

BOROUGH OF METUCHEN COUNCIL MINUTES
August 15, 2016
7:30 PM

The Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Monday, August 15, 2016.

The Meeting was called to order at 7:30 p.m. by Mayor Cammarano.

Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the Home News Tribune and Star Ledger on January 4, 2016, posted in Borough Hall and on file in the Clerk's Office. All requirements of the "Open Public Meetings Act" have been satisfied.

The Invocation was given by Mayor Cammarano and followed by the Pledge of Allegiance.

Present were Councilmembers Inserro, Muldoon, Rasmussen, Wallace, Council President Grayzel and Mayor Cammarano. Councilman Leibfried was absent. Also present were Jennifer Maier, Borough Administrator, Denis Murphy, Esq. and Susan Jackson, Borough Clerk.

Agenda Session

Council President Grayzel made a motion to open the Agenda Session, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0.

With no actions taken Mayor Cammarano asked for a motion to close the agenda session.

Council President Grayzel made a motion to close the Agenda Session, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0.

Regular Meeting

Presentation on the Dog Park featuring Stuart Schlossman, Chair and Freeholder Charles Tomaro

Mr. Schlossman, Chairperson stated that the committee is thrilled about how fast this park has opened and that there has been many residents using the park in the morning and evening. There has been great feedback from the public with only two issues being the lack of shade and that there are a few dogs are not well socialized. The public likes that there are poop bag stations and are always well supplied. He thanked the two Girl Scouts that started this concept of a dog park and their continued work on making it a reality.

Freeholder Tomaro thanked the dog committee for all working together to make this dog park a reality. He went over the construction plans of adding the shade stations and that Edison has a tree fund and will be planting more trees in both the large and small dog park. He spoke of the changes that have been made to the park. They are working on fixing the flooding that happens when it rains and there are plans for a children's playground. More guardrails will be added to protect the dog parks and playground area.

Council President Grayzel made a formal statement that the Dog Park Committee has agreed to reconstitute itself into an oversight committee. It will be a combination of the current Dog Park Committee members and members from Edison. They are greatly appreciative that the Council is so willing to stay involved in making the Park a great success. He thanked Freeholder Tomaro's efforts as well as the

County and making the Girl Scouts dream come true.

Mayor Cammarano stated that he is very impressed with how all three entities have worked together in making this dog park a reality.

Council Minutes

Council President Grayzel made a motion to approve the Borough Council minutes of July 18, 2016 second by Councilwoman Rasmussen, with all in favor, minutes were approved, 5-0.

Public Comment

Mayor Cammarano opened Public Comment to any members of the public wishing to speak.

Mark Geller, 56 Charles Street, Metuchen, spoke about the rats running through the back yards and the neighbors have great concerns with the increase of rat activities as well as the health concerns that the rats will bring. They also have concerns with damage to their properties. He asked if the Council is aware of this issue and what can be done.

Mayor Cammarano stated that they are aware of it and asked the Borough Administrator to address this.

Ms. Maier asked if everyone would please give their name, address, phone number and email before they leave, she will be able to stay in touch with them in the future. She stated that the Health Department went out to inspect the area and made the recommendation of calling pest control for the properties. Currently the issue is that the Borough doesn't know where they are coming from and will need to do more searching to find the source and then make a determination on how to get rid of the rats.

Councilwoman Inzerro stated that there is a Board of Health meeting on Tuesday and the Health Inspector should be attending and bringing this issue up. She also stated that it is illegal to put food out for wild animals and asked to check out the house that is doing this.

John Jockwer, 45 Charles Street, Metuchen, stated that he believes that the rats have eaten his entire garden and are leaving feces all over his deck. He suggested that the Health Office come onto his property to take some samples of the feces to determine if it from the rats.

Ms. Maier stated that the Health Officer cannot go on any private property without permission from the homeowner. She suggested that if the Borough has permission to go on their property please email her at jmaier@metuchen.com.

Ken Rubin, 6 Charles Street, Metuchen, asked if this has happen before and how was it taken care of.

Ms. Maier went over how the one rat issue on Metuchen was taken care of in the past. Mayor Cammarano stated that if there is any loose garbage around to secure it and to inform the Administrator if there are any signs of a rat burrow on the property. She asked that she along with the Health Inspector be allowed to go out to each property and inspect them to see if they can determine where the problem is stemming from and then work on getting rid of the rats properly.

Seeing no one else wishing to speak, Mayor Cammarano closed the Public Comment.

Ordinance – Public Hearing

Ordinance 2016-18

Council President Grayzel asked for the presentation of Affidavit of Publication for Ordinance 2016-18.

Borough Clerk presented the affidavit of publication stating that said Ordinance 2016-18 has been published one time in the Home News Tribune according to Law on July 21, 2016.

Council President Grayzel moved that the affidavit of publication be received and filed, second by Councilwoman Rasmussen, with all favor, the motion carried, 5-0.

Council President Grayzel asked Borough Clerk to read Ordinance 2016-18 by title.

Borough Clerk read Ordinance 2016-18 by title only

Ordinance 2016-18	Ordinance Rescinding Ordinance No. 2009-16, and Deleting a Designated Handicapped Parking Location on Highland Avenue from §185-34A of the Code of the Borough of Metuchen
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Mayor Cammarano opened the Public Hearing on Ordinance 2016-18.

Seeing no one wishing to speak, Mayor Cammarano closed Public Hearing.

Council President Grayzel made a motion to pass Ordinance 2016-18 on second reading and be published according to law, second by Councilwoman Rasmussen.

Mayor Cammarano asked for a roll call vote.

Roll Call: Inserro, Muldoon, Rasmussen, Wallace and Grayzel voted yes.

