of Health of the borough, or its official representative, except where otherwise specified, when the board is not in session.

HEALTH — The public health.

ISOLATION —

- A. The separation of persons or animals suffering from a communicable disease, or carriers of infectious organisms, from other persons, animals or insects in such places as will prevent the direct or indirect conveyance of the infectious agent to susceptible persons; and
- B. The separation of persons or animals which have come in contact with persons, insects or animals afflicted with infectious or communicable diseases. This isolation shall not apply to the attending physician nor to the attending nurse.

LICENSE — The formal written permission to perform certain acts or to carry on a certain business embodied in the document granting such permission, issued by the Board in accordance with its rules and regulations, this Code and other ordinances of the Board or those of the State Department of Health.

NUISANCE — Anything which is detrimental or damaging to mental or physical health, or which is potentially damaging to mental or physical health, as determined by the Board of Health.

PERMIT — The temporary permission in writing to cover the doing of a single act, or series of acts, which may be revoked by the Board at any time although the act for which the permit was granted has not been completed.

QUARANTINE — The confining of persons, animals or materials within a designated area and excluding other persons, animals, insects or materials from such area.

SALE — Every delivery of food whether the same be by direct sale or the solicitation or acceptance of an order for food and including exchange, barter, traffic in, keeping and exposing for sale, displaying for sale, serving with meals, delivering for value, peddling, possessing with intent to sell and the gratuitous delivery or gift of any food by any licensee or person to whom a food certificate has been issued or by any other person. Any definition contained herein shall apply to the same work in any other form. For example, "sell" means to make a "sale" as above defined.

§ 213-2. Right of entry.

It shall be lawful for any member of the Board of Health, the Health Officer, Inspector or any person acting under and by the authority of the Board to enter in and upon any premises for any of the purposes specified in this chapter or for any other purpose in connection with his or her regular duties. Any person who shall prevent, obstruct or resist any member, officer, inspector or any person acting under and by the authority of the Board in the performance of his or her duty shall be deemed to have violated the provisions of this

section.

§ 213-3. Suspension or revocation of permits and licenses.

The Board shall have the right to revoke any permit or license granted pursuant to the provisions of this chapter whenever the holder thereof or any of his or her servants or agents violate the terms upon which the same was issued. Before any license shall be revoked a notice of the contemplated action of the Board shall be served upon the holder of such license, setting forth such charges as may be the reason for such revocation and the place, date and hour when the Board will hear the matter. Whenever any licensee shall violate the terms under which his or her license was issued, the Board or the enforcing officer shall have the right to suspend the operation of such license pending the hearing.

§ 213-4. Display and exhibition of licenses.

- A. All licenses or permits issued pursuant to the provisions of this chapter shall be prominently displayed upon the premises for which they were issued; and upon each vehicle or device used in the business for which a license is required, there shall be displayed at all times in plain sight, upon each side of such vehicle or device, a current license sign to be furnished by the Board.
- B. Every holder of a license, permit or certificate hereunder shall exhibit the same upon demand to any member of the Board, the enforcing officer or any other authorized representative of the Board.¹⁶⁹

§ 213-5. Janitor service.¹⁷⁰

The owner, agent or other person in charge of any building, tenement or apartment house occupied by two or more families shall provide adequate and proper janitor service at all times for the purpose of keeping the premises in a sanitary condition.

§ 213-6. Vermin-infested buildings.

No house, apartment, rooms or building shall be let, leased or occupied by human beings which is infected with vermin. The owner, lessor, agent or occupant of any such place upon notice from the Board of Health shall immediately proceed to rid such place of such vermin by any reasonable and safe means approved by the Board of Health.¹⁷¹

§ 213-7. Unsanitary vehicles.

The maintaining or permitting to be maintained in any bus, automobile or other vehicle used for the transportation of the public of an unsanitary condition is hereby declared to constitute a public health nuisance and is prohibited.

§ 213-8. Violations and penalties.¹⁷²

Penalties for violation of the provisions of this chapter shall be fine of not less than \$5 nor more than \$500. Each day that a particular violation continues shall constitute a separate offense.

169.Editor's Note: Former § 27-5, dealing with the condemnation of unfit buildings, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

170.Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

171.Editor's Note: Former § 27-8, dealing with common towels, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

172.Editor's Note: Added at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

Chapter 216**HOUSING**

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen 10-25-1971.

Amendments noted where applicable.]

§ 216-1. Enforcing officer.

The Health Officer of the Borough of Metuchen be and he or she is hereby designated as the officer to exercise the powers prescribed by the within chapter.

§ 216-2. Adoption by reference.

Pursuant to the provisions of N.J.S.A. 40:49-5.1, the State Housing Code of New Jersey, as approved by the Departments of Health and Community Affairs and filed in the Secretary of State's Office, is hereby accepted, adopted and established as a standard to be used as a guide in determining whether dwellings in this municipality are safe, sanitary and fit for human habitation and rental. A copy of the State Housing Code of New Jersey is annexed to this chapter, and three copies of the same have been placed on file in the office of the Borough Clerk and are available to all persons desiring to use and examine the same.

§ 216-3. Inspections; access.

The Health Officer is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the Borough of Metuchen in order that he or she may perform his or her duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the Health Officer is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit and rooming unit, or the person in charge thereof, shall give the Health Officer free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter.

§ 216-4. Notice of violations.

Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, or of any rule or regulation adopted pursuant thereto, he or she shall give notice of such alleged violation to the person or persons responsible therefore as hereinafter provided. Such notice shall be put in writing, include a statement of the reasons why it is being issued, allow a reasonable time for the performance of any act it requires and be served upon the owner or his or her agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him or her personally, or if a copy thereof is sent by registered mail to his or her last-known address, or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice or if he or she is served with such notice by any other method authorized or required under the laws of this state. Such notice may contain an outline of remedial action which, if taken, will affect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.

§ 216-5. Hearings.

- A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter, or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Health Officer, provided that such person shall file in the office of the Board of Health a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served.
- B. Upon receipt of such petition, the Health Officer shall set a time and place for such hearing and shall give the petitioner written notice thereof. The hearing shall be commenced not later than 10 days after the day on which the petition was filed, provided that, upon application of the petitioner, the Health Officer may postpone the date of the hearing for a reasonable time beyond such ten-day period if, in his or her judgment, the petitioner has submitted a good and sufficient reason for such postponement.
- C. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.
- D. After such hearing the Health Officer shall sustain, modify or withdraw the notice depending upon his or her findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Health Officer sustains or modifies such notice, it shall be deemed to be an order.
- E. Any notice served pursuant to this chapter shall automatically become an order if a written petition for a hearing is not filed in the office of the Board of Health within 10 days after such notice is served.
- F. The proceedings at such hearing, including the findings and decision of the Health Officer, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Board of Health. Such record shall also include a copy of every notice or order issued in connection with the matter.
- G. Any person aggrieved by the decision of the Board of Health may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the state.

§ 216-6. Emergency actions.

- A. Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health or safety, he or she may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he or she deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately.
- B. Any person to whom such order is directed shall comply therewith immediately and, upon petition to the Board of Health, shall be afforded a hearing as soon as possible.
- C. After such hearing, depending upon his or her findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with, the Health Officer shall continue such order in effect, or modify it or revoke it.

§ 216-7. Rules and regulations.

The Health Officer is hereby authorized and empowered to make and adopt such written rules and regulations as he or she may deem necessary for the proper enforcement of the provisions of this chapter; provided, however, that such rules and regulations shall not be in conflict with the provisions of this

chapter, nor in anywise alter, amend or supersede any of the provisions thereof. The Health Officer shall file a certified copy of all rules and regulations which he or she may adopt in his or her office and in the office of the Clerk of the Borough of Metuchen.

§ 216-8. Compliance with State Housing Code.

No person shall occupy as owner-occupant or rent to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not conform to the provisions of the State Housing Code of New Jersey established hereby as the standard to be used in determining whether a dwelling is safe, sanitary and fit for human habitation.

§ 216-9. Use of investigative powers.

In carrying out his or her duties under this chapter, the Health Officer may use the investigative powers, determinations and expertise of all of the inspectors of the Borough of Metuchen, including but not limited to the Building Inspector, Sanitary Inspector, Fire Chief and Chief of Police.

§ 216-10. Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions of this chapter shall, upon conviction, be punished by a fine of not to exceed \$200 or by imprisonment in the county jail for a period of not to exceed 90 days or by both such fine and imprisonment, and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

Chapter 219**LAUNDRY AND DRY-CLEANING ESTABLISHMENTS**

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen 9-26-1966 as Ch. 30A of the 1966 Code. Amendments noted where applicable.]

§ 219-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

OPERATE — Maintain or undertake to maintain any such self-service laundry equipment, either as owner, lessee, agent or manager.

RENTAL SELF-SERVICE LAUNDRY — Any retail establishment where a series of washing, drying, ironing or dry-cleaning machines are installed for the use of the general public, and for the use of which a special charge, payment or other consideration is required, either by insertion of a coin, payment to an attendant or otherwise. The provisions of this chapter shall not apply to the home of a person performing laundry work for a regular family trade.

RESIDENTIAL SELF-SERVICE LAUNDRY EQUIPMENT — Any automatic or semiautomatic washing, drying, ironing, dry-cleaning or other laundry machine or group, or battery of such machines regardless of type or make, installed in any multiple dwelling, project, housing development or unit for the use of the tenants of such multiple dwelling, project, housing development or unit, and for the use of which a special charge, payment or other consideration is required either by insertion of a coin, payment to an attendant or otherwise.

§ 219-2. Licenses.¹⁷³

No person shall provide or operate rental or residential self-service laundry equipment in the borough without securing from the Board of Health a license for such purpose. Application for such license shall be made on forms provided by the Secretary of the Board of Health. Such license shall expire on the 30th day of June following the date of its issuance. No license shall be issued unless the premises in which the self-service laundry equipment complies in all respects to the requirements of this chapter, the uniform construction codes and the Uniform Fire Code. The annual license fee for the full year or any portion thereof shall be as set forth in Chapter 87, Fees, of the Code of the Borough of Metuchen.

§ 219-3. Hours of operation.

It shall be unlawful for any self-service laundry equipment to be operated between the hours of midnight and 6:00 a.m. unless an attendant is on the premises.

§ 219-4. Maintenance of premises.

The entire premises devoted to the operation of self-service laundry machines shall be kept in a clean and sanitary condition. The floors shall be kept clean and dry, the premises adequately ventilated and provided with not less than sixty foot candles of general illumination measured at counter height. The inner and outer surfaces of tubs and cylinders of the machines shall be kept visibly clean, sanitary and free from accumulation of residues and other debris. Within 24 hours after the licensee or his or her representative has been notified that any washing machine or other installation controlled or operated by him or her

¹⁷³Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

is broken or defective, he or she shall cause such machine or machines to be inspected by a capable repairperson and to be properly repaired, replaced or disconnected from service. No retail establishment providing a rental self-service laundry shall be open for business or continue to be open for business unless the entire premises where the washing and drying are done shall be visible from the exterior.

§ 219-5. Storage of flammable liquids.

The storage of flammable liquids shall be in underground tanks. Dry-cleaning machines shall be installed and vented in accordance with the manufacturer's specifications and shall comply with all applicable borough codes and ordinances. All premises governed by this chapter shall be equipped with suitable fire extinguishing equipment as approved by the Code of National Fire Underwriters and the Borough Fire Inspector.

§ 219-6. Clothes dryers.

All clothes dryers shall be installed and properly vented in accordance with the manufacturer's specifications and shall comply with all other applicable borough codes and ordinances.

§ 219-7. Manner of operation.

No machinery used in the operation of a laundry or of premises devoted to the use as licensed herein shall be operated in such manner as to cause unnecessary or unreasonable noise, vibrations, odors or atmospheric pollutants to the annoyance of residents in the surrounding neighborhood or to the detriment of the well-being of the neighborhood or to the persons or premises in the neighborhood.

§ 219-8. Temperature requirements.

