

ORDINANCE 2021-01

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

AN ORDINANCE AMENDING SECTION 110-4 (DEFINITIONS) IN ARTICLE 1 (TITLE; PURPOSE; DEFINITIONS) IN PART I (GENERAL PROVISIONS) IN CHAPTER 110 (LAND DEVELOPMENT), SECTION 110-7 (EXEMPTION FROM SITE PLAN REVIEW) IN ARTICLE 2 (ZONING PERMITS) IN PART II (APPLICATIONS FOR DEVELOPMENT) IN CHAPTER 110 (LAND DEVELOPMENT), AMENDING SECTION 110-48 (APPLICABILITY) IN ARTICLE 12 (MINOR SITE PLAN APPLICATIONS) IN PART II (APPLICATIONS FOR DEVELOPMENT) IN CHAPTER 110 (LAND DEVELOPMENT), AMENDING SECTION 110-64 (DENSITY, COVERAGE, AND BULK CONTROLS) IN ARTICLE 16 (ZONING DISTRICTS; ZONING MAP; ZONING SCHEDULE) IN PART III (ZONING) IN CHAPTER 110 (LAND DEVELOPMENT), AMENDING SECTION 110-110 (PERMITTED PROJECTIONS) IN ARTICLE 23 (SUPPLEMENTARY REGULATIONS) IN PART III (ZONING) IN CHAPTER 110 (LAND DEVELOPMENT), AMENDING SECTION 110-112.6 (ACCESSORY STRUCTURES) IN ARTICLE 23 (SUPPLEMENTARY REGULATIONS) IN PART III (ZONING) IN CHAPTER 110 (LAND DEVELOPMENT) OF THE CODE OF THE BOROUGH OF METUCHEN TO REVISE REQUIREMENTS RELATING TO STRUCTURES USED FOR OUTDOOR DINING AREAS IN THE B-1 CENTRAL BUSINESS DISTRICT AND D-1 DOWNTOWN DEVELOPMENT DISTRICT.

BE IT ORDAINED by the Borough Council of the Borough of Metuchen as follows (additions are indicated by underlining; deletions are indicated by ~~strikethroughs~~:

SECTION 1. Section 110-4 (Definitions) in Article 1 (Title; Purpose; Definitions) in Part I (General Provisions) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

ADD: **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 on a temporary basis during inclement weather and provided that such screens are retracted or raised when not in use.

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SECTION 2. Section 110-7 (Exemption from site plan review) in Article 2 (Zoning Permits) in Part II (Applications for Development) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-7 Exemption from site plan review.

- A. ~~Applications which~~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.
 4. ~~or the~~The construction of an accessory structure consisting of no greater than 200 square feet in floor area 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.

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B. & C. (No changes)

SECTION 3. Section 110-48 (Applicability) in Article 12 (Minor Site Plan Applications) in Part II (Applications for Development) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-48 Applicability.

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 § 110-217J. Approvals, if granted, shall be granted by resolution of the Board having jurisdiction, provided, however, that

applications proposing an expansion of a nonconforming use or structure shall not qualify for minor site plan approval. 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 of a mile of a municipal or public parking facility.
- D. 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.
- ~~E.~~ 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.
- ~~EF.~~ 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.
- ~~EG.~~ 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.
- ~~GH.~~ Any application requiring an exception from any requirement of Part IV of this chapter.
- ~~HJ.~~ 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.

SECTION 4. The Zoning Schedule of Density, Bulk and Coverage Controls referenced in Section 110-64 (Density, bulk and coverage controls) in Article 16 (Zoning Districts; Zoning Map; Zoning Schedule) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

ADD: Footnote notation “6” following “70%” in the schedule pertaining to Maximum Building Coverage for the B-1 Central Business District and D-1 Downtown Development District.

ADD: Footnote under the schedule to read “6. An additional 10% shall be permitted for nonenclosed outdoor dining structures, provided that such structures do not exceed 15 feet in height.”

SECTION 5. Section 110-110 (Permitted projections) in Article 23 (Supplementary Regulations) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-110 Permitted projections.

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.

SECTION 6. Section 110-112.6 (Accessory structures) in Article 23 (Supplementary Regulations) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-112.6 Accessory structures.

Accessory structures, inclusive of air-conditioner (A/C) condenser units and generators, 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, 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 this subsection. 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 property line along a street.

- (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 property line, provided that such structures do not exceed 15 feet in height.

B. Setbacks.

- (1) Accessory structures shall be set back a minimum distance from side and rear property lines, based on the size of such and the district in which it is located, as follows:
 - (a) Residence and business districts: three feet, not to exceed 100 square feet in area and does not exceed a height of 10 feet above grade; otherwise, five feet.
 - (b) Light industrial districts: 10 feet.
- (2) ~~Preexisting dwellings may be exempt from these requirements.~~ Nonenclosed outdoor dining structures within the B-1 and D-1 Districts shall not have minimum setback requirements from side and rear property lines, provided that such structures do not exceed 15 feet in height.

C. Height. No accessory structure shall be greater than 1 1/2 stories or a height of 20 feet above grade. ~~Preexisting dwellings may be exempt from these requirements.~~

D. Screening. Air-conditioner (A/C) condenser units and generators shall be properly screened from the street by planting of evergreen trees and shrubs and/or a berm and/or a permitted fence to provide an opaque visual barrier, provided that such shall be 100% visually impervious at all times of the year.

SECTION 7. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 8. If any portion of this ordinance shall be determined to be invalid, such determination shall not affect the validity of the remaining portions of said ordinance.

SECTION 9. This ordinance shall ordinance shall take effect upon final passage and publication in accordance with law and upon filing with the Middlesex County Planning Board.

Introduction: January 12, 2021
 Date of Publication: January 14, 2021

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
DELIA	<u>X</u>				KOSKOSKI	<u>X</u>			
HIRSCH	<u>X</u>				RASMUSSEN	<u>X</u>			
KANDEL	<u>X</u>				RUBIN	<u>X</u>			
MOTION	<u>KOSKOSKI</u>				SECOND	<u>RASMUSSEN</u>			

X – INDICATES VOTE	AB- ABSENT	NV- NOT VOTING
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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 _____, January 11, 2021.

 Susan D. Jackson, RMC
 Borough Clerk

Adopted:
 Date of Publication:

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
DELIA					KOSKOSKI				
HIRSCH					RASMUSSEN				
KANDEL					RUBIN				
MOTION					SECOND				
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 _____, February 8, 2021.

 Susan D. Jackson, RMC
 Borough Clerk

ATTEST:

BOROUGH OF METUCHEN

 Susan D. Jackson, RMC
 Borough Clerk

By: _____
 Jonathan M. Busch
 Mayor