Ordinance 2016-18 was adopted, 5-0

ORDINANCE 2016-18

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

ORDINANCE RESCINDING ORDINANCE NO. 2009-16, AND DELETING A DESIGNATED HANDICAPPED PARKING LOCATION ON HIGHLAND AVENUE FROM § 185-34A OF THE CODE OF THE BOROUGH OF METUCHEN

WHEREAS, § 185-34 of the Code of the Borough of Metuchen provides for, among other things, the designation of Handicapped Parking with the Borough of Metuchen; and

WHEREAS, by way of Ordinance No. 2009-16, the Mayor and Council of the Borough of Metuchen added a designated location for On-Street Handicapped Parking on Highland Avenue; and

WHEREAS, after review it has been determined and recommended by the Metuchen Police Department that the handicapped parking space designated by Ordinance 2009-16, is no longer necessary on Highland Avenue, and should be removed from § 185-34.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen that it hereby rescinds Ordinance No. 2009-16 in its entirety; and

BE IT FURTHER ORDAINED by the Mayor and Council that Chapter 185 of the Code of the Borough of Metuchen, specifically Section 185-34A. On-Street Handicapped Parking is hereby amended, **deleting** the following location from the list of approved designated locations for On-Street Handicapped Parking:

<u>Street</u>	<u>Location</u>
Highland Avenue	North side of roadway beginning at a point 781 feet east of Main Street (C.R. 531) to a point 22 feet east therefrom.

BE IT FURTHER ORDAINED by the Mayor and Borough Council of the Borough of Metuchen that all Borough officials, employees and agents shall take all necessary actions in order to effectuate the within Ordinance, including but not limited to the removal of signs in and from the designated area.

BE IT FURTHER ORDAINED by the Council of the Borough of Metuchen that this ordinance and requirement thereof shall take effect after passage and publication as required by law.

Ordinance 2016-19

Council President Grayzel asked for the presentation of Affidavit of Publication for Ordinance 2016-19.

Borough Clerk presented the affidavit of publication stating that said Ordinance 2016-19 has been published one time in the Home News Tribune according to Law on July 21, 2016.

Council President Grayzel moved that the affidavit of publication be received and filed, second by Councilwoman Rasmussen, with all favor, the motion carried, 5-0.

Council President Grayzel asked Borough Clerk to read Ordinance 2016-19 by title.

Borough Clerk read Ordinance 2016-19 by title only

Ordinance 2016-19	An Ordinance Amending the Zoning Ordinance of the Borough of Metuchen to Address the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the Borough's Affordable Housing Obligations
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Mayor Cammarano opened the Public Hearing on Ordinance 2016-19.

Seeing no one wishing to speak, Mayor Cammarano closed Public Hearing.

Borough Council Meeting
August 15, 2016

Council President Grayzel made a motion to pass Ordinance 2016-19 on second reading and be published according to law, second by Councilwoman Rasmussen.

Mayor Cammarano asked for a roll call vote.

Roll Call: Inserro, Muldoon, Rasmussen, Wallace and Grayzel voted yes.

Ordinance 2016-19 was adopted, 5-0

Ordinance 2016-19

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

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE BOROUGH OF METUCHEN TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"), the Borough of Metuchen filed an action for declaratory judgment requesting that the Court declare that Metuchen has complied with its constitutional obligation to provide a realistic opportunity for the development of housing that is affordable to low- and moderate-income families and individuals; and

WHEREAS, in order to carry out such Constitutional obligation, the Code of the Borough of Metuchen is to be amended to include provisions addressing Metuchen's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units; and

WHEREAS, this Ordinance shall apply except where inconsistent with applicable law; and

WHEREAS, the Metuchen Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, the Housing Element and Fair Share Plan have been endorsed by the governing body; and

WHEREAS, this Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen as follows:

SECTION 1. Article 21 (Affordable Housing) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby repealed in its entirety and replaced with the following, which is hereby enacted:

§ 110-95.1. Filing of reports.

The Borough of Metuchen shall file such annual monitoring reports as may be directed by the Court regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan. The report shall be filed with the Middlesex County Superior Court and shall be available to the public at the Metuchen Municipal Building, Borough Clerk's Office, 500 Main Street, Metuchen, NJ 08840

§ 110-95.2. Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income for the applicable housing region.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

§ 110-95.3. Applicability

The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Metuchen pursuant to the Borough’s most recently adopted Housing Element and Fair Share Plan.

§ 110-95.4. Reserved

§ 110-95.5. Alternative Living Arrangements

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;

b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 110-95.6. Phasing Schedule for Inclusionary Zoning

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

§ 110-95.7. New Construction

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of median income) except for those units that have been approved and vested prior to 2008. The very low income units shall be counted as part of the required number of low income units within the development. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families. A maximum of 25 percent may be age restricted. At least half of the units in total shall be available to families.

b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.

c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;

2) At least 30 percent of all low- and moderate-income units shall be two bedroom units;

3) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

4) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

2. Accessibility Requirements:

a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

1) An adaptable toilet and bathing facility on the first floor; and

2) An adaptable kitchen on the first floor; and

3) An interior accessible route of travel on the first floor; and

4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

5) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Metuchen has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

b) To this end, the builder of restricted units shall deposit funds within the Borough of Metuchen's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

c) The funds deposited under paragraph 6) b) above shall be used by the Borough of Metuchen for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Metuchen for the conversion of adaptable to accessible entrances.

e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

3. Design:

a. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

b. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.

b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one and one-half person household;
- 3) A two-bedroom unit shall be affordable to a three-person household;
- 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
- 5) A four-bedroom unit shall be affordable to a six-person household.

f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
- 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95

percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

j. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

5. Multi-Family Zones:

a. Any property in the Borough of Metuchen that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside of 15 percent if the affordable units will be for rent and 20 percent if the affordable units will be for sale. The determination of a "sufficient compensatory benefit" shall be made by the reviewing authority based upon prevailing legislation and/or case law.