All washing units shall be capable of laundering by a high temperature process. The high temperature process shall mean and include the washing of fabrics in water of a temperature of 140° F. for a minimum of cleansing and an adequate series of rinses to render negligible any danger of bacterial contamination. Washing units capable of laundering at lower temperatures should be conspicuously marked. Where practicable, water temperature shall be measured at the delivery point of the machine unit.

§ 219-9. Installation of fixtures and machines.

All plumbing fixtures, machines and appliances shall be properly installed and connected in accordance with the requirements of the Plumbing Code.¹⁷⁴

§ 219-10. Enforcement of chapter.

The officials charged with enforcing this chapter shall be the Sanitary Inspector and Plumbing Inspector of the Board of Health and any police officer of the borough.

§ 219-11. Violations and penalties.¹⁷⁵

Any violation of any of the provisions of this chapter shall be punishable by a fine not exceeding \$500. Each day that a violation shall continue shall constitute a separate offense.

¹⁷⁴.Editor's Note: See Ch. 228, Plumbing.

¹⁷⁵.Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

Chapter 222**NOISE**

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen 3-18-1982. Amended in entirety by the Mayor and Council of the Borough of Metuchen 2-16-2016 by Ord. No. 2016-06. Subsequent amendments noted where applicable.]

§ 222-1. Declaration of findings and policy.

Excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life. A substantial body of science and technology exists by which excessive sound may be substantially abated. The people have a right to, and should be ensured of, an environment free from excessive sound.

It is the policy of the Borough of Metuchen to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This chapter shall apply to the control of sound originating from sources within the Borough of Metuchen.

§ 222-2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this chapter have the same meaning as those defined in N.J.A.C. 7:29.

CONSTRUCTION — Any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

dB(C) — The sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

DEMOLITION — Any dismantling, destruction or removal of buildings, structures, or roadways.

DEPARTMENT — The New Jersey Department of Environmental Protection.

EMERGENCY WORK — Any work or action necessary at the site of an emergency to restore or deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

IMPULSIVE SOUND — Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

MINOR VIOLATION — A violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, County or State enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

MOTOR VEHICLE — Any vehicle that is propelled other than by human or animal power on land.

MUFFLER — A properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

MULTI-DWELLING UNIT BUILDING — Any building comprising two or more dwelling units,

including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

MULTI-USE PROPERTY — Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

- (1) A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- (2) A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

NOISE CONTROL OFFICER (NCO) — An employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

NOISE CONTROL INVESTIGATOR (NCI) — An employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

PLAINLY AUDIBLE — Any sound that can be detected by an NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

PRIVATE RIGHT-OF-WAY — Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

PUBLIC RIGHT-OF-WAY — Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

PUBLIC SPACE — Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

REAL PROPERTY LINE — Either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property

(e.g., a strip mall).

SOUND PRODUCTION DEVICE — Any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

SOUND REDUCTION DEVICE — Any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

WEEKDAY — Any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

WEEKENDS — Beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

§ 222-3. Applicability.

A. This noise chapter applies to sound from the following property categories:

- (1) Industrial facilities;
- (2) Commercial facilities;
- (3) Public service facilities;
- (4) Community service facilities;
- (5) Residential properties;
- (6) Multi-use properties;
- (7) Public and private right-of-ways;
- (8) Public spaces; and
- (9) Multi-dwelling unit buildings.

B. This noise chapter applies to sound received at the following property categories:

- (1) Commercial facilities;
- (2) Public service facilities;
- (3) Community service facilities (i.e. nonprofits and/or religious facilities);
- (4) Residential properties;
- (5) Multi-use properties;
- (6) Multi-dwelling unit buildings.

C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

§ 222-4. Exemptions.

- A. Except as provided in Sections 222-9 and 222-10 below, the provisions of this chapter shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.
- B. Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.
- C. Construction and demolition activities are exempt from the sound level limits set forth in Tables I and II and III except as provided for in Section 222-9 below.

§ 222-5. Enforcement officers.

- A. Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this chapter and pursue enforcement activities.
- B. Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this chapter that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities.
- C. Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

§ 222-6. Measurement protocols.

- A. Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in Section 222-6B of this chapter and with the definition of "real property line" as contained herein.
- B. When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

§ 222-7. Maximum permissible sound levels.

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in Section 222-3A above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in Section 222-6B.
- B. Impulsive sound. Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

TABLE I MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS WHEN MEASURED OUTDOORS			
RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m. - 7 a.m.	24 Hours
Maximum A- Weighted Sound level standard, dB	65	50	65

TABLE II MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS WHEN MEASURED OUTDOORS			
RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility or non-residential portion of a multi-use property
TIME	7 a.m.- 10 p.m.	10 p.m. - 7 a.m.	24 Hours
Maximum A- Weighted Sound Level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

TABLE III MAXIMUM PERMISSIBLE OCTAVE BAND SOUND PRESSURE LEVELS IN DECIBELS						
Receiving Property Category	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility	Commercial facility or non-residential portion of a multi-use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
Time	7 a.m.-10 p.m.	10 p.m.-7 a.m.	7 a.m. — 10 p.m.	10 p.m. — 7 a.m.	24 Hours	24 Hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64

TABLE III MAXIMUM PERMISSIBLE OCTAVE BAND SOUND PRESSURE LEVELS IN DECIBELS						
Receiving Property Category	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility	Commercial facility or non-residential portion of a multi-use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

§ 222-8. Sound Production Devices.

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in Section 222-6B of this chapter. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

TABLE IV
MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS
WITHIN A RESIDENTIAL PROPERTY

Week nights 10:00 p.m. — 7:00 a.m. Weekend nights 11:00 p.m. and 9:00 a.m.	All other times
3 dB(C)	6 dB(C)

§ 222-9. Restricted uses and activities.

The following standards shall apply to the activities or sources of sound set forth below:

- A. Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- B. Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- C. All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.
- D. Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times the limits set forth in Tables I, II or III do not apply.
- E. All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III do not apply.
- F. Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator.
- G. It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to

create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:

- (1) Vocalizing (howling, yelping, barking, squawking etc.) for five minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
- (2) Vocalizing for 20 minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

§ 222-10. Motor vehicles.

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

- A. No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.
- B. No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.
- C. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.
- D. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

§ 222-11. Enforcement.

- A. Violation of any provision of this chapter shall be cause for a Notice of Violation (NOV) or a Notice of Penalty Assessment (NOPA) document to be issued to the violator by the Noise Control Officer or Noise Control Investigator.
- B. Any person who violates any provision of this chapter shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- C. Upon identification of a violation of this chapter the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this chapter that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.

- D. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in Section 222-2 of this chapter) a NOV shall be issued to the violator.
- (1) The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.
 - (2) The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Health Department. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.
- E. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.
- F. The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.
- G. The recipient of a NOPA shall be entitled to a hearing in a Municipal Court having jurisdiction to contest such action.
- H. The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.
- I. Any claim for a civil penalty may be compromised and settled based on the following factors:
- (1) Mitigating or any other extenuating circumstances;
 - (2) The timely implementation by the violator of measures which lead to compliance;
 - (3) The conduct of the violator; and
 - (4) The compliance history of the violator.

Chapter 225**NUISANCES**

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen 9-26-1966 as Ch. 28 of the 1966 Code. Amendments noted where applicable.]

§ 225-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ENFORCING OFFICIAL — The health officer or other official authorized by the Board of Health to enforce this chapter.

PERSON — An individual, firm, corporation, association, society or partnership and their agents or employees.

§ 225-2. Nuisances enumerated. [Amended 2-22-1971; 10-28-1976]

A. The following matters, things, conditions or acts and each of them is hereby declared to be a nuisance and injurious to the health of the inhabitants of the municipality:

- (1) Health menaces: any matter, thing, condition or act which is or may become detrimental or a menace to the health of the inhabitants of this municipality.
- (2) Annoyances and interferences with comfort or general well-being: any matter, thing, condition or act which is or may become an annoyance or which interferes with the comfort or general well-being of the inhabitants of this municipality.
- (3) Water pollution: pollution, or existence of a condition which causes or threatens pollution, of any waters in this municipality in such manner as to cause or threaten injury to any of the inhabitants of this municipality, either in their health, comfort or property.
- (4) Air pollution: the escape into the open air from any stack, vent, chimney or any entrance to the open air, or from any fire into the open air, of such quantities of smoke, fly ash, dust, fumes, vapors, mists or gases as to cause injury, detriment or annoyance to the inhabitants of this municipality or endanger their comfort, repose, health or safety.
- (5) Defective chimneys or flues: any chimney, smokestack, pipe or flue or any part thereof or connection thereto that is so defective or out of repair as to allow gas or other fumes to escape into any building and also any illuminating gas pipe or fixture which allows illuminating gas to escape into any building.
- (6) Ragweed, brush, weeds and other noxious growth: the growth, existence or presence of ragweed, poison ivy, poison oak, brush and weeds of more than 10 inches in height, dead and dying trees, stumps, roots, filth, garbage, trash, other noxious growth or debris on any plot of land, lot, highway, right-of-way or other public or private place. Nothing herein shall preclude the borough or any private organization from maintaining wooded nature areas as public or private parks in accordance with the New Jersey Statutes and law.
- (7) Attractive nuisances: any attractive nuisance which may prove detrimental to the health or safety of children, whether in a building or on the premises of a building or upon a lot. This includes but is not limited to any structurally unsound fences or structures, lumber, trash,

material for building construction or from renovation and razing, fences, debris or vegetation, abandoned or inoperable machinery, appliances, motor vehicles, boats or other transportation devices which may prove a hazard for inquisitive minors.

- (8) Artificially constructed basins: the existence of any artificially constructed lowland or basin in which collected water may stagnate.
 - (9) Mosquito breeding water: the existence or presence of any water or other liquid in which mosquitoes breed or larvae exist.
 - (10) Accumulations of garbage or manure: the existence or presence of any accumulation of garbage, refuse, manure or animal or vegetable matter which may attract flies and to which flies may have access or in which fly larvae or pupae exist.
 - (11) Insect or rodent breeding places: depositing, accumulating or maintaining any matter or thing which serves as food for insects or rodents and to which they may have access or which serves or constitutes a breeding place or harborage for insects or rodents in or on any land, premises, building or other place.
 - (12) Unsanitary conditions: any unclean or unsanitary condition in any cellar, room or building and any imperfect plumbing, sewer appliance or fixture from which may issue any foul or noxious odors or liquids.¹⁷⁶
 - (13) Spitting: spitting upon the steps, halls, floors or other parts of any public or private building or upon any sidewalk, crosswalk or path in any public highway, park or playground.
 - (14) Abandoned refrigerators: having unused refrigerators on any property without having removed the doors.
 - (15) Unapproved collection or conveyance of offensive matter: the collecting or conveying through, across or along the streets or highways of the borough of any garbage, swill, offal, dead animals or other offensive matter, except in a manner as may be approved by the enforcing official.¹⁷⁷
- B. It shall be unlawful for any person to commit, maintain or allow any nuisances, as declared and described in this section.

§ 225-3. Heating of buildings. [Amended 2-22-1971]

- A. Every dwelling shall have heating facilities which are properly installed, and are maintained in a safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least 68° F. at a distance of 18 inches above the floor level with 0° F. outside temperature and twenty-mile-per-hour wind.
- B. No owner or occupant shall install, operate or use an unvented space heater employing a flame or burning solid, liquid or gaseous fuels.
- C. In dwellings containing two or more dwelling units having a common source of heat for domestic hot water, it shall be the responsibility of the owner to make provision for the proper operation of such

¹⁷⁶Editor's Note: Former Subsection 23-2(m), dealing with unapproved keeping of animals or fowl, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 200, General Provisions, Board of Health, Art. 1.

¹⁷⁷Editor's Note: Former Subsection 28-2(r), dealing with dogs at large, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

facilities at all times.

- D. Every owner of a dwelling who permits to be occupied any dwelling unit or rooming unit therein under any agreement, expressed or implied, to supply or furnish heat to the occupants thereof shall supply heat adequate so that every unit of dwelling space and every habitable room therein shall be maintained at least at 68° F. whenever the outside temperature falls below 55° F. during daytime hours from 6:00 a.m. to 11:00 p.m. At times other than those specified, interiors of units or dwelling space shall be maintained at least at 55° F. whenever the outside temperatures fall below 40° F.¹⁷⁸
- E. In the absence of a contract or agreement to the contrary, an owner shall be obliged to provide heat wherever heating facilities are under the control of the owner or whenever two dwelling units or rooming units are heated by a common facility.
- F. The owner shall be responsible for compliance with all provisions of this Code not specified as the responsibility of occupants.

