

BOROUGH OF METUCHEN COUNCIL MINUTES

June 26, 2023

7:30 PM

The Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Monday, June 26, 2023.

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

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 December 21, 2022, posted in Borough Hall, and on file in the Clerk's Office. All requirements of the "Open Public Meetings Act" have been satisfied.

Mayor Busch asked all to rise for the flag salute.

The Councilmember formerly known as Dorothy Rasmussen announced that, following her marriage in January 2023, she has legally changed her name to Dorothy Giamboi.

Roll Call

Mayor Busch asked for a roll call.

Present were Councilmembers Branch, Giamboi, Hirsch, Hyman, Council President Delia, and Mayor Busch. Councilmember Kandel was absent. Also present were Borough Administrator Melissa Perilstein, Borough Clerk Deborah Zupan, and Borough Attorney Denis Murphy.

Agenda Session

Council President Delia made a motion to open the Agenda Session, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

With no actions taken, Council President Delia made a motion to close the Agenda Session, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

Public Comment

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

Isacc Kremer, 63 McCoy Avenue, commented on the state of Metuchen's Imagination Alley, and that efforts should be made to maintain and improve this community space.

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

Communications Consent Agenda – Items A - B

Council President Delia made a motion to approve Communications Consent Agenda, Items A - B, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

- A. Receive and Accept Arts Council Meeting Minutes of March 20 and April 17, 2023
- B. Receive and Accept Library Board Meeting Minutes May 9, 2023

Ordinances – Public Hearing

Chris Cosenza, of the Borough's Planning firm LRK, gave a presentation on the redevelopment plan for the expanded Arts District.

Ord. 2023-16

ORDINANCE OF THE BOROUGH OF
METUCHEN ADOPTING A REDEVELOPMENT
PLAN FOR THE EXPANDED ARTS DISTRICT
WITHIN THE BOROUGH OF METUCHEN,
COUNTY OF MIDDLESEX, STATE OF NEW
JERSEY

Council President Delia asked that Ordinance 2023-16 be read by title only.

Ms. Zupan read Ordinance 2023-16 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-16.

Loren Schnitzer, 19 Tulsa Avenue, thanked everyone who worked on this ordinance and the plan, then asked that the input of residents living close to the district be considered. Ms. Schnitzer also expressed concern about the location of the proposed five-story parking structure, and what the noise regulations would be. Finally, she offered to volunteer to help with the project if needed.

Nancy Zerbe, 81 Rector Street, commented that, regarding redevelopment plans, it was a redevelopment planned that allowed she and her husband to purchase and save 443 Middlesex Avenue. As Chair of the Historic Preservation Committee, Ms. Zerbe commented on the importance of preservation, and voiced her hopes that the Forum Theater would be preserved in the redevelopment. Ms. Zerbe also shared the recent activities and accomplishments of the Historic Preservation Committee.

Nino LaStella, 242 Amboy Avenue, questioned how much time was spent on the plan as it seemed to come up rather suddenly. Mayor Busch assured him this is something that has been being considered for years and provided some background.

Linda LaStella, 242 Amboy Avenue, expressed how pleased she was about the beginning of this process, and asked for updates regarding the abandoned gas station next to the theater. Mayor Busch provided some general information about this process.

Sarah Hannah, 17 Tulsa Avenue, also commented on the gas station next to the Forum. She observed that some EPA testing had taken place there and asked about the timeline regarding this property. Mayor Busch provided some general information about this process.

Seeing no one else wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-16 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Ordinance 2023-16 was adopted, 5-0.