- b. Any townhouse, garden apartment or other multiple family residential development, including PURDS, containing five or more dwelling units shall comply with the following:
1. A minimum of 15 percent of the total number of units in a rental development shall be set-aside as affordable housing units with half being affordable to low income households and 13 percent shall be affordable to very low income households. If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5 percent then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of such affordable units yields a fractional unit of greater than 0.5, it shall count as one additional unit.
 2. A minimum of 20 percent of the total number of units in a for-sale development shall be set-aside as affordable housing units. If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5, then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of

such affordable units yields a fractional unit of greater than 0.5, it shall count as one additional unit.

6. No subdivision:

The subdivision of properties proposed for inclusionary residential developments or mixed use developments that will include affordable housing is prohibited as a means to circumvent the 50 year control period.

§ 110-95.8. Utilities

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ 110-95.9. Occupancy Standards

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

§ 110-95.10. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Metuchen takes action to release the unit from such requirements. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, provided that for any development of five units or more for which an application for development has not been filed as of the date of the adoption of this ordinance, the control period shall be 50 years.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 110-95.11. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

§ 110-95.12. Buyer Income Eligibility

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

2. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

§ 110-95.13. Limitations on Indebtedness Secured by Ownership Unit; Subordination

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

§ 110-95.14. Capital Improvements To Ownership Units

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 110-95.15. Control Periods for Restricted Rental Units

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Metuchen takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of

N.J.A.C. 5:80-26.1, as may be amended and supplemented, except for those units that have not yet received approvals such that the controls shall be for 50 years.

2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Middlesex. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

a. Sublease or assignment of the lease of the unit;

b. Sale or other voluntary transfer of the ownership of the unit; or

3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 110-95.16 Rent Restrictions for Rental Units; Leases

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15 percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§ 110-95.17. Tenant Income Eligibility

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.

b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

c. The household is currently in substandard or overcrowded living conditions;

d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

§ 110-95.18. Municipal Housing Liaison

1. The Borough of Metuchen shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Metuchen shall adopt an Ordinance creating the position of Municipal Housing Liaison. Metuchen shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Metuchen, including the following responsibilities which may not be contracted out to the Administrative Agent:

a. Serving as Metuchen's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

b. Monitoring the status of all restricted units in Metuchen's Fair Share Plan;

c. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;

d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

3. Subject to the approval of the Court, the Borough of Metuchen shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

§ 110-95.19 Administrative Agent

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:

a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Metuchen and the provisions of N.J.A.C. 5:80-26.15; and

b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

a. Soliciting, scheduling, conducting and following up on interviews with interested households;

b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and

f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Metuchen when referring households for certification to affordable units.

3. Affordability Controls:

a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Middlesex County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;

d. Communicating with lenders regarding foreclosures; and

e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resales and Rerentals:

a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and

b. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Requests from Unit Owners:

a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

c. Notifying the municipality of an owner's intent to sell a restricted unit; and

d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

a. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

c. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

e. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.

c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§ 110-95.20 Affirmative Marketing Requirements

1. The Borough of Metuchen shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 2 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Middlesex, Hunterdon and Somerset Counties.

4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of Metuchen shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 110-95.21 Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - 1) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - 2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Metuchen Affordable Housing Trust Fund of the gross amount of rent illegally collected;

3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

b. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

3) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified

purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§ 110-95.22 Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

SECTION 2. § 110-68 (R-2 Residential District) in Article 17 (Permitted Uses) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended by adding subsection C(3) to read as follows:

§ 110-68. R-2 Residential District

Principal, accessory and conditional uses shall be permitted and regulated in the R-2 Residential District as follows:

C. (3) Townhouses, pursuant to 110-87 BB , on the following lots only:

Block 132 Lots 10-27, 42-46, 49-51 & 52

SECTION 3. § 110-87 (Specific Conditions) in Article 18 (Conditional Uses) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended by adding subsection BB to read as follows:

BB Townhouses

Townhouses shall meet the following specific conditions:

- a) Minimum tract area shall be 20,000 square feet. For the purposes of calculating tract area, lots separated by street rights-of-way may be considered part of the same tract.
- b) Minimum frontage on Safety Place: two hundred fifty (200) feet.
- c) The design of the townhouse structures shall be oriented to front toward Safety Place and back toward the Northeast Corridor Railroad right-of-way.
- d) Townhouse structures shall have a minimum setback of 25 feet from any adjacent lot occupied by a single-family home.
- e) Parking for the townhouses may be located both on Safety Place and on portions of the tract located across Safety Place from the townhouse structures.
- f) Any accessory use permitted in an R-2 Residential District shall be a permitted accessory use.

SECTION 4. § 110-76 (B-2 Neighborhood Business District) in Article 17 (Permitted Uses) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended by adding subsection C(3) to read as follows:

§ 110-76. B-2 Neighborhood Business District

Principal, accessory and conditional uses shall be permitted and regulated in the B-2 Neighborhood Business District as follows:

C. (3) Courtyard Apartments, pursuant to 110-87 CC BB, on the following lots only:

Block 158 Lot 2

SECTION 5. § 110-87 (Specific Conditions) in Article 18 (Conditional Uses) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended by adding subsection CC to read as follows:

CC Courtyard Apartments

Courtyard Apartments shall meet the following specific conditions:

- a) Minimum tract area shall be 20,000 square feet.
- b) Minimum frontage: one hundred twenty five (125) feet on Main Street and frontage on any other street shall not be permitted.
- c) The design of the courtyard apartment structure shall be oriented to front internally on the site and frame a courtyard space oriented away from any adjacent lot occupied by a single-family home.
- d) Courtyard apartment structures shall have a minimum setback of 25 feet from any adjacent lot occupied by a single-family home.
- e) Any accessory use permitted in a B-2 Neighborhood Business District shall be a permitted accessory use.