§ 225-4. Compliance with State Housing Code.¹⁷⁹

It shall be unlawful for any person to rent, lease or otherwise permit the occupancy of any building as a residence or for any person to reside in any building as its owner if such building does not comply with the State Housing Code.

§ 225-5. Required business establishment facilities.

Each building used as a business establishment shall have at least one flush toilet and one lavatory, connected to a portable water supply with proper facilities for discharge, for each 15 employees.¹⁸⁰

§ 225-6. Inspection of premises.

- A. All places and premises in this borough shall be subject to inspection by the Board of Health or the enforcing official if the Board or that official has reason to believe that any section of this chapter is being violated.
- B. It shall be unlawful for any person to hinder, obstruct, delay, resist or prevent the Board of Health or the enforcing official from having full access to any place or premises upon which a violation of this chapter is believed to exist.

§ 225-7. Notice of violation.

Whenever a nuisance, as described and declared by § 225-2, is found on any plot of land, lot, right-of-way or any other private premises or place, notice in writing shall be given to the owner thereof to remove or abate the same within such time as shall be specified therein but not less than five days from the date of service thereof. A duplicate of the notice shall be left with one or more of the tenants or occupants of the premises or place. If the owner resides out of the state or cannot be so notified speedily, such notice shall be left at that place or premises with the tenant or occupant thereof, or posted on the premises, and such action shall be considered proper notification to the owner, tenant or occupant thereof.

178.Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

179.Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

180.Editor's Note: Former § 28-5, dealing with prohibited sounds and noises, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Article 1).

§ 225-8. Failure to comply with notice.

If the owner, tenant or occupant of any place or premises, upon being notified as provided by § 225-7, shall not comply with such notice within the time specified therein and fails to remove or abate such nuisance, the Board of Health shall proceed to abate the nuisance or may cause it to be removed or abated in a summary manner by such means as such Board shall deem proper.

§ 225-9. Recovery of costs; municipal lien. [Amended 7-26-1971]

- A. The Board of Health may institute an action at law to recover costs incurred by it in the removal or abatement of any nuisance, as described and declared by § 225-2, from any person who shall have caused or allowed such nuisance to exist, or from any owner, tenant or occupant of the premises who, after notice and notification as provided by this chapter, shall fail to remove and abate the same within the time specified in such notice.
- B. Whenever the Board of Health has removed or abated the nuisance, the actual cost thereof, plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the borough and such charge shall be due and payable by such owner at the time of payment of such bill.
- C. When the full amount due the borough is not paid by such owner within 30 days after the abatement of the nuisance, as provided for in §§ 225-6 and 225-7 then, and, in that case, the health officer or other enforcing officer shall cause to be filed in the Tax Collector's office of the borough a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which such work was done. The filing of such sworn statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of 8% in the event same is not paid in full on or before the date the tax bill upon which such charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectable as provided by law.

§ 225-10. Nuisances on public property.

Whenever a nuisance, as described and declared by § 225-2, is found on any public property or on any highway or any other public premises or place, notice in writing shall be given to the person in charge thereof to remove or abate the same within such time as shall be specified therein. If such person fails to comply with such notice within the time specified therein, the Board of Health may remove or abate such nuisance in the manner provided by this chapter in the case of a like condition existing on a private premise or place.

§ 225-11. Enforcement.

The provisions of this chapter shall be enforced by the Board of Health or its enforcing official.

§ 225-12. Violations and penalties. [Amended 2-22-1971; 7-26-1971]

Any person who violates or neglects to comply with any provision of this chapter or any notice issued pursuant thereto shall, upon conviction thereof, be liable to a penalty of not more than \$500 nor less than \$5 and for failure to pay such fine, confinement to the county jail or workhouse, as provided by law. Each and every day that any violation continues after the service of any notice ordering the abatement of any violation shall be considered a separate and specific violation of this chapter.

PLUMBING

Chapter 228

PLUMBING

[HISTORY: Adopted by the Board of Health of the Borough of Metuchen 9-26-1966 as Ch. 29 of the 1966 Code. Amendments noted where applicable.]

ARTICLE 1
General Provisions

§ 228-1. Title.

This chapter shall be known by the name and title of "The Plumbing Code of the Borough of Metuchen, New Jersey."

§ 228-2. Definitions. [Amended 11-20-1975]

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

HOUSE SEWER — Conveys the waste water and sewage from the building to the street sewer or other point of disposal.

PLUMBING — Includes the pipes for distributing the water supply to the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings and appurtenances of various kinds all within or adjacent to the building.

PLUMBING SYSTEM — Includes the service pipe and the house sewer.

SERVICE PIPE — Forms the connection between the water main and the building.

§ 228-3. Inadmissible waste. [Amended 11-20-1975]

No inadmissible waste shall be discharged into any part or parts of the sewage system of the Borough either through building connections or in through manholes. Inadmissible waste shall be defined for the purposes of this code to include:

- A. Any materials of such a nature and in such quantities as to impair the hydraulic capacity of the sewer system.
- B. Materials which might either by chemical or by mechanical action impair the strength or the durability of sewer structures.
- C. Substances which may create explosive conditions in the sewer facilities.
- D. Any flammable substances with a flash point lower than 187° F., as determined by the Tagliabue (Tag.) closed cup method.
- E. Substances having a pH index value lower than 4.0.
- F. Any radioactive substance, unless the Middlesex County Sewerage Authority shall have given written consent to its inclusion.
- G. Any garbage other than that received directly into public sewers from residences, unless the Middlesex County Sewerage Authority shall have given written consent to its inclusion.¹⁸¹

181.Editor's Note: Former § 29-3, dealing with the Board of Examining Plumbers, and former § 29-4, dealing with the appointment of the Plumbing Inspector, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

§ 228-4. Plumbing nuisances.¹⁸²

Any imperfect trap, sink, toilet, plumbing appliance, fixture, soil line, waste line, water line, vent line or any part of the plumbing system or sewage disposal system, within or without any structure, from which there shall arise any foul or obnoxious odor or leakage of fluids is hereby declared to be a nuisance.

§ 228-5. Responsibility under chapter.

The person installing any new work or extension shall be responsible for any and all defective plumbing or drainage work and for all violations of this chapter. This shall include the owner of the premises, the general contractor and the subcontractor involved.

§ 228-6. General specifications.

- A. All changes in direction of horizontal waste and soil lines shall be made with Y-branches and 1/16 or 1/8 bends or long sweeps.
- B. This applies to all soil, waste and drainage either of galvanized iron, copper or brass. The Ty-branch on the horizontal run and short pattern drainage elbow shall be prohibited.
- C. On vertical stacks of soil or waste lines the Ty-branch shall be used, and in no case shall the Y-branch be used on continuous venting.
- D. Galvanized malleable beaded fittings, ductile iron, lead, copper or brass pipe and fittings shall be used on all venting.
- E. The horizontal house drains shall not be less than four inches, and no two-inch waste pipe shall be allowed under the cement floor over a distance of five feet.
- F. Short quarter bends and saddle hubs are prohibited. Soil, waste and vent pipes in an extension shall be extended full bore of the pipe above the main building when otherwise such pipes would open within 10 feet of the windows of the main house or adjoining house.
- G. The circuit or loop vent when used on batteries of more than two and not exceeding eight water closets shall be at least three inches in diameter.
- H. When lead pipes or traps are used to connect soil, waste or vent lines, such pipes or traps shall be of the following weights:
 - (1) One-and-one-half-inch: three pounds per running foot.
 - (2) Two-inch: four pounds per running foot.
 - (3) Three-inch: six pounds per running foot.
 - (4) Four-inch: eight pounds per running foot.
- I. One-and one-quarter-inch lead or galvanized iron pipe for waste or vent lines is prohibited.
- J. All connections of lead with ductile iron pipes shall be of heavy brass ferrule of the same size as the lead pipe and shall be put into the hub of the ductile iron pipe and caulked with lead. All connections of lead with wrought iron pipes shall be made with a heavy brass soldering nipple and with a wiped

182.Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

joint. All branch wastes under bathroom floors shall be not less than 1 1/2 inches lead for two fixtures and shall be supported to keep the lead from sagging.

§ 228-7. Violations and penalties.

- A. Any person convicted of violating any of the provisions of this chapter shall be subject to a fine of not less than \$10 and not exceeding \$100.
- B. Penalties imposed by this section may be collected or enforced by summary proceedings pursuant to the provisions of the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.), the amendments thereof and supplements thereto.
- C. The court may cause a defendant who refuses or neglects to pay the amount of a judgment so rendered against him or her, and all costs and charges incident thereto, to be committed to the county jail for a period not exceeding 90 days.
- D. In case a defendant shall have been twice convicted within the space of six months of the violation of this chapter, the court may, in addition to the imposition of the appropriate penalty, cause such defendant to be imprisoned in the county jail or county workhouse, with or without hard labor, for any number of days not exceeding one for each dollar of the penalty.¹⁸³

183. Editor's Note: Former Art. II, dealing with certificates of competency or master plumber's licenses, former Division 1, Bonds, and former Division 2, dealing with Plumbing Permits, which immediately followed this section, were deleted at time of adoption of Code; see Ch. 200, General Provisions, Board of Health, Art. 1.

ARTICLE 2

Permits, Inspections and Tests**§ 228-8. Sewer and septic tank permits.**

- A. No building or premises shall be connected with any sewer without first obtaining a permit from the Plumbing Subcode Official. No building or premises shall be connected to any septic disposal system without first obtaining a certificate or permit from the Board of Health.
- B. All permits required by § 228-8A shall be kept on hand during the progress of the work and exhibited whenever requested by the Plumbing Subcode Official or the members of the Board of Health.

§ 228-9. Inspections and tests.

- A. Notice upon completion. The master plumber shall promptly notify the Plumbing Subcode Official when plumbing and drainage work of any building or portion thereof is completed and ready for inspection and testing.
- B. Timing. All inspections and tests required by this section shall be made as soon as possible after notification as provided for by § 228-9A, provided that the Plumbing Subcode Official shall not be required to make any inspections under this chapter on Saturdays, Sundays or legal holidays, nor after 4:00 p.m. on any working day, except in case of emergency.
- C. Types and extent of tests. The water or air pressure test shall be used for testing plumbing work in the presence of the Plumbing Subcode Official. Such tests shall include all soils, drains, waterlines, vent pipes and joints.
- D. Person responsible. All tests required by this section shall be made by and at the expense of the master plumber installing the work.
- E. Defective work. All defective work shall be made tight and all openings made impervious to gases. Defective pipes and fittings shall be removed and replaced by sound pipes and fittings.
- F. Uninspected work. Any plumbing and drainage system installed and covered without notice to the Plumbing Subcode Official shall be uncovered by the master plumber for inspection and examination by such officer.
- G. Inspection certificate. Following inspection and approval as provided for by this section, a certificate shall be affixed by the Plumbing Subcode Official to a prominent place on the premises.

ARTICLE 3
Drains and Sewers

§ 228-10. Sewer connections. [Amended 10-26-1970]

If there is a public sewer in the street on which any building faces or runs adjacent to any building, connections from any such building shall be made to a sewer in accordance with the provisions set forth in this chapter.

§ 228-11. Construction requirements and specifications.

