AN ORDINANCE AMENDING CHAPTER 140 OF THE CODE OF THE BOROUGH OF METUCHEN, ENTITLED “PROPERTY MAINTENANCE”

WHEREAS, that the lack of properly maintained properties can lead to neighborhood decline and become attractive nuisances; and

WHEREAS, the failure to properly upkeep properties can lead to harm to the health, safety and general welfare of the community, including diminution of neighboring property values, increased risk of fire and potential increases in criminal activity and public health risks; and

WHEREAS, it is in the public interest for the Borough to establish minimum standards of maintenance on the owners or other responsible parties of property within the Borough of Metuchen in order to protect the health, safety and general welfare of the residents of the Borough; and

WHEREAS, the Borough of Metuchen regulates the maintenance of residential and commercial property within the Borough by and through, inter alia, Chapter 140 of the Code of the Borough of Metuchen and the Mayor and Council have determined that it is in the best interest of the Borough to amend and supplement Chapter 140 of the Code.

NOW THEREFORE BE IT ORDAINED by the Council of the Borough of Metuchen that it hereby amends Chapter 140 of the Code of the Borough of Metuchen entitled, “Property Maintenance” to read as follows:

CHAPTER 140
PROPERTY MAINTENANCE

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 (6) inches and all 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 premise 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.

All buildings and premises subject to this code are subject to inspection from time to time by the Construction Code Official, Health Officer, Zoning Officer, Police Department 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.

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, Health Officer, Zoning Officer, Director of Public Works, or Police Department 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 Police Department, Construction Code Official, Zoning Officer, Director of Public Works or Health Officer shall issue a summons forthwith and shall cause said condition to be immediately abated thereafter as prescribed in Section 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, Director of Public Works or Health Officer 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, Director of Public Works or Health Officer in ten (10) days after service unless a hearing is requested pursuant to these provisions.

E. Request for hearing. Within ten (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 (10) day period in person or by certified mail on the Construction Code Official, Zoning Officer, Director of Public Works or Health Officer. 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, Director of Public Works or Health Officer, upon receipt of the request for hearing, shall, within thirty (30) days therefrom and upon five (5) 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, Director of Public Works or Health Officer shall hear all parties and his or her final determination shall be made within ten (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, Director of Public Works or Health Officer 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, Director of Public Works or Health Officer, 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, Director of Public Works or Health Officer may provide for the removal of or destruction of overgrown brush, weeds, including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth garage, 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 Section 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 Section H herein, the officer of the municipality 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, 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, MULTIFAMILY - A structure or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

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 forseeable 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:
   i. Which is missing tires, wheels, engine or any essential parts;
   ii. Which displays extensive body damage or deterioration;
   iii. Which does not display a current, valid State license; or
   iv. 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 flyable or nonflyable 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.

(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 (6) inches and all 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 premise 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 (60) 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.

All buildings and premises subject to this code are subject to inspection from time to time by the Construction Code Official, Health Officer, Zoning Officer, Director of Public Works, Police Department 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.

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, Health Officer, Zoning Officer, Director of Public Works, or Police Department 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 Police Department, Construction Code Official, Zoning Officer, Director of Public Works, or Health Officer shall issue a summons forthwith and shall cause said condition to be immediately abated thereafter as prescribed in Section 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, Director of Public Works, or Health Officer 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 thirty (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, Director of Public Works, or Health Officer in ten (10) days after service unless a hearing is requested pursuant to these provisions.
E. Request for hearing. Within ten (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 (10) day period in person or by certified mail on the Construction Code Official, Zoning Officer, Director of Public Works, or Health Officer. 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, Director of Public Works, or Health Officer, upon receipt of the request for hearing, shall, within thirty (30) days therefrom and upon five (5) 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, Director of Public Works, or Health Officer shall hear all parties and his or her final determination shall be made within ten (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, Director of Public Works, or Health Officer 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, Director of Public Works, or Health Officer, 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, Director of Public Works, or Health Officer may provide for the removal of or destruction of overgrown brush, weeds, including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth garage, 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 Section 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 Section H herein, the officer of the municipality 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.

Introduction: September 5, 2017
Date of Publication: September 8, 2017

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I hereby certify the foregoing to be a true copy of an ordinance introduced by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on September 5, 2017

________________________
Susan D. Jackson, RMC
Borough Clerk
I hereby certify the foregoing to be a true copy of an ordinance adopted by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on September 18, 2017.

________________________   By: ______________________
Susan D. Jackson, RMC            Peter Cammarano
Borough Clerk            Mayor

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