SECTION 6. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 7. 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 8. This ordinance shall take effect upon final passage and publication in accordance with law and upon filing with the Middlesex County Planning Board.

Ordinance 2016-20

Council President Grayzel asked for the presentation of Affidavit of Publication for Ordinance 2016-20.

Borough Clerk presented the affidavit of publication stating that said Ordinance 2016-20 has been published one time in the Home News Tribune according to Law on July 21, 2016.

Council President Grayzel moved that the affidavit of publication be received and filed, second by Councilwoman Rasmussen, with all favor, the motion carried, 5-0.

Council President Grayzel asked Borough Clerk to read Ordinance 2016-20 by title.

Borough Clerk read Ordinance 2016-20 by title only

Ordinance 2016-20

An Ordinance to Amend the Code of the Borough of Metuchen, Chapter 87, to Amend Certain Fees

Mayor Cammarano opened the Public Hearing on Ordinance 2016-20.

Seeing no one wishing to speak, Mayor Cammarano closed Public Hearing.

Council President Grayzel made a motion to pass Ordinance 2016-19 on second reading and be published according to law, second by Councilwoman Rasmussen.

Mayor Cammarano asked for a roll call vote.

Roll Call: Inserro, Muldoon, Rasmussen, Wallace and Grayzel voted yes.

Ordinance 2016-20 was adopted, 5-0

ORDINANCE 2016-20

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

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF METUCHEN, CHAPTER 87,
TO AMEND CERTAIN FEES.**

BE IT ORDAINED by the Borough Council of the Borough of Metuchen, as follows:

Section 9. Section **87-20** of Chapter 87, **Fees, Article 11 – Recreation Program Fees**, of the Code of the Borough of Metuchen, is hereby amended to delete/add/change the permit fees to read as follows:

§ 87-20 – Fees Established.

<u>Programs</u>	<u>FEE</u>
DELETE:	
Christmas Story Bus Trips	\$50.00
Philadelphia Bus Trips	\$73.00
ADD:	
Bus Trips	\$50.00 to \$200.00, specific amount to be determined by the Recreation Director based on the total cost of the trip to the Borough

Communications Consent Agenda – Items A - G

Council President Grayzel made a motion to move Communication Consent Agenda, Items A - G Councilwoman Rasmussen second the motion, with all in favor, motion carried, 5-0

- A. Receive and Accept Block Party/Street Closing Request – Peltier Avenue – Sunday, September 4,

2016 (Rain Date: Saturday, September 10, 2016) from 12:00 – 10:00 PM

- B. Receive and Accept Shade Tree Commission Meeting Minutes of June 7, 2016 and July 5, 2016
- C. Receive and Accept TV & Technology Committee Meeting Minutes of January 28, 2016 and March 24, 2016
- D. Receive and Accept Arts Council Commission Meeting Minutes of June 27, 2016
- E. Receive and Accept Metuchen Environmental Commission Meeting Minutes of June 15, 2016
- F. Receive and Approve Chapter 233 of the American Veterans of America 24-Hour Vigil at Metuchen Military Park starting at noon on Friday, September 16, 2016 to 10:00 AM on Saturday, September 17, 2016.
- G. Receive and Approve “Turn the Towns Teal” Campaign for Ovarian Cancer for September 2016

Reports of Councilmembers

Mayor Cammarano opened Reports of Councilmembers.

Council President Grayzel –

- Metuchen Arts Council presents Metuchen Rocks! A free summer concert series presents Miss Laurie Ann & the Saddletones on Thursday, August 18th at 7:30 PM at the Senior Center followed on August 25th with the Lowlight with Renee Maskin (Indie Rock) at 7:30. Please come out and support the concerts.
- The Children’s Film Festival will be at Oakland Park on Saturday, August 20th at 7:30 PM featuring the Toy Story and Princess Bride. Bring your blankets and enjoy the evening. It is free to the public.

Councilwoman Inzerro –

- The Board of Health will be meeting tomorrow night in Borough Hall at 7:30 PM.
- Metuchen Municipal Alliance will be meeting again in September. She thanked all the volunteers, EMS, Police, Fire, the vendor and all the community groups that came out to National Night Out at the Pool, which was a great venue for the night.
- The Senior Commission will be meeting on Wednesday afternoon
- The senior fundraiser will be this fall.
- There is an effort to donate school supplies through “Be the Change”. There is a variety of stores downtown that will be collecting the supplies through Saturday. Go to the website to view more information.

Councilman Muldoon –

- Another effort to improve pedestrian safety for all the residents will be taking place this week on Main Street. The Borough has been selected by Keep Middlesex Moving (KMM) to be the first installation of a new program they have called “Paint the Pavement”. This program is to help educate the public of the dangers of distracted walking at intersections. The program will be using images and messages painted on the sidewalk. There was a contest to select the designs to be used and five were selected. One of the designs will be used and painted by the artist here in Metuchen at the corner of Main and Hillside this Thursday morning at 9:00 AM.
- He thanked KMM for all their work that they have done in Metuchen, for their support and continued relationship.

- The Parking Authority will be meeting tomorrow at 7:30 PM in Borough Hall. They will be getting an update on the design for the Signage and Way Finding System. They are planning on having the vendor who is proposing the design come to the 2nd September Council meeting.

Councilwoman Rasmussen –

- Green Team has been working on the Sustainable Jersey application. They had a meeting last week and are very excited about the projects that they will be focusing on. The application will be submitted on September 11th.
- Trees are still available at her house. She has about 55 small trees to give away. They include Willow Oaks, Northern Red Oaks and Red Maples. Send her an email and make arrangements to get one of these free trees.

Councilman Wallace – has no report at this time.

Reports of Officers

Denis Murphy, Esq. – has not report at this time.