- A. All drains from house to Borough sanitary sewer or other point of disposal shall be not less than four-inch inside diameter and no lighter than medium weight ductile iron pipe. All joints shall be yarned with oakum, run with molten lead and properly caulked. In no case shall two separate houses or buildings be connected to the same sewer line.
- B. Polyvinyl chloride (PVC) building sewer pipe with rubber ring couplings may be used in place of ductile iron pipe, provided that the laying length of each pipe shall not exceed the manufacturer's recommended laying length, that each pipe is coded for identification, stamped "Building Sewer Pipe" with the manufacturer's name, and shall be equal to PVC SDR-35 or higher strength pipe.¹⁸⁴
- C. Trenches for such PVC pipe shall be dug to not more than four inches below pipe grade. A sand bed, or what is commonly known as "bank-run sand," free of stone or extraneous material shall be laid and properly hand-tamped to receive the pipe at proper grade. After the trench has been properly graded, coupling holes shall be prepared so that the pipe shall have full bearing in its entirety on the sand bed. If any excavation has been made over four inches below proper grade, such excavation shall be backfilled and hand-tamped with fine gravel or rock chippings to within four inches of grade and then covered with the sand bed. Blocking under pipe shall not be permitted. All rubber rings or gaskets used shall be lubricated with a compound manufactured for that purpose. Oil or grease shall be prohibited. All such sewer lines shall be laid in as straight a line as possible. Where changes in direction are necessary, long turn fittings shall be used. After installation of pipe and inspection, the backfill shall be sand or bank-run free of rock to a depth of at least 12 inches over such sewer line, applied in four-inch layers at a time and each layer properly hand-tamped. After this operation has been completed, any other method of backfill may be used. When such sewer line is installed under driveways, streets or roadways, such sewer line shall have a minimum of 3 1/2 feet of rock-free covering over the top of such sewer line. Such building sewer shall be at least five feet from the nearest potable water supply line, separated by undisturbed or compacted earth.
- D. PVC building sewer pipe shall be laid no closer than five feet from any building foundation wall. The connection between the house drain and PVC building sewer shall be made with an adaptor specifically manufactured for that purpose. The connection from the building sewer to a point of disposal shall be made with proper adapters and fittings specifically manufactured for that purpose. Portland cement joints shall be prohibited. In no case shall two separate houses or buildings be connected to the same sewer line. **[Amended 9-18-2006 by Ord. No. 2006-14]**
- E. No sewer line, whether ductile iron or PVC building sewer pipe, shall be covered either partially or entirely until an inspection by the Plumbing Subcode Official has been made and approval given to backfill and cover the excavation or trench.

184. Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Board of Health, Art. 1).

§ 228-12. Location of private sewers.

Where there is no sewer in the street in which the building faces and it is necessary to construct a private sewer to connect with a sewer in an adjacent street, it shall be laid outside the curb under the roadway of the street and not through yards or under houses without a special permit from the Board of Health.

§ 228-13. House connections.

Permits for house connections to a sanitary sewer shall be obtained from the Plumbing Subcode Official and such connections shall be inspected by such officer.

§ 228-14. Prohibited connections.

No steam exhaust, blowoff or drip pipe from a steam boiler shall connect directly with the sewer or with any drain, soil pipe or waste pipe. Such pipes shall discharge into a receiving tank or condenser from which a suitable outlet to the drain may be provided.

§ 228-15. Risers and joints.

- A. Each new or replaced sanitary sewer lateral hereafter connected from building or dwelling to the Borough sanitary sewer system shall have inserted in its horizontal line between curb and sidewalk a common four-inch ductile iron (or PVC) tee-wye of extra-heavy weight with its branch outlet faced in a true upright position. A four-inch extra-heavy weight ductile iron (or PVC) riser shall be installed in a branch connection of the tee to within eight inches of the sidewalk grade. A brass screw cap shall then be inserted into the four-inch riser making the top of this fitting flush with sidewalk grade. The four-inch riser and fitting shall be installed plumb in its vertical position throughout. **[Amended 9-18-2006 by Ord. No. 2006-14]**
- B. All joints shall be rubber push on. No substitute for the aforesaid pipe, fittings and installation shall be permitted and all such installations and connections shall be inspected and approved by the Plumbing Subcode Official. **[Amended 9-18-2006 by Ord. No. 2006-14]**
- C. The owner of the premises shall be responsible for all sidewalk grades and measurements and shall maintain this riser at all times in proper condition for inspection by duly authorized personnel of the Board of Health or Department of Public Works of the Borough.

§ 228-16. Lack of sanitary sewer and approved water supply.

- A. If there is no sanitary sewer available and a septic disposal system is required, then the standards of the State Department of Health shall be carried out as prescribed in N.J.S.A. 58:11-23 et seq.
- B. The same applies to private water supply systems when an approved water supply is not available.

§ 228-17. House drain specifications for horizontal runs.

- A. Material and joints. All drains within and to a distance of four feet beyond the walls of a building shall be ductile iron with lead-caulked joints. All joints shall be made water- and gas-tight and located so as to be accessible for inspection.
- B. Use of old drains. Old drains may be used for new buildings only when found by the Plumbing Subcode Official to conform in all respects to the regulations governing new drains.

- C. Suspended drains; drains in trenches. House drains hung on walls or suspended from ceilings shall be supported with heavy iron hangers not less than five feet apart. If laid in a trench, the same shall be cut at uniform grade and in all cases have a fall of not less than one quarter of an inch per foot.
- D. Cleanouts. Every house drain shall have a readily accessible cleanout fitted with a trap screw.
- E. House traps. House traps are not compulsory, but when used shall be four inches in diameter with two hand holes and trap screws for cleaning. On the house side of the trap there shall be inserted a four-inch tee for fresh air inlet. The same shall be fitted outside with a charm or other approved fresh air inlet. The house trap shall be fitted with a back outlet for drainage.
- F. Ductile iron pipe. All ductile iron pipe shall be sound, free from holes or other defects. Ductile iron pipe shall be untarred and no lighter than the grade shown as medium weight and so stamped and shall be properly tested. All sewer, soil, drain, waste, vent and supply pipes shall be as direct as possible, properly protected from frost and readily accessible for inspection and convenience for repairing.
- G. Roof and basement drains. No drain from the roof or of surface water shall be connected with or made to enter the sewer system either directly or indirectly. No drain in a basement floor, cleanout provision or other opening, shall be placed below the basement floor level. All such connections or provisions shall be at least four inches above the finished floor line. Floor drains and cleanout provisions may be installed flush with the finished floor only if the finished floor is at or above the outside grade level, and provided that a house trap and fresh air inlet are installed in the plumbing system at the end of the house drain. In no case shall any sump pump, other device, natural flow of water or basement infiltration be permitted to drain either directly or indirectly into the sanitary sewer system.
- H. Garage floor drains. All floor drains of any garage shall be provided with a sand basin to be placed so as to receive washings from all automobiles and shall be constructed of solid masonry not less than 24 inches square and 30 inches deep, to maintain a water seal of not less than 12 inches in. There shall be a space of 12 inches from the inverted pipe to the bottom of the basin for retaining sand. The sand basin shall be provided with a manhole cover for cleaning purposes.
- I. Discharge pipe. The minimum discharge size of pipe shall be not less than four inches ductile iron pipe with joints yarned with oakum and caulked with molten lead.

§ 228-18. House drains specifications for vertical runs

- A. Material and extension. Every vertical and main vent line shall be of ductile iron, galvanized, copper or wrought iron pipe and shall be extended full bore through the roof, which in no case shall be less than three inches.
- B. Joints and traps. All joints in ductile iron pipes shall be made with oakum and lead and caulked to make them gas-tight. There shall be no traps placed on vertical soil pipes. A vertical soil pipe may be of three-inch pipe when receiving the waste from two bathrooms. Such pipe shall be proportionately increased for additional load.

ARTICLE 4

Toilets, Wastes and Cleanouts**§ 228-19. Ventilation of toilets.**

Toilets shall not be placed in an unventilated room or compartment. In every case the compartment shall be open to the outer air or ventilated by means of a shaft, air duct or air vent located in the ceiling or a side wall at a point not lower than eighteen inches from the ceiling. Such shaft, air duct or air vent shall have a minimum area of 144 square inches, except that where a power driven fan is used such shaft, air duct or air vent shall have a minimum area of 40 square inches.

§ 228-20. Toilet installations.

All toilets above the basement floor shall be fastened with a brass closet flange, soldered to the lead bend. Lead bends or straight lead wastes shall have a wiped solder joint on a heavy brass ferrule, caulked into the ductile iron hub of the fitting. Ductile iron bends may be used in a basement floor or cellar floor, and, in that event, a ductile iron toilet flange with extra heavy closet bolts shall be used. Toilets shall be set in a setting compound specifically manufactured for that purpose. Cement, plaster or putty shall be prohibited. On copper soil and waste lines, a brass toilet flange specifically manufactured for such purpose shall be used.

§ 228-21. Use of copper line.

Copper waste, soil and vent line may be used above the cellar floor, provided that all fittings are of the drainage recessed type and changes in direction are in accordance with § 228-6.

§ 228-22. Cleanouts.

Full-sized cleanouts shall be provided at the base of all stacks and at the end of all horizontal runs and shall be accessible at all times for cleaning purposes. Intermediate cleanouts shall be placed on all horizontal runs at fifty-foot intervals.

§ 228-23. Indirect wastes.

Bell traps are prohibited. All refrigerators, ice boxes, bars, soda fountain sinks, air conditioning wastes and water softener wastes shall be connected with the drainage system by indirect waste with a water cleansing outlet for cleaning purposes.

ARTICLE 5

Traps and Cross-Connections**§ 228-24. Traps and vents.**

- A. Location. Traps shall be placed as near the fixture as possible and in no case shall be more than two feet from the fixture, if within the house. No trap shall be built in so as to prevent access for cleaning.
- B. Urinals, basins, sinks, tubs, grease traps, etc.
 - (1) Every urinal, sink or slop sink, basin, wash trap, bath and every tub or set of tubs and indirect waste receptor shall be separately trapped and vented. Urinal platforms, if connected to drain pipes, shall also be properly trapped and a supply of water so arranged as to maintain the seal of such traps. In no case shall the waste from the bath, tub or other fixture be connected with a water closet bend. Brass ferrule connected to lead may have outlets and all horizontal lines under bathroom floors shall be of such lead or copper or brass or ductile iron pipe.
 - (2) Grease interceptors shall be installed in the waste line leading from sinks, drains or other fixtures in the following establishments: restaurants, hotel kitchens or bars, factory cafeterias or restaurants, clubs or other establishments where grease may be introduced into drainage systems in quantities that may cause line stoppage or hinder sewage disposal.
 - (3) Grease traps may be placed under ground or under the fixture served and may be of masonry construction, ductile iron or suitable equivalent. It shall be of sufficient size to retain the combined volume of water discharged into it from all kitchen or pantry fixtures. When more than one sink discharges into a grease trap, proper stack and vent lines shall be installed.
- C. Flashing. All vent pipes shall be properly flashed at roof with lead or copper flashing. Cement flashing is prohibited. No trap vent shall be used as a waste or soil pipe.

§ 228-25. Cross-connections.

- A. Prohibited cross-connections. Cross-connections, either direct or indirect, which will permit or may possibly permit the flow of unapproved water into the water supply system, serving approved water for human consumption, shall be prohibited.
- B. Vacuum breakers. Vacuum breakers of an approved type shall be installed or an air gap provided on various fixtures and appurtenances involving a cross-connection.
- C. Compliance with state regulations. The regulations of the State Department of Health governing cross-connections shall be strictly adhered to.

ARTICLE 6

Air Conditioners and Storage Tanks

§ 228-26. Air-conditioning.

All drainage connections and water supply connections on air-conditioning equipment shall meet the requirements of this chapter. Before installing any water-supplied air-conditioning equipment, a permit therefor shall be obtained from the Plumbing Subcode Official.

§ 228-27. Hot water storage tanks.

All hot water storage tanks directly heated shall be provided with a temperature relief and pressure relief valve, guided to a sink or terminating at the floor, so as to avoid the possibility of scalding. All such automatic gas heaters or oil heaters shall be connected with a flue to the outer air.

ARTICLE 7
Discharge Into Sewer System
[Added 3-19-1981]

§ 228-28. Inflow services.

No roof drainage, cellar drainage, unpolluted industrial process water, surface water, waste from hydrants or groundwater from underground drainage fields shall be admitted or permitted to drain into the sewer system. No cesspool or septic tank shall be allowed to discharge into the sewer system. The sewer system is intended to convey sanitary sewage and industrial wastes only.

§ 228-29. Prohibited wastes or water.