ORDINANCE 2023-16

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

**ORDINANCE OF THE BOROUGH OF METUCHEN ADOPTING A REDEVELOPMENT PLAN
FOR THE EXPANDED ARTS DISTRICT WITHIN THE BOROUGH OF METUCHEN,
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY**

WHEREAS, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL"), via Resolution No. 2020-46, adopted on January 13, 2020, the Borough Council of the Borough of Metuchen (the "Borough Council") designated Block 183.02, Lots 1, 2, 3, 4, portion of 5.01, 5.02, 6, 7, 8, 31 and 32 ("Original Arts District Redevelopment Area") as a "Condemnation Area in Need of Redevelopment"; and

WHEREAS, the Borough Council, pursuant to Resolution No. 2020-50, designated the entire Borough of Metuchen, County of Middlesex, including Block 145, Lots 2, 6, 9, 13.01, 17.01, 18.02, 18.03, 21, 23, 27, 34, 38, 42.01, 42.03, 50.05, 78, 85-94, which in conjunction with the Original Arts District

Redevelopment Area is known as the “Expanded Arts District”, an “Area in Need of Rehabilitation” pursuant to N.J.S.A. 40A:12A-1 et seq. (the “Rehabilitation Area”); and

WHEREAS, in order to facilitate the redevelopment of the Rehabilitation Area, the Council adopted Ordinance 2020-10 on May 26, 2020, adopting a redevelopment plan entitled “Redevelopment Plan for Rehabilitation in the Borough of Metuchen, dated March 2020, (“Original Redevelopment Plan”) after review by the Borough Planning Board (the “Planning Board”), pursuant to N.J.S.A. 40A:12A-7; and

WHEREAS, in order to appropriately effectuate the comprehensive rehabilitation and redevelopment of the Expanded Arts District, the Borough has determined that adoption of a more specific redevelopment plan for the Expanded Arts District is necessary and has prepared a redevelopment plan entitled, “Expanded Metuchen Arts District Redevelopment Plan, Block 183.02, Lots 1-4, portion of 5.01, 5.02, 6-8, 31-32; and, Block 145, Lots 2, 6, 9, 13.01, 17.01, 18.02, 18.03, 21, 23, 27, 34, 38, 42.01, 42.03, 50.05, 78, 85-94, Borough of Metuchen, Middlesex County, New Jersey” prepared by LRK, Inc. (the “Expanded Arts District Redevelopment Plan”) which sets forth, inter alia, the plans for the planning, development, redevelopment, and rehabilitation of the Expanded Arts District; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, a governing body may adopt, revise or amend a redevelopment plan; and

WHEREAS, in order to facilitate the rehabilitation and redevelopment of the Expanded Arts District, the Planning Board, pursuant to N.J.S.A. 40A:12A-7, reviewed the Expanded Arts District Redevelopment Plan which will support and promote the adaptive reuse, rehabilitation and redevelopment of the Expanded Arts District; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, the Planning Board recommended to the Borough Council that the Expanded Arts District Redevelopment Plan, which is on file with the Borough Clerk’s office, be adopted, as it provides for the planning, development, redevelopment, and rehabilitation of the Expanded Arts District and is consistent with the Borough Master Plan; and

WHEREAS, the Expanded Arts District Redevelopment Plan shall supersede the development regulations of the Borough’s Zoning Ordinance, to the extent set forth therein and the Borough Zoning Map is hereby amended to conform with the provisions of the Expanded Arts District Redevelopment Plan and for those portions of the zoning set forth in the Expanded Arts District Redevelopment Plan that constitute overlay zoning, no zoning map amendment is necessary; and

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to adopt the Expanded Arts District Redevelopment Plan, as recommended by the Board, to effectuate the rehabilitation and redevelopment of the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Metuchen, Middlesex County, State of New Jersey, as follows:

Section 1. The Borough hereby adopts the “Expanded Arts District Redevelopment Plan” to facilitate the rehabilitation and redevelopment of the Borough of Metuchen.

Section 2. The Borough Council declares and determines that said Expanded Arts District Redevelopment Plan meets the criteria, guidelines, and conditions set forth in N.J.S.A. 40A:12A-7, provides realistic opportunities for the rehabilitation and redevelopment of the Borough, and is otherwise in conformance with N.J.S.A. 40A:12A-1, et seq.

Section 3. The Borough Council shall have, be entitled to, and is hereby vested all power and authority granted by the aforementioned statutory provisions to effectuate the Expanded Arts District Redevelopment Plan.