Jennifer Maier, Administrator –

- The final logo has been submitted to Amtrak for the train trestle. We are just waiting for their final approval of the logo itself as the painting of the trestle has already been approved.
- Repairs to the Borough parks will begin next week.
- DPW power washed all around the train trestle and the clearing of the hill below Colonial Cemetery.
- An Eagle Scout would like to build a community garden at Kentnor Park. He will be meeting with Borough Officials next week.
- The grant for Safety Improvements on Main Street, which includes height detectors for trucks, intersection improvements at Woodbridge Ave. and Talmadge Ave. and basically anything to do with pedestrian/bike/car safety.

Report of Mayor –

- Thanked the Sportsplex for providing a cooling station at the facility this past week for residents 24 hours a day. They provided keys to the facility to the Police for their off hours. Fortunately it was not needed but if there are any residents who might need it please call the non-emergency phone number.
- He also thanked the Fire Department for a lot of the cooling they have been doing at different events around the Borough. They have been going above the call of their duty for the community.
- He has received an initial draft proposal for the alternate truck routes in order to ban trucks on Main Street. The process is to present the proposal, then it must be submitted to the County and then it will have to go to the NJDOT for final approval. The Borough has to provide how the trucks will get around the Borough. The surrounding towns will have to be notified as this could impact them.
- Mayor had a briefing on the proposal to rehabilitate Oakland Park. It is in the planning phase and will be moving forward with the changes starting in the fall.

New Business – Resolutions 2016-182 through 2016-196

Council President Grayzel moved New Business Consent Agenda – Resolution 2016-182 through R2016-196, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0

RESOLUTION 2016-182

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

RESOLUTION ENDORSING THE 2016 HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued its decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”). In that decision, the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council on Affordable Housing (“COAH”) to the New Jersey Superior Court and established a transitional process for municipalities like the Borough of Metuchen to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans (“HEFSPs”) to be constitutionally compliant and seeking similar protections to what they would have received if they had continued to proceed before COAH; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and Mount Laurel IV, the New Jersey Superior Court has the authority to enter an Order granting protection and repose against exclusionary zoning litigation to a municipality that is in compliance with its affordable housing obligations under the Fair Housing Act, N.J.S.A. 52:27D-301, et seq.; and

WHEREAS, on July 2, 2015, the Borough of Metuchen (“Borough”) filed a declaratory judgment action under docket number MID-L-4012-15 with the New Jersey Superior Court, Middlesex County (“the DJ action”) seeking to declare its HEFSPs as being constitutionally compliant and seeking protection and repose against exclusionary zoning litigation for a ten (10) year period; and

WHEREAS, the Superior Court of New Jersey has ordered that municipalities that have filed declaratory judgment actions must submit updated HEFSPs that address their affordable housing obligations as calculated by their respective municipal experts; and

WHEREAS, the Borough’s Affordable Housing Consultant, Shirley M. Bishop, PP, has prepared an updated HEFSP that addresses the Borough’s affordable housing obligation (the “2016 HEFSP”); and

WHEREAS, the Borough has tentatively reached agreement as to the Borough’s obligation for providing affordable housing and the methodology and strategies for meeting that obligation; and

WHEREAS, by resolution dated April 14, 2016, the Borough Planning Board endorsed, prior to the Fairness Hearing, the HEFSP; and

WHEREAS, the Planning Board, at a meeting held on April 14, 2016, reviewed the 2016 HEFSP and determined that implementation of the 2016 HEFSP is in the public interest and would promote the general welfare and, by Resolution dated April 14, 2016, endorsed the 2016 HEFSP and, resolved that if the 2016 HEFSP is approved by the Court, the Planning Board will promptly adopt the 2016 HEFSP as an amendment to the Master Plan of the Borough of Metuchen; and

WHEREAS, the Planning Board recommended by said resolution that the Mayor and Council of the Borough of Metuchen similarly endorse the 2016 HEFSP and, if the 2016 HEFSP was approved by the Court, that the Mayor and Council accept the 2016 HEFSP and adopt such legislation as is necessary to implement the 2016 HEFSP; and

WHEREAS, pursuant to Order dated April 1, 2016 in the DJ action, the Court held a Fairness Hearing on May 12, 2016, at which time the Court tentatively determined that the Borough's proposed HEFSP satisfies the Borough's obligation to provide a realistic opportunity to satisfy its Rehabilitation, Prior Round and Third Round "fair share" of the regional need for housing affordable to low income and moderate income households pursuant to the Fair Housing Act, *N.J.S.A. 52:27D-301, et seq.*, the substantive, applicable regulations of the New Jersey Council on Affordable Housing ("COAH"), Mount Laurel IV and other applicable laws; and

WHEREAS, the Planning Board reserved the right to amend the 2016 HEFSP, if necessary, after the receipt of any decisions rendered by the New Jersey Superior Court regarding the methodology to calculate municipal affordable housing obligations; and

WHEREAS, by Resolution dated July 21, 2016, the Planning Board adopted the 2016 HEFSP as an amendment to the Master Plan of the Borough of Metuchen and recommended that the Mayor and Council adopt and implement same; and

WHEREAS, by said resolution, the Planning Board also recommended that the Mayor and Council adopt an Affordable Housing Ordinance to implement the HEFSP;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey, on this 15th day of July, 2016, that:

1. The Borough Council hereby agrees to implement the 2016 HEFSP that has been adopted by the Planning Board, and which has received tentative approval of the Superior Court of New Jersey by Order dated May 12, 2016; and
2. The Borough Council hereby endorses the 2016 HEFSP as adopted by the Planning Board as an amendment to the Borough's Master Plan and agrees to implement the HEFSP by adopting Affordable Housing Ordinance, Ordinance Number 2016-19; and
3. The Mayor, Borough Administrator, and Borough Clerk, together with all other officers, professionals and employees of the Borough are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.
4. This Resolution shall take effect immediately.