Except as herein provided, no person shall discharge or cause or allow to be discharged any of the following described waters or wastes to or in any public sewer:

- A. Any liquid or vapor having a temperature higher than 150° F.
- B. Any water or waste which may contain more than 100 parts per million by weight of fat, oil or grease.
- C. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- D. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, wood or other solid or viscous substance capable of causing obstructions to the flow in sewers or other interference with the proper operation of the sewage treatment plant.
- E. Any waters or wastes having a pH lower than 6.0 or higher than 8.0 or having any other corrosive property capable of causing damage or hazard to structures, or equipment, and personnel of the sewage works.
- F. Any waters or waste containing toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, or to constitute a hazard in the receiving waters of the plant.
- G. Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
- H. Any noxious or malodorous gas or substance capable of creating a public nuisance.
- I. Any waste, liquid, solid or other substance, the discharge of which is prohibited by the Middlesex County Utilities Authority, or which will not be accepted by the Middlesex County Utilities Authority.

§ 228-30. Permission to discharge objectionable waste or water.

The admission into the public waters of any waters or wastes having a biochemical oxygen demand (BOD) greater than 300 parts per million by weight, or containing any quantity of substances having the characteristics described in § 229-29 or having an average daily flow greater than 2% of the average daily usage flow of the Borough shall be subject to the review and approval of the Borough Engineer. Where necessary in the opinion of the Borough Engineer, or required by the Middlesex County Utilities Authority, the owner shall provide, at his or her expense, such preliminary treatment may be necessary to reduce the BOD to 300 parts per million by weight, or reduce objectionable characteristics or constituents to within the maximum limits provided for in § 228-29 or control of the quantities and rates of discharge

of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Borough Engineer and of the State Department of Health of New Jersey, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

§ 228-31. Preliminary treatment facilities.

Where preliminary treatment facilities are provided for any waters or waste, they shall be maintained continuously in satisfactory and effective operation by the owners at his or her expense.

§ 228-32. Sewage testing.

When required by the Borough Engineer, the owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Borough Engineer. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

§ 228-33. Standards and methods for testing.

All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in §§ 228-29 and 228-30 shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage," latest edition, and shall be determined at the control manhole provided for in § 228-31, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

§ 228-34. Examinations of waste discharged into sewer.

Readily accessible means shall be provided by the owner, tenant or occupant of the premises to allow the Borough or its representative to make periodic examination of the waste and determination of the volume, character and concentration of the waste being discharged into the sewers or laterals tributary thereto.

§ 228-35. Right of entry.

The Plumbing Subcode Official, Borough Engineer, members of the Borough Council, Board of Health and any other duly authorized employee of the Borough bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing at any reasonable hour, in accordance with the provisions of this article.

§ 228-36. Prevention of discharge of waste.

The right is reserved by the Borough of Metuchen to stop and prevent at any time the discharge into sewers or laterals of any waste which may injure the sewers or adversely affect sewage treatment or which is not in conformity with the requirements and the standards now or hereafter made by the Borough, or the Middlesex County Utilities Authority, and the Borough of Metuchen may at any time, without notice and without recourse, sever the connection and cause the removal of any sewer or drain through which such waste may be discharged.

