

**ORDINANCE 2023-21**

*Borough of Metuchen  
County of Middlesex  
State of New Jersey*

**ORDINANCE AMENDING THE CODE OF THE BOROUGH OF METUCHEN  
REVISING THE REGULATIONS RELATING TO THE METUCHEN TOWN PLAZA**

**WHEREAS**, the Article 3 of Chapter 124 of the Code of the Borough of Metuchen, entitled, "Metuchen Town Plaza" currently regulates and requires a permit and application procedure for Metuchen Town Plaza; and

**WHEREAS**, upon the recommendation of the Chief of Police and the Borough Administrator, the Council of the Borough of Metuchen has determined that it is in the best interests of the community amend Article 3 of Chapter 124 regulating the use of the Metuchen Town Plaza.

**NOW THEREFORE, BE IT ORDAINED** that the Council of the Borough of Metuchen, County of Middlesex, State of New Jersey, hereby amends Article 3 of Chapter 124 regulating the Metuchen Town Plaza, specifically §124-15 through §124-26- to state as follows:

**ARTICLE 3**

**Metuchen Town Plaza**

**§ 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 Farmer's Market. In addition to the requirements contained herein, the Metuchen Commission/Committee sponsored events, the Metuchen Downtown Alliance, and Metuchen Farmer's 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 and 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 Farmer's 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 \$500.00 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(2), 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(4) 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.

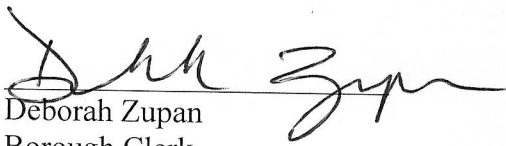
**§ 124-26. When effective.**

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

Introduction: June 26, 2023  
 Date of Publication: June 30, 2023

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
BRANCH	X				HIRSCH	X			
DELIA	X				HYMAN	X			
GIAMBOI	X				KANDEL				X
<b>MOTION</b>	<b>DELIA</b>			<b>SECOND</b>		<b>GIAMBOI</b>			
X - INDICATES VOTE				AB- ABSENT		NV- NOT VOTING			

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 June 26, 2023.

  
 Deborah Zupan  
 Borough Clerk



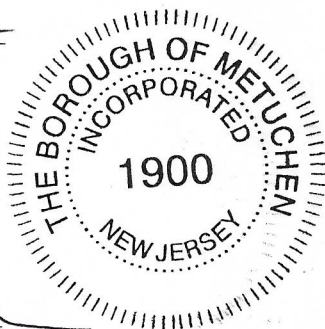


Adopted: *July 10, 2023*  
 Date of Publication: *July 14, 2023*

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
BRANCH				X	HIRSCH	X			
DELIA	X				HYMAN	X			
GIAMBOI	X				KANDEL	X			
<b>MOTION</b>	<b>DELIA</b>				<b>SECOND</b>	<b>GIAMBOI</b>			
X - INDICATES VOTE					AB- ABSENT		NV- NOT VOTING		

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 July 10, 2023.

*Deborah Zupan*  
 Deborah Zupan  
 Borough Clerk



ATTEST:

*Deborah Zupan*  
 Deborah Zupan  
 Borough Clerk

BOROUGH OF METUCHEN

By: *Jonathan M. Busch*  
 Jonathan M. Busch  
 Mayor