Section 4. The Expanded Arts District Redevelopment Plan shall supersede the development regulations of the Borough’s Zoning Ordinance, to the extent set forth therein and the Borough Zoning Map is hereby amended to conform with the provisions of the Expanded Arts District Redevelopment Plan and for those portions of the zoning set forth in the Expanded Arts District Redevelopment Plan that constitute overlay zoning, no zoning map amendment is necessary.

Section 5. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 6. In the event any clause, section or paragraph of this Ordinance is deemed invalid or unenforceable for any reason, it is the intent of the Borough Council that the balance of the Ordinance remains in full force and effect to the extent it allows the Borough to meet the goals of the Ordinance.

Section 7. This Ordinance shall take effect after final adoption and publication according to law.

Ord. 2023-17

ORDINANCE AMENDING SECTION 110-101 (CORNER LOTS), SECTION 110-112.2 (FENCES AND WALLS), 110-112.3 (DRIVEWAYS), 110-112.4 (PATIOS AND WALKWAYS), 110-112.6 (ACCESSORY STRUCTURES) AND 110-112.7 (DESIGN AND LANDSCAPE PROVISIONS) IN CHAPTER 110 (LAND DEVELOPMENT) CONCERNING CERTAIN SUPPLEMENTARY REGULATIONS PERTAINING TO SINGLE- AND TWO-FAMILY DWELLINGS

Council President Delia asked that Ordinance 2023-17 be read by title only.

Ms. Zupan read Ordinance 2023-17 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-17.

Seeing no one wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-17 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Ordinance 2023-17 was adopted, 5-0.

ORDINANCE 2023-17

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

ORDINANCE AMENDING SECTION 110-101 (CORNER LOTS), SECTION 110-112.2 (FENCES AND WALLS), 110-112.3 (DRIVEWAYS), 110-112.4 (PATIOS AND WALKWAYS), 110-112.6 (ACCESSORY STRUCTURES) AND 110-112.7 (DESIGN AND LANDSCAPE PROVISIONS) IN CHAPTER 110 (LAND DEVELOPMENT) CONCERNING CERTAIN SUPPLEMENTARY REGULATIONS PERTAINING TO SINGLE- AND TWO-FAMILY DWELLINGS

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

SECTION 1. Section 110-101 (Corner lots) in Article 23 (Supplementary Regulations) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-101 Corner lots and through lots.

Whenever a lot shall be bounded by more than one street line, the following provisions shall apply:

- A. All provisions of this chapter with respect to setbacks and all other restrictions and regulations relating to street lines and front yards shall apply to each street line as a front yard.
- B. For the purposes of determining the rear yard on a corner lot, the interior lot line opposite the street line with the shortest frontage shall be considered to be the rear lot line, and any remaining interior lot lines shall be considered side lot lines for the purposes of determining side yards. Additionally, on corner lots and through lots, the reviewing agency or the Zoning Officer shall have the ability to determine which streets shall be treated as the primary and secondary streets for the purposes of applicable subsections in this chapter.
- C. No provision of this chapter shall permit the erection of any structure or other vision-obstructing object with a height greater than 2 1/2 feet, as measured from the elevation of the existing grade, including landscaping, within a triangular area formed by measuring 25 feet along each street line of the property from the point of intersecting lot lines at such corner and connecting such points to form a triangle.

SECTION 2. Section 110-112.2 (Fences and walls) in Article 23 (Supplementary Regulations) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-112.2 Fences and walls.

Fences and walls shall be permitted in all districts, shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

- A. Materials.
 - (1) Fences shall be constructed of wood, vinyl, aluminum, metal, wrought iron and mesh netting, except chain-link and chicken wire.
 - (2) Walls shall be constructed of stone or brick with a stone or cast stone cap. Corners and entrances shall be defined with articulated piers.
 - (3) In no case shall a fence or wall be constructed of any material harmful to humans or animals, such as barbed wire, metal spikes, or electrified conductors.
- B. Location.
 - (1) Front yards.
 - (a) Fences shall be permitted to be located in front yards, provided that such fence shall not exceed a height of four feet above grade. Fences shall be constructed so that at least 50% thereof is nonsolid and open.
 - (b) Walls shall be permitted to be located in front yards, provided that such wall shall not exceed a height of two feet above grade.
 - (2) Side and rear yards.
 - (a) Both solid and nonsolid fences shall be permitted to be located in side and rear yards, provided that such fence shall not exceed a height of six feet above grade and be no closer than 10 feet to any front lot line.