Disposition List

Chapter DL**DISPOSITION LIST**

The following is a chronological listing of legislation of the Borough of Metuchen adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Borough Clerk. The last legislation reviewed for the original publication of the Code was Ordinance No. 97-7, adopted 5-19-1997. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Borough Clerk.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Ord. No. 97-8	6-16-1997	Land development amendment	Ch. 110	
Ord. No. 97-9	6-16-1997	Bond	NCM	
Ord. No. 97-10	7-7-1997	Salaries	NCM	
Ord. No. 97-11	7-7-1997	Permit fees waived for disabled	Ch. 87, Art. 5	
Ord. No. 97-12	7-7-1997	Disabled senior citizens fees waiver	Ch. 87, Art. 6	
Ord. No. 97-13	7-21-1997	Salaries	NCM	
Ord. No. 97-14	7-21-1997	Land development amendment	Ch. 110	
Ord. No. 97-15	8-18-1997	Street vacation	NCM	
Ord. No. 97-21	10-7-1997	Land development amendment	Ch. 110	
Ord. No. 97-23	10-20-1997	Borough swimming pool facilities amendment	Ch. 169	
Ord. No. 97-24	10-20-1997	Municipal Public Defender	Ch. 13, Art. 3	
Ord. No. 98-1	5-4-1998	Bond	NCM	
Ord. No. 98-2	6-29-1998	Sewers amendment	Not included in Ch. 153	
Ord. No. 98-3	6-29-1998	Repair or demolition of unfit buildings	Ch. 67, Art. 2	
Ord. No. 98-4	6-29-1998	Land development amendment	Ch. 110	
Ord. No. 98-5	7-21-1998	Vehicles and traffic amendment	Ch. 185	
Ord. No. 98-6	8-4-1998	Salaries amendment	NCM	
Ord. No. 98-7	9-8-1998	Political fundraising	Ch. 132	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Ord. No. 98-8	9-28-1998	Fees: residential development fees	Ch. 87, Art. 7	
Ord. No. 99-1	2-22-1999	Land development amendment	Ch. 110	
Ord. No. 99-2	2-22-1999	Land development amendment	Ch. 110	
Ord. No. 99-3	3-15-1999	Uniform construction codes amendment	Ch. 78	
Ord. No. 99-4	4-19-1999	Land development amendment	Ch. 110	
Ord. No. 99-5		Bond	NCM	
Ord. No. 99-6	5-17-1999	Land development amendment	Ch. 110	
Ord. No. 99-7	5-17-1999	Sewers amendment	Not included in Ch. 153	
Ord. No. 99-8	6-7-1999	Dogs and cats amendment	Not included in Ch. 59, Art. 1	
Ord. No. 99-9	6-7-1999	Dangerous dogs repealer	Repealer only	
Ord. No. 99-10	6-7-1999	Land development amendment	Ch. 110	
Ord. No. 99-11	6-21-1999	Massage, bodywork and somatic therapy establishments	Ch. 120	
Ord. No. 99-12	6-21-1999	Peddling and soliciting	Ch. 130	
Ord. No. 99-13	6-21-1999	Vacation of alley in Block 54	NCM	
Ord. No. 99-14	6-21-1999	Vehicles and traffic amendment	Ch. 185	
Ord. No. 99-15	7-19-1999	Salaries	NCM	
Ord. No. 99-16	8-9-1999	Salaries	NCM	
Ord. No. 99-17	8-9-1999	Salaries	NCM	
Ord. No. 99-18	8-23-1999	Vehicles and traffic amendment	Ch. 185	
Ord. No. 99-19	11-15-1999	Vehicles and traffic amendment	Ch. 185	
Ord. No. 99-20	12-6-1999	Land development amendment	Ch. 110	
Ord. No. 99-21	12-6-1999	Vehicles and traffic	Ch. 185	
Ord. No. 2000-1	2-7-2000	Vehicles and traffic amendment	Ch. 185	
Ord. No. 2000-2	2-7-2000	Wreckers and towers amendment	Ch. 193	
Ord. No. 2000-3	2-7-2000	Land development amendment	Ch. 110	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Ord. No. 2000-4	2-7-2000	Vehicles and traffic amendment	Ch. 185	
Ord. No. 2000-5	2-22-2000	Vehicles and traffic amendment	Ch. 185	
Ord. No. 2000-6	3-21-2000	Streets and sidewalks: openings and excavations amendment	Ch. 166, Art. 3	
Ord. No. 2000-7	4-4-2000	Bond	NCM	
Ord. No. 2000-8			Tabled	
Ord. No. 2000-9	7-18-2000	Affirmative marketing	Ch. 49	
Ord. No. 2000-10	8-8-2000	Vehicles and traffic amendment	Ch. 185	
Ord. No. 2000-11	8-8-2000	Salaries	NCM	
Ord. No. 2000-12	8-22-2000	Sewer use charges	NCM	
Ord. No. 2000-13	11-7-2000	Alcoholic beverages amendment	Ch. 53	
Ord. No. 2000-14	11-7-2000	Police Department: administration amendment	Ch. 37, Part I	
Ord. No. 2001-1	2-7-2001	Police Department: administration amendment	Ch. 37, Part I	
Ord. No. 2001-2	2-7-2001	Streets and sidewalks: construction and maintenance of sidewalks amendment	Ch. 166, Art. 4	
Ord. No. 2001-3	2-22-2001	Vehicles and traffic amendment	Ch. 185	
Ord. No. 2001-4	3-8-2001	Vehicles and traffic amendment	Ch. 185	
2001-5	5-7-2001	Bond	NCM	
2001-6	5-7-2001	Off-duty police work	Ch. 37, Part III	
2001-7	5-21-2001	Vehicles and traffic amendment	Ch. 185	
2001-8	7-9-2001	Communications facilities franchise	NCM	
2001-9	8-6-2001	Salaries	NCM	
2001-10		Land development amendment	Tabled and reintroduced as 2001-14	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2001-11	8-6-2001	Salaries	NCM	
2001-12	8-4-2001	Vehicles and traffic amendment	Ch. 185	
2001-13	9-4-2001	Vehicles and traffic amendment	Ch. 185	
2001-14	9-17-2001	Land development amendment	Ch. 110	
2002-1	2-19-2002	Bond	NCM	
2002-2	2-4-2002	Vehicles and traffic amendment	Ch. 185	
2002-3	2-4-2002	Acquisition of land	NCM	
2002-4	2-4-2002	Police Department: administration amendment	Ch. 37, Part I	
2002-5	4-15-2002	Bond	NCM	
2002-6	7-1-2002	Fire Department	Ch. 20	
2002-7	7-1-2002	Fire lanes and fire zones	Ch. 92	
2002-8	7-1-2002	Public records access	Ch. 92	
2002-9	7-1-2002	Fees: marriage, birth and death certificates	Ch. 87, Art. 8	
2002-10	8-5-2002	Fees: license fees and expiration dates	Ch. 87, Art. 2	
2002-11	9-4-2002	Salaries	NCM	
2002-12	9-17-2002	Fees: Oakland Tennis Court fees amendment; Borough publications	Ch. 87: Art. 4; Art. 9	
2002-13			Void	
2002-14			Void	
2002-15			Void	
2002-16	11-4-2002	Sewer use charges	NCM	
2002-17	11-18-2002	Street vacation	NCM	
2002-18	12-2-2002	Land development amendment	Ch. 110	
2003-1	2-3-2003	Police Department: administration amendment	Ch. 37, Part I	
2003-2	2-3-2003	Discovery fees	Ch. 87, Art. 10	
2003-3	2-3-2003	Wreckers and towers	Ch. 193	
2003-4	3-17-2003	Land development amendment	Ch. 110	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2003-5	3-17-2003	Bond	NCM	
2003-6	5-5-2003	Vehicles and traffic	Ch. 185	
2003-7	5-5-2003	Bond amendment	NCM	
2003-8	6-16-2003	Land development amendment	Ch. 110	
2003-9	6-16-2003	Appropriation	NCM	
2003-10	9-2-2003	Bond	NCM	
2003-11	9-2-2003	Bond	NCM	
2003-12	9-2-2003	Salaries	NCM	
2003-13	12-1-2003	Land development amendment	Ch. 110	
2003-14	11-17-2003	Bond	NCM	
2003-15	11-17-2003	Bond	NCM	
2003-16	11-17-2003	Vehicles and traffic amendment	Ch. 185	
2003-17	12-1-2003	Bond	NCM	
2003-18	12-1-2003	Bond	NCM	
2003-19	12-15-2003	Land development amendment	Ch. 110	
2003-20	12-15-2003	Fire prevention	Ch. 93	
2004-1	2-2-2004	Salaries	NCM	
2004-2	2-17-2004	Off-duty police work amendment	Ch. 37, Part III	
2004-3	3-15-2004	Vehicles and traffic amendment	Ch. 185	
2004-4	3-15-2004	Vehicles and traffic amendment	Ch. 185	
2004-5	4-19-2004	Bond	NCM	
2004-6	6-7-2004	Recreation Program fees	Ch. 87, Art. 11	
2004-7	6-7-2004	Various fee amendments in the Code	Chs. 53, 110, 166 and 175	
2004-8	6-7-2004	Fees for connection to sanitary sewer system amendment	Ch. 153, Art. 3	
2004-9	6-21-2004	Land development amendment	Ch. 110	
2004-10	6-21-2004	Fire prevention amendment	Ch. 93	
2004-11	6-21-2004	Bond	NCM	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2004-12	7-6-2004	Fees: marriage, birth and death certificates amendment	Ch. 87, Art. 8	
2004-13	9-7-2004	Salaries	NCM	
2004-14	9-20-2004	Salaries	NCM	
2004-15	10-4-2004	Bond	NCM	
2004-16	10-4-2004	Vehicles and traffic amendment	Ch. 185	
2004-17	12-20-2004	Land development amendment	Ch. 110	
2004-18	11-1-2004	Swimming pools amendment	Ch. 169	
2004-19	12-6-2004	Consent for cable television system	NCM	
2005-1	2-7-2005	Vehicles and traffic amendment	Ch. 185	
2005-2	2-7-2005	Exceed budget limits and establish cap bank	NCM	
2005-3	4-4-2005	Vehicles and traffic amendment	Ch. 185	
2005-4	4-4-2005	Bond	NCM	
2005-5	4-4-2005	Vehicles and traffic amendment	Ch. 185	
2005-6			Tabled	
2005-7	6-6-2005	Vehicles and traffic amendment	Ch. 185	
2005-8	6-6-2005	Vehicles and traffic amendment	Ch. 185	
2005-9	6-6-2005	Street vacation	NCM	
2005-10	6-6-2005	Vehicles and traffic amendment	Ch. 185	
2005-11	8-1-2005	Land development amendment	Ch. 110	
2005-12	8-1-2005	Salaries	NCM	
2005-13	9-6-2005	Salaries	NCM	
2005-14	10-3-2005	Vehicles and traffic amendment	Ch. 185	
2005-15				
2005-16	10-17-2005	Wildlife feeding	Ch. 59, Art. 3	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2005-17	10-17-2005	Yard waste collection program; containerized yard waste	Ch. 160, Arts. 3 and 4	
2005-18	11-21-2005	Land development amendment	Ch. 110	
2005-19	11-21-2005	Land development amendment	Ch. 110	
2005-20	11-21-2005	Land development amendment	Ch. 110	
2005-21	11-21-2005	Bond	NCM	
2005-22	11-21-2005	Construction and maintenance of sidewalks amendment	Ch. 166, Art. 4	
2005-23	11-21-2005	Land development amendment	Ch. 110	
2005-24	12-19-2005	Land development amendment	Ch. 110	
2006-1	2-6-2006	Disposition fees	Ch. 87, Art. 12	
2006-2	2-6-2006	Exceed budget; cap bank	NCM	
2006-3	2-6-2006	Tax search files fees	Ch. 87, Art. 13	
2006-4	3-6-2006	Vehicles and traffic amendment	Ch. 185	
2006-5	3-20-2006	Bond	NCM	
2006-6	4-17-2006	Limits on campaign contributions	Ch. 116	
2006-7	4-17-2006	Salaries	NCM	
2006-8	5-1-2006	Vehicles and traffic amendment	Ch. 185	
2006-9	5-1-2006	Vehicles and traffic amendment	Ch. 185	
2006-10	5-1-2006	Alcoholic beverages amendment	Ch. 53	
2006-11	6-5-2006	Land development amendment	Ch. 110	
2006-12	7-5-2006	Land development amendment	Ch. 110	
2006-13	8-21-2006	Off-duty police work amendment	Ch. 37, Part III	
2006-14	9-18-2006	Plumbing amendment	Ch. 228	
2006-15	9-18-2006	Salaries	NCM	
2006-16	9-18-2006	Borough swimming pool facilities amendment	Ch. 169, Art. 1	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2006-17	10-2-2006	Fire Department amendment	Ch. 20	
2006-18	11-6-2006	Fees: marriage, birth and death certificates amendment	Ch. 87, Art. 8	
2006-19	11-22-2006	Interlocal services agreement	NCM	
2006-20	11-20-2006	Interlocal services agreement	NCM	
2006-21	11-20-2006	Fire prevention amendment	Ch. 93	
2007-1	2-20-2007	Games of chance amendment	Ch. 95	
2007-2	3-5-2007	Exceed budget; cap bank	NCM	
2007-3	4-16-2007	Bond	NCM	
2007-4	7-16-2007	Land development amendment	Ch. 110	
2007-5	8-6-2007	Salaries	NCM	
2007-6	9-17-2007	Vehicles and traffic amendment	Ch. 185	
2007-7	9-17-2007	Bond	NCM	
2007-8	12-3-2007	Fire Department amendment	Ch. 20	
2007-9	12-3-2007	Vehicles and traffic amendment	Ch. 185	
2007-10	12-3-2007	Sewer user charges amendment	Ch. 153, Art. 2	
2007-11	12-17-2007	Land development amendment; solid waste disposal and mandatory recycling program amendment	Chs. 110; 160, Art. 2	
2008-1	2-4-2008	Borough swimming pool facilities amendment	Ch. 169, Art. 1	
2008-2	2-4-2008	Exceed budget; cap bank	NCM	
2008-3	2-19-2008	Uniform construction codes amendment	Ch. 78	
2008-4		Land development amendment	Not adopted	
2008-5	4-7-2008	Vehicles and traffic amendment	Ch. 185	
2008-6	4-21-2008	Vehicles and traffic amendment	Ch. 185	
2008-7	4-21-2008	Bond	NCM	
2008-8	4-21-2008	Bond	NCM	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2008-9	4-21-2008	Police Department: administration amendment	Ch. 37, Part I	
2008-10			Number not used	
2008-11	8-4-2008	Defined Contribution Retirement Program	Ch. 43, Art. 1	
2008-12		Land development amendment	Not adopted	
2008-13		Land development amendment	Not adopted	
2008-14			Number not used	
2008-15		Land development amendment	Not adopted	
2008-16	10-20-2008	Salaries	NCM	
2008-17	11-17-2008	Land development amendment	Ch. 110	
2008-18	12-15-2008	Borough swimming pool facilities amendment	Ch. 169, Art. 1	
2008-19		Land development amendment	Not adopted	
2008-20	12-15-2008	Land development amendment	Ch. 110	
2008-21	12-15-2008	Land development amendment	Ch. 110	
2009-1	2-17-2009	Parks and recreation areas: conduct and use amendment	Ch. 124, Art. 1	
2009-2		Vehicles and traffic amendment	Not adopted	
2009-3	2-17-2009	Exceed budget; cap bank	NCM	
2009-4		Vehicles and traffic amendment	Not adopted	
2009-5	4-13-2009	Bond	NCM	
2009-6	5-4-2009	Borough swimming pool facilities amendment	Ch. 169, Art. 1	
2009-7	6-1-2009	Land development amendment	Ch. 110	
2009-8	5-18-2009	Solid waste: refuse containers and dumpsters	Ch. 160, Art. 5	
2009-9	5-18-2009	Cable Television Advisory Committee amendment	Ch. 10, Art. 9	
2009-10	6-1-2009	Political campaigns: reports of contributions and expenditures	Ch. 38, Art. 1	
2009-11	8-17-2009	Land development amendment	Ch. 110	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2009-12	9-8-2009	Fire Department	Ch. 20	
2009-13	9-21-2009	Salaries	NCM	
2009-14	10-19-2009	Vehicles and traffic amendment	Ch. 185	
2009-15	10-19-2009	Political campaigns: reports of contributions and expenditures amendment	Ch. 38, Art. 1	
2009-16	10-19-2009	Vehicles and traffic amendment	Ch. 185	
2009-17	12-7-2009	Ethics Code of Conduct	Ch. 2	
2009-18	12-21-2009	Alcoholic beverages amendment; fees for marriage, birth and death certificates amendment; Borough publications fees amendment; recreation program fees amendment; senior citizen program fees; land development amendment; massage, bodywork and somatic therapy establishments amendment; peddling and soliciting amendment; Borough swimming pool facilities amendment; taxicabs amendment;	Chs. 53; 87, Arts. 8, 9, 11, and 14; 110; 120; 130; 169, Art. 1; 175	
2009-19	12-21-2009	Vehicles and traffic amendment	Ch. 185	
2010-1		Alley vacation	Reintroduced as Ord. No. 2010-4	
2010-2	2-1-2010	Exceed budget; cap bank	NCM	
2010-3	2-16-2010	Bond	NCM	
2010-4		Alley vacation	Readopted as Ord. No. 2010-7	
2010-5	3-15-2010	Recreation program fees amendment	Ch. 87, Art. 11	
2010-6	3-15-2010	Police Department: off-duty police work amendment	Ch. 37, Part III	
2010-7	4-5-2010	Alley vacation	NCM	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2010-8			Renumbered as Ord. No. 2010-14	
2010-9	6-21-2010	Land development amendment	Repealed by Ord. No. 2022-12	
2010-10	5-17-2010	Vehicles and traffic amendment	Ch. 185	
2010-11	8-16-2010	Taxation: Metuchen Senior Citizens Housing Project	Ch. 172, Art. 3	
2010-12	6-21-2010	Vehicles and traffic amendment	Ch. 185	
2010-13	10-4-2010	Public records access amendment	Ch. 143	
2010-14			Not adopted	
2010-15	8-16-2010	Police Department: administration amendment; off-duty police work amendment	Ch. 37, Parts I and III	
2010-16	8-16-2010	Precious metals and gems amendment	Ch. 137	
2010-17	11-1-2010	Land development amendment	Ch. 110	
2010-18			Not adopted	
2010-19			Not adopted	
2010-20			Not adopted	
2010-21			Not adopted	
2010-22	12-20-2010	Shade Tree Commission amendment	Ch. 10, Art. 1	
2011-1	2-22-2011	Fees amendment	Chs. 53; 78; 87, Arts. 11 and 13; 93; 110; 120; 130; 169, Art. 1; 175	
2011-2	2-22-2011	Exceed budget; cap bank	NCM	
2011-3	3-21-2011	Fire prevention amendment	Ch. 93	
2011-4	4-4-2011	Land development amendment	Ch. 110	
2011-5	4-26-2011	Arts Council amendment	Ch. 10, Art. 5	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2011-6	5-16-2011	Fees amendment	Ch. 87, Arts. 2 and 11	
2011-7	5-16-2011	Appropriation	NCM	
2011-8			Not adopted	
2011-9	6-20-2011	Bond	NCM	
2011-10	9-19-2011	Salaries	NCM	
2011-11	12-19-2011	Games of chance amendment	Ch. 95	
2012-1	2-6-2012	Recreation program fees amendment; Borough swimming pool facilities amendment	Ch. 87, Art. 11; Ch. 169	
2012-2	3-19-2012	Exceed budget; cap bank	NCM	
2012-3	3-19-2012	Acquisition of property	NCM	
2012-4	5-21-2012	Bond	NCM	
2012-5	6-18-2012	Police Department: administration amendment	Ch. 37, Part I	
2012-6	7-16-2012	Salaries	NCM	
2012-7	10-15-2012	Vehicles and traffic amendment	Ch. 185	
2012-8	10-15-2012	Taxicabs amendment	Ch. 175	
2012-9	11-5-2012	Recreation program fees amendment; taxicabs amendment	Ch. 87, Art. 11; Ch. 175	
2013-1	2-4-2013	Borough swimming pool facilities amendment	Ch. 169	
2013-2	2-4-2013	Wildlife feeding amendment	Ch. 59, Art. 3	
2013-3	3-18-2013	Vehicles and traffic amendment	Ch. 185	
2013-4	4-15-2013	Exceed budget; cap bank	NCM	
2013-5	5-20-2013	Recreation program fees amendment	Ch. 87, Art. 11	
2013-6	5-20-2013	Municipal Alliance-Youth Service Board	Ch. 10, Art. 10	
2013-7	12-2-2013	Land development amendment	Ch. 110	
2013-8			Not adopted	
2013-9	12-2-2013	Bond	NCM	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2013-10	12-2-2013	Bond	NCM	
2013-11	12-2-2013	Bond	NCM	
2013-12	9-3-2013	Land development amendment	Ch. 110	
2013-13			Not adopted	
2013-14	10-7-2013	Bond	NCM	
2013-15	12-16-2013	Salaries	NCM	
2013-16	12-16-2013	Recreation program fees amendment	Ch. 87, Art. 11	
2014-1	3-3-2014	Accessibility Committee	Ch. 10, Art. 11	
2014-2	4-7-2014	Deed acceptance	NCM	
2014-3			Not adopted	
2014-4	4-21-2014	Exceed budget; cap bank	NCM	
2014-5	5-19-2014	Recreation program fees amendment; Borough swimming pool facilities amendment	Ch. 87, Art. 11; Ch. 169, Art. 1	
2014-6	6-23-2014	Salaries	NCM	
2014-7	12-1-2014	Smoking	Ch. 158	
2014-8	6-9-2014	Land development amendment	Ch. 110	
2014-9	6-23-2014	Bond	NCM	
2014-10	8-18-2014	Bond	NCM	
2014-11	8-18-2014	Bond	NCM	
2014-12	8-18-2014	Land development amendment	Ch. 110	
2014-13	9-15-2014	Property maintenance	Ch. 140	
2014-14	9-15-2014	Salaries	NCM	
2015-01	2-17-2015	Consent for cable television system	NCM	
2015-02	2-17-2015	Borough swimming pool facilities amendment	Ch. 169, Art. I	
2015-03	2-17-2015	Land development amendment	Ch. 110	
2015-04	3-16-2015	Land development amendment	Ch. 110	
2015-05	2-17-2015	Vehicles and traffic amendment	Ch. 185	