RESOLUTION 2016-183

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

**RESOLUTION AUTHORIZING PURCHASE FROM EDUCATIONAL SERVICES COMMISSION
OF NEW JERSEY FOR REGULAR UNLEADED AND DIESEL FUEL**

WHEREAS, there exists a need to purchase regular unleaded and diesel gasoline for the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and

WHEREAS, this can be purchased through the Middlesex Regional Educational Services Commission #13/14-22 pursuant to the provisions of NJSA 40A:11-11 (5); and

WHEREAS, said contract is in effect from October 21, 2015 through October 20, 2016; and

WHEREAS, the maximum amount of the purchase of regular unleaded gasoline and diesel fuel for the Borough of Metuchen is not to exceed \$200,000 and funds will be available in the 2016 budget as evidenced by the Chief Financial Officer's Certification of which an additional \$50,000.00 is certified from the 2016 budget; and

WHEREAS, the Educational Services Commission of New Jersey shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and all other provisions of the revised statutes.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

1. The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a Purchase Order to National Fuel Oil Inc., 175 Orange Street, Newark, NJ 07103.

RESOLUTION 2016-184

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

**RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE AND CASH PORTION BOND
GUARANTEE – 175-177 CENTER STREET –
FOX & FOXX DEVELOPMENT, LLC – PG13-981**

WHEREAS, Fox & Foxx Development, LLC, has requested a refund of the performance bonds PG13-981 located at 175-177 Center Street, Metuchen; and

WHEREAS, the Borough Engineer in a letter dated February 25, 2015 and a memo from the Zoning Officer dated June 11, 2015 has reported that the contract has been completed in an acceptable manner; and

WHEREAS, Maser Consulting, P.A. and the Borough of Metuchen Zoning Officer recommended the full release of the Performance Guarantee in the amount of a surety bond of \$10,800.00 and a cash bond of \$1,200.00 which had been posted on May 31, 2014; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen that the Chief Financial Officer and Borough Clerk are hereby authorized and directed to release said Performance Bonds of a surety bond in the amount \$10,800.00 and a cash bond of \$1,200.00 as recommended and directed by the Borough Engineer and Zoning Official to Fox & Foxx Development, LLC, 940 Amboy Avenue, Edison, New Jersey, 08837 upon final approval of the Borough Administrator and Legal Counsel.

RESOLUTION 2016-185

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

RESOLUTION AUTHORIZING PROMOTION OF SERGEANT

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Metuchen that *Peter M. Knoll*, be and he is hereby promoted to Sergeant in the Metuchen Police Department for the Borough of Metuchen, Middlesex County, State of New Jersey in accordance with law and said appointment being effective August 15, 2016.

RESOLUTION 2016-186

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

**RESOLUTION AUTHORIZING THE ESTABLISHMENT OF AN OVERSIGHT COMMITTEE
FOR THE EDISON/METUCHEN DOG PARK**

WHEREAS, the County of Middlesex, the Township of Edison and the Borough of Metuchen have entered into Joint Agreement to build and maintain a dog park located at Whitman Avenue in Edison Township, N.J. and the Township of Edison and the Borough of Metuchen, charged with maintaining the dog park, do hereby establish a Oversight Committee comprised of citizens and officials from the respective communities that shall meet periodically, review the status of the dog park and make recommendations to the governing bodies, the Edison Township and Borough of Metuchen councils.

NOW, THEREFORE, BE IT RESOLVED, the Metuchen residents who shall be members of the Oversight Committee and a co-chair shall be appointed by the Mayor of Metuchen for a three year term; and

BE IT FURTHER RESOLVED, the Edison residents who shall be members of the Committee and a co-chair shall be appointed by the Mayor of Edison for a three year term; and

BE IT FURTHER RESOLVED, the Oversight Committee shall continue to exist until such time as it is dissolved by the governing bodies of the Township of Edison and the Borough of Metuchen.

RESOLUTION 2016-187

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

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #15-043
513 WEST CHESTNUT AVENUE**

WHEREAS, Deborah Colegrove posted \$48.00 for sidewalk escrow fees for 513 West Chestnut Avenue; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Deborah Colegrove,

NOW, THEREFORE, BE IT RESOLVED, that Deborah Colegrove be refunded

\$48.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2016-188

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

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #16-014
16 BEVERLY COURT**

WHEREAS, Peter Kolchmeyer posted \$300.00 for apron and sidewalk escrow fees for 16 Beverly Court; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Peter Kolchmeyer,

NOW, THEREFORE, BE IT RESOLVED, that Peter Kolchmeyer be refunded \$300.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2016-189

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

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #16-018
15 WEST CEDAR STREET**

WHEREAS, Rebecca Klein posted \$48.00 for sidewalk escrow fees for 15 West Cedar Street; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Rebecca Klein,

NOW, THEREFORE, BE IT RESOLVED, that Rebecca Klein be refunded \$48.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2016-190

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

**RESOLUTION AUTHORIZING PROCESS AND SUBMISSION OF FOLLOWING 2016 GRANT –
PEOPLE FOR BIKES GRANT**

WHEREAS, the Borough of Metuchen, County of Middlesex, State of New Jersey desires to further the public interest by obtaining the following grant from the State of New Jersey;

People for Bikes Grant

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen as follows:

- 1) The Borough of Metuchen does hereby authorize Jennifer Maier, Metuchen Borough Administrator, to prepare and submit the grant applications and if awarded, to execute all grant agreements of the following grant: People for Bikes Grant

RESOLUTION 2016-191

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

RESOLUTION AUTHORIZING THE CANCELLATION OF TAX SALE LIEN

WHEREAS, the Tax Collector received the necessary amount to redeem the following Tax Sale Certificate on the following property:

<u>Cert #</u>	<u>Block/Lot</u>	<u>Address</u>	<u>Lienholder</u>
15-00003	126.5/21	404 Wakefield Drive	US Bank Cust BV001 Trust/Crdtrs

BE IT FURTHER RESOLVED that the Tax Collector be authorized to cancel this lien from the municipal record.