- (b) For properties abutting an active or former rail right-of-way, both solid and nonsolid fences shall be permitted to be located in side and rear yards, provided that such fence shall not exceed a height of eight feet above grade and be no closer than 40 feet to any front lot line. Additionally, the portion of the fence above a height of six feet above grade shall be constructed so that at least 50% thereof is nonsolid and open.
 - (c) Walls shall be permitted to be located in side and rear yards, provided that such wall shall not exceed a height of four feet above grade.
- (3) Corner lots and through lots.
- (a) For permitted fences not exceeding a height of six feet above grade and walls not exceeding a height of four feet above grade, such fence or wall shall be permitted to be located in the front yard along the secondary street, provided that such fence or wall shall be no closer than 10 feet to any frsuchont lot line.
 - (b) For permitted fences not exceeding a height of eight feet above grade, such fence shall be permitted to be located in the front yard along the secondary street, provided that such fence shall be no closer than 25 feet to any front lot line.
- (4) Fenceposts, corners and piers may be articulated to a height not to exceed one additional foot above a permitted fence height. Piers may be articulated to a height not to exceed two additional feet above a permitted wall height, provided that such pier does not exceed 30 inches in width or depth. Pergolas, trellises or arbor entryways may be articulated to a height not to exceed 10 feet above grade, provided that such structure does not exceed 10 feet in width.
- (5) In no case shall a permitted fence or wall be placed so as to constitute a traffic or safety hazard. No fence or wall shall be located in the public right-of-way. The fence or wall shall be located entirely within the property upon which it is located.
- C. Orientation. (No changes)
 - D. Drainage. (No changes)
 - E. Buffering and screening. (No changes)
 - F. Retaining walls. (No changes)
 - G. Clear sight triangles. Fences and walls shall comply with the provisions for clear sight triangles pursuant to §110-101.C at street intersections and §110-151.H at locations where driveways approach sidewalks and streets in the public right-of-way.

SECTION 3. Section 110-112.3 (Driveways) in Article 23 (Supplementary Regulations) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-112.3 Driveways.

Driveways shall be permitted in all districts, shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

- A. Lot access.
 - (1) Every lot shall have a maximum of one driveway opening providing access to a street.
 - (2) On lots a minimum of 100 feet in lot width, an additional driveway opening shall be permitted for the purpose of creating a connected or U-shaped driveway in the front yard. In no case shall the two driveway openings be located closer than 25 feet to each other.
- B. Setbacks.
 - (1) A driveway on a corner lot shall be set back a minimum of 40 feet from the intersecting lot lines at the corner.
 - (2) A driveway shall be set back a minimum of three feet from a side or rear lot line, unless such driveway is a common or shared driveway for dwelling units on adjacent lots.
 - (3) On lots 50 feet or less in lot width, a driveway shall be set back a minimum of one foot from a side or rear lot line, unless such driveway is a common or shared driveway for dwelling units on adjacent lots.
- C. Width.
 - (1) A driveway shall maintain a maximum width of 12 feet at the front lot line, after which the driveway may flare out to a maximum width of 20 feet in the front yard.
 - (2) On lots a minimum of 62.5 feet in lot width, a driveway shall maintain a maximum width of 16 feet at the front lot line, after which the driveway may flare out to a maximum width of 20 feet in the front yard.
 - (3) On lots a minimum of 75 feet in in lot width, a driveway shall maintain a maximum width of 20 feet at the front lot line, after which the driveway may flare out to a maximum width of 24 feet in the front yard.
 - (4) On corner lots and through lots, where the driveway opening provides access from the secondary street and the driveway is 18 feet or less in length, a driveway shall maintain a maximum width of 20 feet at the front lot line.
- D. Coverage. The area of a driveway shall not exceed 30% impervious coverage of the front yard.
- E. Design specifications. A driveway shall comply with the provisions for construction specifications, grading, aprons, side slopes and clear sight triangles, pursuant to Article 35 of this chapter.