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2015-06	4-7-2015	Vehicles and traffic amendment	Ch. 185	
2015-07	5-18-2015	Uniform construction codes amendment	Ch. 78	
2015-08	5-18-2015	Vehicles and traffic amendment	Ch. 185	
2015-09	7-20-2015	Land development amendment	Ch. 110	
2015-10	9-8-2015	Vacant and abandoned properties and storefronts	Ch. 139	
2015-11	10-5-2015	Salaries	NCM	
2015-12	10-5-2015	Bond	NCM	
2015-13	12-7-2015	Vehicles and traffic amendment	Ch. 185	
2015-14	12-7-2015	Vehicles and traffic amendment	Ch. 185	
2015-15	12-21-2015	Vehicles and traffic amendment	Ch. 185	
2015-16	12-21-2015	Borough swimming pool facilities amendment	Ch. 169, Art. I	
2015-17	12-21-2015	Salaries	NCM	

Ord. No.	Date	Title	Supp. No.
2016-01	2-1-2016	Amends Ch. 37 Police Department; Part III Off-Duty Police Work; 37-102 Rate of compensation for officers assigned	29
2016-02	2-1-2016	Salary, Special	29
2016-03	2-1-2016	Emergency Appropriation, Special	29
2016-04	2-1-2016	Amends Ch. 37 Police Department; 37-5 Responsibilities, Chief of Police; Article 5 Rules and Regulations, 37-88 Disciplinary actions	29
2016-05	2-1-2016	Amends Ch. 87 Fees; Article 11 Recreation Program Fees, 87-20 Fees established	29
2016-06	2-16-2016	Repeals and replaces Ch. 222 Noise; 222-1—222-11	29
2016-07	3-21-2016	Amends Ch. 185 Vehicles and Traffic; 185-23 Multiway stop intersections	29

Ord. No.	Date	Title	Supp. No.
2016-08	3-21-2016	Amends Ord. No. 2015-01 Consent for cable television system, Special	29
2016-09	4-4-2016	Amends Ch. 169 Swimming Pools; 169-3 Membership rates and fees	29
2016-10	5-2-2016	Creates Ch. 162 Special Improvement District; 162-1—162-11	29
2016-11	5-2-2016	Amends Ch. 87 Fees; Article 11 Recreation Program Fees, 87-20 Fees established	29
2016-12	5-2-2016	Amends Ch. 10 Commissions and Committees; creates Article 12 Recreation Commission, 10-41—10-43; amends Ch. 29 Officers and Employees; creates Article 3 Recreation Director, 29-10—29-11	29
2016-13		Not adopted	29
2016-14	6-20-2016	Amends Ch. 37 Police Department; Part III Off-Duty Police Work; 37-102 Rate of compensation for officers assigned	29
2016-15	6-20-2016	Amends Ch. 110 Land Development; Part III Zoning, 110-80 D-1 Downtown Development District adds A(10) Massage and somatic therapy establishments; amends Article 18 Conditional Uses, 110-87 Specific conditions adds AA(1)(n) Massage and somatic therapy establishments; amends Article 19 Planned Unit Residential Development (PURD's), amends 110-91 Specific requirements, adds F(3)(a)[16] Massage and somatic therapy establishments	29
2016-16	7-18-2016	Bond, Special	29
2016-17	7-18-2016	Capital Bond, Special	29
2016-18	8-15-2016	Amends Ch. 185 Vehicles and Traffic; 185-34A Handicapped parking	29
2016-19	8-15-2016	Amends Ch. 110 Land Development; Part III Zoning, Article 21 Affordable Housing, repeals 110-95—110-96.18 and replaces it with 110-95—110-95.22; amends Article 17 Permitted Uses, 110-68 R-2 Residential District adds C(3) Townhouses; amends 110-76 B-2 Neighborhood Business District adds C(3) Courtyard Apartments; amends Article 18 Conditional Uses, 110-87 Specific conditions adds Subsections BB Townhouses and CC Courtyard Apartments	29

Ord. No.	Date	Title	Supp. No.
2016-20	8-15-2016	Amends Ch. 87 Fees; Article 11 Recreation Program Fees, 87-20 Fees established	29
2016-21	9-6-2016	Salary, Special	29
2016-22	9-19-2016	Amends Ch. 153 Sewers; Article 2 Sewer User Charges, 153-27 Schedule of charges	29
2016-23	10-4-2016	Amends Ch. 185 Vehicles and Traffic; 185-12 Parking time limited on certain streets	29
2016-24	10-17-2016	Amends Ch. 53 Alcoholic Beverages; 53-3 Location of premises	29
2016-25		Not adopted	29
2016-26	11-7-2016	Amends Ch. 185 Vehicles and Traffic; 185-23 Multiway stop intersection	29
2016-27	11-7-2016	Amends Ch. 110 Land Development; amends 110-95.10 Control Periods for Restricted Ownership Units and Enforcement Mechanisms; 110-95.15 Control Periods for Restricted Rental Units; 110-95.20 Affirmative Marketing Requirements; 110-62 Zoning Districts, adds R-8 Overlay Residential District; adds R-9 Overlay Residential District; adds 110-74.1 R-8 Overlay Residential District; adds 110-76.1 R-9 Overlay Residential District; deletes 110-68C(3) R-2 Residential District, Townhouses; deletes 110-76C(3) B-2 Neighborhood Business District, Courtyard Apartments; deletes 110-87BB Conditional Uses, Townhouse; deletes 110-87CC Conditional Uses, Courtyard Apartments	29
2016-28	11-7-2016	Amends Ch. 87 Fees; repeals Article 7 Residential Development Fees 87-9—87-16; amends Ch. 110 Land Development; repeals Article 14A Development Fees for Residential Development, 110-55.1—110-55.7; enacts Article 14B Development Fees, 110-55.8—110-55.17	29
2016-29	12-5-2016	Amends Ch. 59 Animals; Article 1 Dogs and Cats, 59-6 Fees; expiration dates; amends 59-12G Licensing of cats; fees	29
2016-30	12-5-2016	Salary, Special	29
2016-31	12-5-2016	Amends Ch. 87 Fees; Article 14 Senior Citizen Program Fees, 87-23 Fees established	29

Ord. No.	Date	Title	Supp. No.
2016-32	12-19-2016	Amends Ch. 87, Fees; Ch. 210 Food-Handling Establishments; Article 1 Licensing, 210-2 Fees; amends 210-6 Expiration; renewal	29
2016-33	12-19-2016	Amends Ch. 185 Vehicles and Traffic; 185-35A Control for movement and parking of traffic on public and private property	29
2017-01	3-6-2017	Amends Ch. 185 Vehicles and Traffic; 185-14 Parking prohibited at all times on certain streets	30
2017-02	3-6-2017	Sale and conveyance a portion of Block 102, Special	30
2017-03	3-16-2017	Amends Ch. 10 Commissions and Committees, rescinds Article 6 Development Commission, 10-25—10-27	30
2017-04	4-17-2017	Amends Ch. 87 Fees; Article 11, 87-20 Recreation Program Fees established	30
2017-05	4-17-2017	Salary, Special	30
2017-06	4-17-2017	Amends Ch. 193 Wreckers and Towers; 193-7R License standard of conduct and performance; 193-8C Maximum fees to be charged by licensees; response times	30
2017-07	5-1-2017	Creates Ch. 34 Parking Enforcement Officer, 34-1—34-11	30
2017-08	5-15-2017	Amends Ch. 153 Sewers; creates Article IV Installation and Maintenance of Grease Traps, 153-33—153-39	30
2017-09	5-15-2017	Amends Ch. 53 Alcoholic Beverages; 53-1 License Fees	30
2017-10	6-5-2017	CAP Bank, Special	30
2017-11	6-5-2017	Salary, Special	30
2017-12	9-5-2017	Amends Ch. 87 Fees; Article 8 Marriage, Birth and Death Certificates, 87-17 Fees Established	30
2017-13	9-18-2017	Amends Ch. 140 Property Maintenance; 140-1—140-14	30
2017-14	10-2-2017	Amends Ch. 10 Commissions and Committees; Article 7 Human Relations Commission 10-28—10-30	30
2017-15	10-16-2017	Amends Ch. 53 Alcoholic Beverages; 53-4 Hours of Sale	30

Ord. No.	Date	Title	Supp. No.
2017-16	10-16-2017	Creates Ch. 148 Rental Properties; Creates Article 1 Short Term Rental Property Prohibitions; 148-1—148-7	30
2017-17	10-16-2017	Bond Special	30
2017-18		Not adopted	30
2017-19	12-18-2017	Amends Ch. 185 Vehicles and Traffic; 185-23 Multiway Stop intersections	30
2017-20	12-18-2017	Amends Ch. 37 Police Department; 37-5 Responsibilities; 37-88 Disciplinary Actions	30

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2018-01	2-5-2018	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	31
2018-02	2-20-2018	Vehicles and Traffic Amendment	Ch. 185	31
2018-03	3-19-2018	Swimming Pools: Borough Swimming Pool Facilities Amendment	Ch. 169, Art. 1	31
2018-04	3-19-2018	Streets and Sidewalks: Construction and Maintenance of Sidewalks Amendment	Ch. 166, Art. 4	31
2018-05	4-2-2018	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	31
2018-06	4-2-2018	Exceed Budget; Cap Bank	NCM	31
2018-07	5-7-2018	Police Department: Off-Duty Police Work Amendment	Ch. 37, Pt. III	31
2018-08	5-7-2018	Fire Prevention Amendment	Ch. 93	31
2018-09	5-21-2018	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	31
2018-10	6-4-2018	Salaries	NCM	31
2018-11	6-4-2018	Bond	NCM	31
2018-12	6-4-2018	Bond	NCM	31
2018-13	6-18-2018	Land Development Amendment	Ch. 110	31
2018-14	6-18-2018	Vehicles and Traffic Amendment	Ch. 185	31
2018-15	7-16-2018	Land Development Amendment	Ch. 110	31
2018-16	7-16-2018	Parks and Recreation Areas: Metuchen Town Plaza	Ch. 124, Art. 3	31
2018-17	7-16-2018	Vehicles and Traffic Amendment	Ch. 185	31
2018-18	7-16-2018	Salaries	NCM	31

Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
2018-19	8-13-2018	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	31
2018-20	9-4-2018	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	31
2018-21			Not Adopted	31
2018-22	9-17-2018	Fees: Metuchen Town Plaza Fees	Ch. 87, Art. 15	31
2018-23	9-17-2018	Vehicles and Traffic Amendment	Ch. 185	31
2018-24	10-15-2018	Redevelopment Plan	NCM	31
2018-25	12-3-2018	Vehicles and Traffic Amendment	Ch. 185	31
2018-26	12-3-2018	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	31
2018-27	12-17-2018	Salaries	NCM	31
2018-28	12-17-2018	Special Improvement District Amendment	Ch. 162	31
2019-01	2-11-2019	Land Development Amendment	Ch. 110	31
2019-02	2-11-2019	Vehicles and Traffic Amendment	Ch. 185	31
2019-03	2-11-2019	Salaries	NCM	31
2019-04	2-25-2019	Land Development Amendment	Ch. 110	31
2019-05	3-11-2019	Acquisition of Land	NCM	31
2019-06	3-25-2019	Swimming Pools: Borough Swimming Pool Facilities Amendment	Ch. 169, Art. 1	31
2019-07	4-8-2019	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	31
2019-08	4-29-2019	Exceed Budget; Cap Bank	NCM	31
2019-09	5-28-2019	Salaries	NCM	31
2019-10	6-24-2019	Bond	NCM	31
2019-11	6-24-2019	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	31
2019-12	8-12-2019	Land Development Amendment	Ch. 110	31
2019-13	8-12-2019	Land Development Amendment	Ch. 110	31
2019-14	7-8-2019	Streets and Sidewalks: Openings and Excavations Amendment	Ch. 166, Art. 3	31
2019-15	9-10-2019	Salaries	NCM	31
2019-16	10-29-2019	Vehicles and Traffic Amendment	Ch. 185	31
2019-17	12-29-2019	Commissions and Committees: Metuchen Parade Commission	Ch. 10, Art. 13	31

Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
2019-18	11-12-2019	Vehicles and Traffic Amendment	Ch. 185	31
2019-19	12-9-2019	Animals: Dogs and Cats Amendment; Land Development Amendment	Ch. 59, Art. 1; Ch. 110	31
2019-20	12-9-2019	Construction Codes, Uniform Amendment	Ch. 78	31
2020-01	1-13-2020	Officers and Employees: Director of Special Projects	Ch. 29, Art. 4	1
2020-02	1-13-2020	Salaries	NCM	1
2020-03	2-3-2020	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	1
2020-04	2-3-2020	Bond	NCM	1
2020-05	2-18-2020	Land Development Amendment	Ch. 110	1
2020-06	2-18-2020	Salaries	NCM	1
2020-07	2-18-2020	Swimming Pools: Borough Swimming Pool Facilities Amendment	Ch. 169, Art. 1	1
2020-08	3-9-2020	Exceed Budget; Cap Bank	NCM	1
2020-09	5-11-2020	Land Development Amendment	Ch. 110	1
2020-10	5-26-2020	Redevelopment Plan	NCM	1
2020-11	5-11-2020	Swimming Pools: Borough Swimming Pool Facilities Amendment	Ch. 169, Art. 1	1
2020-12	6-8-2020	Salaries	NCM	1
2020-13	6-22-2020	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	1
2020-14	7-13-2020	Bond	NCM	1
2020-15	9-14-2020	Land Development Amendment	Ch. 110	1
2020-16	10-19-2020	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	1
2020-17	12-14-2020	Salaries	NCM	1
2020-18	10-19-2020	Streets and Sidewalks: Construction and Maintenance of Sidewalks Amendment	Ch. 166, Art. 4	1
2020-19	12-14-2020	Land Development Amendment	Ch. 110	1
2020-20	12-14-2020	Redevelopment Plan	NCM	1
2020-21	12-14-2020	Redevelopment Plan	NCM	1
2021-01	2-8-2021	Land Development Amendment	Ch. 110	2
2021-02	2-8-2021	Commissions and Committees: Human Relations Commission Amendment	Ch. 10, Art. 7	2
2021-03	2-8-2021	Land Development Amendment	Ch. 110	2

Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
2021-04	2-22-2021	Vehicles and Traffic Amendment	Ch. 185	2
2021-05	3-22-2021	Streets and Sidewalks Amendment	Ch. 166	2
2021-06	3-22-2021	Bond	NCM	2
2021-07	4-12-2021	Fees Amendment	Ch. 87	2
2021-08	4-26-2021	Police Department Amendment	Ch. 37	2
2021-09	4-26-2021	Swimming Pools Amendment	Ch. 169	2
2021-10	6-28-2021	Land Development Amendment	Ch. 110	3
2021-11	8-23-2021	Bond	NCM	3
2021-12	8-23-2021	Exceed Budget; Cap Bank	NCM	3
2021-13	9-13-2021	Vehicles and Traffic Amendment	Ch. 185	3
2021-14	9-13-2021	Police Department: Administration Amendment	Ch. 37, Pt. I	3
2021-15	9-13-2021	Redevelopment Plan	NCM	3
2021-16	9-13-2021	Construction Codes, Uniform Amendment	Ch. 78	3
2021-17	9-13-2021	Easement	NCM	3
2021-18	9-13-2021	Salaries	NCM	3
2021-19	9-27-2021	Redevelopment Plan	NCM	3
2021-20	10-12-2021	Land Development Amendment	Ch. 110	3
2021-21	12-13-2021	Designation of Environmental Opportunity Zone	NCM	4
2022-01	2-7-2022	Ethics Code of Conduct Amendment	Ch. 2	4
2022-02	2-22-2022	Salaries	NCM	4
2022-03	3-14-2022	Acquisition of Land	NCM	4
2022-04	3-28-2022	Redevelopment Plan	NCM	4
2022-05	5-9-2022	Purchase of Property	NCM	5
2022-06	5-9-2022	Bond	NCM	5
2022-07	5-9-2022	Swimming Pools Amendment	Ch. 169	5
2022-08	5-23-2022	Bond	NCM	5
2022-09	5-23-2022	Tax Exemption	NCM	5
2022-10	5-23-2022	Appropriation	NCM	5
2022-11	6-13-2022	Exceed Budget; Cap Bank	NCM	5
2022-12	6-13-2022	Land Development Amendment	Ch. 110	5
2022-13	6-27-2022	Swimming Pools Amendment	Ch. 169	5
2022-14	8-22-2022	Vehicles and Traffic Amendment	Ch. 185	6

Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
2022-15	9-12-2022	Land Development Amendment	Ch. 110	6
2022-16	9-12-2022	Land Development Amendment	Ch. 110	6
2022-17	9-12-2022	Land Development Amendment	Ch. 110	6
2022-18	9-12-2022	Salaries	NCM	6
2022-19	10-24-2022	Creates Chapter 72, Cannabis; Land Development Amendment; Taxation Amendment	Ch. 72; Ch. 110; Ch. 172	6
2022-20	10-3-2022	Vehicles and Traffic Amendment	Ch. 185	6
2022-21	10-24-2022	Sewers Amendment	Ch. 153	6
2022-22	12-12-2022	Special Improvement District Amendment	Ch. 162	7
2022-23	12-12-2022	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	7
2022-24	12-12-2022	Fees: Senior Citizen Program Fees Amendment	Ch. 87, Art. 14	7
2023-01	1-30-2023	Police Department: Administration Amendment	Ch. 37, Art. 1	8
2023-02	3-6-2023	Salaries	NCM	8
2023-03	3-6-2023	Redevelopment Plan Amendment	NCM	8
2023-04	4-24-2023	Land Development Amendment	Ch. 110	8
2023-05	4-10-2023	Precious Metals, Gems and Secondhand Goods Amendment	Ch. 137	8
2023-06	4-10-2023	Bond	NCM	8
2023-07	4-14-2023	Bond	NCM	8
2023-08	4-24-2023	Commissions and Committees: Community Action for Recovery, Education and Support (CARES) Committee	Ch. 10, Art. 10	8
2023-09	4-24-2023	Commissions and Committees: Metuchen Parade Commission Amendment	Ch. 10, Art. 13	8
2023-10	4-24-2023	Fees: Recreation Program Fees Amendment	Ch. 87, Art. 11	8
2023-11	4-24-2023	Swimming Pools: Borough Swimming Facilities Amendment	Ch. 169, Art. 1	8
2023-12	4-24-2023	Salaries	NCM	8
2023-13	6-12-2023	Exceed Budget; Cap Bank	NCM	9
2023-14	6-12-2023	Bond	NCM	9

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2023-15	6-12-2023	Sewers: Fees for Connection to Sanitary Sewer System Amendment	Ch. 153, Art. 3	9
2023-16	6-26-2023	Adopts a Redevelopment Plan for the Expanded Arts District	NCM	9
2023-17	6-26-2023	Land Development Amendment	Ch. 110	9
2023-18	6-26-2023	Vehicles and Traffic Amendment	Ch. 185	9
2023-19	6-26-2023	Special Events	Ch. 75	9
2023-20	6-26-2023	Property Maintenance Amendment	Ch. 140	9
2023-21	7-10-2023	Parks and Recreation Areas: Metuchen Town Plaza Amendment	Ch. 124, Art. 3	9
2023-22	7-10-2023	Easement	NCM	9
2023-23	7-10-2023	Adopts a Redevelopment Plan for the Southwest Gateway Rehabilitation Area	NCM	9
2023-24	9-11-2023	Salt and Other De-Icing Materials: Storage of Privately Owned Materials	Ch. 151, Art. 1	10
2023-25	9-11-2023	Salaries	NCM	10
2023-26	9-11-2023	Land Development Amendment	Ch. 110	10
2023-27	9-11-2023	Amusement Devices Amendment; Land Development Amendment	Ch. 56; Ch. 110	10
2023-28	10-2-2023	Fees: Recreation Program Fees Amendment; Parks and Recreation Areas: Use of Borough Fields	Ch. 87, Art. 11; Ch. 124, Art. 4	10
2023-29	11-13-2023	Police Department: Administration Amendment	Ch. 37, Pt. I	11
2023-30	11-27-2023	Films and Motion Pictures	Ch. 88	11
2023-31	12-11-2023	Acquisition of land	NCM	11
2024-01	1-17-2024	Land Development Amendment	Ch. 110	12
2024-02	1-17-2024	Bond	NCM	12
2024-03	1-29-2024	Vehicles and Traffic Amendment	Ch. 185	12
2024-04	1-29-2024	Commissions and Committees Amendment	Ch. 10, Art. 4	12
2024-05	1-29-2024	Parks and Recreation Areas Amendment	Ch. 124, Art. 4	12
2024-06	3-4-2024	Acquisition of real property	NCM	12
2024-07	3-25-2024	Vehicles and Traffic Amendment	Ch. 185	13
2024-08	3-25-2024	Commissions and Committees: Human Relations Commission Amendment	Ch. 10, Art. 7	13

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2024-09	3-25-2024	Swimming Pools: Borough Swimming Pool Facilities Amendment	Ch. 169, Art. 1	13
2024-10	3-25-2024	Salaries	NCM	13
2024-11	4-8-2024	Bond	NCM	13
2024-12	4-8-2024	Swimming Pools: Borough Swimming Pool Facilities Amendment	Ch. 169, Art. 1	13
2024-13	4-29-2024	Solid Waste: Yard Waste Collection Program Amendment; Streets and Sidewalks: Obstructions Amendment; Construction and Maintenance of Sidewalks Amendment; Fences and Other Encroachments; Dangerous Conditions Amendment	Ch. 160, Art. 3; Ch. 166, Art. 2; Ch. 166, Art. 4; Ch. 166, Art. 5	13
2024-14	4-29-2024	Vehicles and Traffic Amendment	Ch. 185	13
2024-15	4-29-2024	Exceed Budget; Cap Bank	NCM	13
2024-16	6-24-2024	Fees: Senior Citizen Program Fees Amendment	Ch. 87, Art. 14	14
2024-17	7-22-2024	Police Department: Administration Amendment	Ch. 37, Pt. I	14
2024-18	9-9-2024	Property Maintenance: Lead-Based Paint Inspections	Ch. 140, Art. 3	14.1
2024-19	9-9-2024	Sale of Property	NCM	14.1
2024-20	9-9-2024	Land Development Amendment	Ch. 110	14.1