RESOLUTION 2016-192

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

RESOLUTION AUTHORIZING THE CANCELLATION OF TAX SALE LIEN

WHEREAS, the Tax Collector received the necessary amount to redeem the following Tax Sale Certificate on the following property:

<u>Cert #</u>	<u>Block/Lot</u>	<u>Address</u>	<u>Lienholder</u>
13-00001	3/145	46 Willow Road	US Bank Cust Pro Cap III LLC

BE IT FURTHER RESOLVED that the Tax Collector be authorized to cancel this lien from the municipal record.

RESOLUTION 2016-193

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

RESOLUTION RECOGNIZING COMPANION ANIMALS IN THE COMMUNITY PLEDGE

WHEREAS, recognizing that cats and dogs are an integral and valuable part of all communities, and contribute to the well-being of humans, whether as companions, service animals, or therapy pets; and

WHEREAS, understanding that municipalities have an important role in ensuring the well-being of animals while balancing the needs of pet owners and non-pet owners; and

WHEREAS, legislators and municipal officials report that the number of calls from citizens about animal related issues rival any other issues(s); and

WHEREAS, there are approximately 2.2 million owned dogs and 2.5 million owned cats in New Jersey; and

WHEREAS, New Jersey was the first state in the nation to develop an innovative state-wide spay/neuter program and all proceeds from the sale of Animal Friendly License Plates are used to reimburse participating veterinarians for spaying and neutering surgeries; and

WHEREAS, State responsibility for promoting responsible pet care and ensuring that pets do not suffer due to abuse, neglect, or lack of proper care in kennels, pet shops, shelters, and pounds (animal facilities) is vested in the Office of Animal Welfare within the New Jersey Department of Health and Senior Services; and

WHEREAS, the New Jersey Society to Prevent Cruelty to Animals (NJSPCA) and municipal Animal Cruelty Investigators (ACIs) are responsible for investigating and acting as officers for the detection, apprehension, and arrest of offenders against the animal cruelty laws; and

WHEREAS, New Jersey mandates training requirements for Animal Control Officers and Animal Cruelty Investigators; and

WHEREAS, New Jersey impounds over 100,000 animals per year in animal shelters and impoundment facilities; and

WHEREAS, approximately 37% of the animals that enter New Jersey's impoundment facilities are euthanized, at a rate of around 3,000 per month; and

WHEREAS, free-roaming unvaccinated cats and dogs present a potential health threat to humans through the spread of such zoonotic diseases as rabies, leptospirosis, toxoplasmosis, roundworms, animal bites, and environmental contamination from animal feces; and

WHEREAS, stray and unwanted pets place an enormous financial burden on municipalities and non-profit humane agencies organized to care for these animals; and

WHEREAS, it is more humane and cost-effective to reduce the number of unwanted animals than it is to impound and euthanize unwanted or unclaimed dogs and cats; and

WHEREAS, all dogs are required to be licensed in the municipality where they are housed and the majority of municipalities also require licensure of cats. Current vaccination against rabies is a prerequisite to licensure; and

WHEREAS, all municipalities are required to canvass their residents to locate unlicensed dogs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen, resolve to take the following steps with regard to our municipal responsibilities with the intent of making Metuchen a truly sustainable community; and

BE IT FURTHER RESOLVED, it is our intent to do our utmost, within the bounds of our jurisdiction, to ensure that companion animals are treated humanely, respectfully, and responsibly through public education and through exercise of powers vested within New Jersey municipalities as follows:

1. Pursuant to New Jersey Statutes, all municipalities must appoint a certified animal control officer who shall be responsible for animal control within the jurisdiction of the municipality, including providing emergency veterinary care for injured stray animals and coverage outside of normal working hours;
2. The municipality in which an animal facility is located is responsible for issuing the license for that facility to operate;
3. The New Jersey Vicious Dog Law establishes a state-wide standard for municipalities to effectively address situations of vicious or potentially dangerous dogs, regardless of breed;
4. The Animal Population Control Program provides for low-cost spaying and neutering for pet owners adopting dogs and cats from New Jersey shelters, pounds, and animal adoption referral agencies and pet owners participating in one of several Public Assistance Programs.

The Municipality pledges to:

1. Enforce all animal and rabies control statutes and regulations, including the requirement to pick up and impound all stray dogs and cats, excepting stray and feral cats in managed TNR programs.
2. Work to improve the enforcement of animal cruelty statutes.
3. Educate our community, including school children, about their responsibilities towards the pet animals they chose to keep.
4. Institute, as appropriate, cat licensing ordinances and increase the percentage of licensed dogs and cats through ease of licensing and licensing enforcement measures.
5. Identify and work to implement best practices to prevent unwanted breeding through effective animal control, availability of low-cost pet spaying and neutering services, public education, and pet-friendly rental and senior housing.
6. Identify alternatives to euthanasia of adoptable companion animals, including utilizing foster homes, adoption networks and providing remedial behavior training services to existing and future owners.
7. Assist in identifying resources to improve the conditions and increase the capacity of animal shelters and impoundment facilities and animal control services.

RESOLUTION 2016-194

Borough of Metuchen

*County of Middlesex
State of New Jersey*

**RESOLUTION AUTHORIZING BID AWARD FOR 2016 AFFORDABLE HOUSING
REHABILITATION PLAN ADMINISTRATOR**

WHEREAS, bids were received by the Borough Administrator on July 15, 2016 for the 2016 Affordable Housing Rehabilitation Plan Administrator for the Borough of Metuchen; and

WHEREAS, it has been determined to approve an award for Phase I only – Program Planning Manual with Marketing Procedures and Form – with no further implementation of remaining items of bid award; and

WHEREAS, the Chief Financial Officer has determined and certified in writing that sufficient funds will be available in the COAH Trust in the maximum amount of \$3,500.00.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, County of Middlesex, State of New Jersey that the contract for 2016 Affordable Housing Rehabilitation Plan Administrator in the amount of \$3,500.00 be and the same is hereby awarded to Triad Associates, 1301 W. Forest Grove Road, Vineland, NJ 08360.

BE IT FURTHER RESOLVED, that the Mayor and the Borough Clerk are hereby authorized and directed to execute the contract for the same.

RESOLUTION 2016-195

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

**APPOINTING AND AUTHORIZING AN AGREEMENT FOR SPECIALIZED
CONSULTANT SERVICES FOR ADMINISTRATIVE AGENT SERVICES
FOR THE AFFORDABILITY ASSISTANCE PROGRAM**

WHEREAS, there exists the need for specialized consultant services for Administrative Agent Services for the Affordability Assistance Program; and

WHEREAS, Piazza and Associates sent their proposal, dated August 11, 2016, for Administrative Agent services for the Affordability Assistance Programs for the year 2016; and

WHEREAS, the proposal was reviewed and evaluated by Borough Administrator; and

WHEREAS, it is the recommendation of the Borough Administrator that a contract for consultant service be awarded to Piazza and Associates; and

WHEREAS, the cost for the proposed services shall not exceed \$6,000.00 without further approval by the Borough Council; and

WHEREAS, funds for this purpose will be made available in the COAH Trust Fund; and

WHEREAS, the anticipated term of this contract is for the balance of 2016, and it may only be renewed upon further action of the Borough Council; and

WHEREAS, this contract is awarded as a “non-fair and open contract” pursuant to and in accordance with the Local Unit Pay-to-Play Law.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Borough Council of the Borough of Metuchen that the Mayor is authorized to execute and the Borough Clerk to attest an agreement between the Borough of Metuchen and Piazza and Associates, 216 Rockingham Row, Princeton Forrestal Village, Princeton, NJ 08540 for specialized consultant services for the year 2016.

RESOLUTION 2016-196

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

**RESOLUTION AUTHORIZING PROCESS AND SUBMISSION OF FOLLOWING 2016 GRANT –
RECREATIONAL TRAILS PROGRAM**

WHEREAS, the Borough of Metuchen, County of Middlesex, State of New Jersey desires to further the public interest by obtaining the following grant from the State of New Jersey;

Recreational Trails Program

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen as follows:

- 1) The Borough of Metuchen does hereby authorize Jennifer Maier, Metuchen Borough Administrator, to prepare and submit the grant applications and if awarded, to execute all grant agreements of the following grant: Recreational Trails Program

Other New Business

Council President Grayzel made a motion to approve R2016-197; authorizing the Payment of the Bill List in the amount of \$6,561,253.33, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0.

RESOLUTION 2016-197

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

RESOLUTION AUTHORIZING THE PAYMENT OF THE BILL LIST

BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen that the proper warrants be drawn and all bills be paid totaling \$6,561,253.33

I, Rebecca Cuthbert, Chief Financial Officer of the Borough of Metuchen do hereby certify that funds are available for the payment of bills for the Borough of Metuchen.

Building Subcode Official	\$ 30.00	\$ 50.00	day
Building Inspector	\$ 90.00	\$ 120.00	day
Alternate Subcode Officials	\$ 28.00	\$ 50.00	day
Alternate Inspectors	\$ 86.00	\$ 120.00	day

2. Additional compensation by way of holiday pay, longevity, overtime, sick days, personal days, insurance benefits for full time employees not covered in collective bargaining agreements are fully set forth in the Personnel Resolution and amendments thereto previously adopted by the Borough Council and are hereby incorporated in this Ordinance.

Section 6 –

3. No officer or employee shall be paid at a base rate which is above the maximum rate for any salary range in any of the aforementioned groups. Unless otherwise provided for all new employees or newly promoted employees shall be paid at the minimum rate of the salary range for the position to which they are hired. However, the Borough Administrator may hire a prospective employee who possesses qualifications that are greater than the minimum qualifications for the position at a rate above the minimum rate, but in no case shall a new employee be hired at a rate which is greater than that of a current employee in the same group.

4. If any portion of this ordinance is in conflict with any portion of a collective bargaining agreement, then the collective bargaining agreement shall take precedence.

5. All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

6. This ordinance shall take effect after its publication according to law and the amendments contained herein shall be retroactive to January 1, 2016.

Appointments

Council President Grayzel made a motion to appoint Mayor Cammarano's nomination of the following Borough of Metuchen Residents to be appointed to the Joint Oversight Committee for Edison/Metuchen Dog Park for a term expiring on 12/31/2018, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0

Stuart Schlossman	Amy Brooks
Abigail Brooks	Margaret Cook
Evelyn Fuyertes	Jeanne Guarnieri
Lilith Hoover	William Hoover
Suzanne Kay	Jacqueline Morris
Michael Lombardi	Lenny Sendelsky
Debra Kaufman	

Public Session

Mayor Cammarano opened Public Session to anyone wishing to speak on new items only.

Bill Allen, 69 Kentnor Street, Metuchen, asked as to the progress for Kentnor Park.

Borough Council Meeting
August 15, 2016

Ms. Maier stated that improvements will be starting next week at Kentnor Park. All the financial components are in place and the DPW will be ordering the materials. She stated that the Eagle Scout will be working on a community garden at Kentnor Park.

Mr. Allen asked that the community garden be looked into because he doesn't believe that a community garden is allowed. He would like to see a shade shelter at Kentnor Park.

Seeing no one else wishing to speak, Mayor Cammarano closed the Public Session.

Adjournment

Council President Grayzel made a motion to adjourn the meeting, second by Councilwoman Rasmussen, with all in favor; the meeting was adjourned at 8:16 pm, 5-0.

Respectfully Submitted,

Susan D. Jackson, RMC
Metuchen Borough Clerk