SECTION 4. Section 110-112.4 (Patios and walkways) in Article 23 (Supplementary Regulations) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-112.4 Patios and walkways.

Patios and walkways shall be permitted in all districts, shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

- A. Materials. Patios and walkways shall be constructed of slate, stone, brick or concrete.
- B. Location. No patio shall be located in the front yard. On corner lots and through lots, a patio shall be permitted to be located in the front yard along the secondary street, provided that such shall be no closer than 10 feet to any front lot line.
- C. Setbacks.
 - (1) A patio or walkway shall be set back a minimum of three feet from a side or rear lot line, exclusive of the private walkway providing access to the lot.
 - (2) On lots 50 feet or less in lot width, a patio or walkway shall be set back a minimum of one foot from a side or rear lot line, exclusive of the private walkway providing access to the lot.
 - (3) Raised patios greater than 30 inches above grade shall be set back a minimum of three feet from a side or rear lot line.
 - (4) Raised patios greater than 5 feet above grade shall be set back a minimum of five feet from a side or rear lot line.
- D. Drainage. Patios and walkways shall be constructed in a manner so as to permit the continued flow of natural drainage and shall not cause surface water to be blocked or dammed to create ponding, either on the property upon which such is located or on any adjacent lot or public right-of-way.

SECTION 5. Section 110-112.6 (Accessory structures) in Article 23 (Supplementary Regulations) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-112.6 Accessory Structures.

Accessory structures, inclusive of air-conditioner (A/C) condenser units, generators, transformers and other mechanical equipment, shall be permitted in all districts and shall require site plan approval and/or an approved zoning permit prior to construction and shall be subject to the following provisions:

- A. Location.
 - (1) No accessory structure shall be located in a front yard. On corner lots and through lots, an accessory structure shall be permitted to be located in the front yard along the secondary street, provided that such shall be no closer than 15 feet to any front lot line.
 - (2) Nonenclosed outdoor dining structures within the B-1 and D-1 Districts shall be permitted to be located in a front yard without a minimum setback requirement from the front lot line, provided that such structures do not exceed a height of 15 feet above grade.
- B. Setbacks.
 - (1) Accessory structures not exceeding 100 square feet in area and a height of 10 feet above grade shall be set back a minimum of three feet from a side or rear lot line.
 - (2) Accessory structures exceeding 100 square feet in area and/or a height of 10 feet above grade shall be set back a minimum of five feet from a side or rear lot line.

- (3) On lots 50 feet or less in lot width, accessory structures, including detached garages, not exceeding 300 square feet in area and a height of 15 feet above grade shall be set back a minimum of three feet from a side or rear lot line.
 - (4) On lots in the LI Light Industrial District, accessory structures shall be set back a minimum of 10 feet from a side or rear lot line.
 - (5) Nonenclosed outdoor dining structures within the B-1 and D-1 Districts shall not have minimum setback requirements from side or rear lot lines, provided that such structures do not exceed a height of 15 feet above grade.
- C. Height. No accessory structure shall be greater than 1 1/2 stories or a height of 20 feet above grade.
 - D. Screening. Ground-mounted mechanical equipment shall be properly screened from the street by planting of evergreen trees, shrubs or a berm and/or a permitted fence or wall to provide an opaque visual barrier, provided that such shall be 100% visually impervious at all times of the year.

SECTION 6. Section 110-112.7 (Design and landscape provisions) in Article 23 (Supplementary Regulations) in Part III (Zoning) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§110-112.7 Design and landscape provisions.

- A. Orientation. (No changes)
- B. Facade width. The width of any façade facing a street shall not extend greater than 40 feet. Such facade may extend beyond 40 feet by stepping inward or outward with offsets of a minimum of eight feet. The width of any façade facing a street to achieve the required stepping shall extend no less than eight feet. For the purposes of this subsection, a covered porch at least four feet in depth, 10 feet in width and located not greater than four feet from the garage shall meet the intent of being a portion of the facade facing the street. These provisions shall apply to pre-existing dwellings that currently conform to these provisions and new dwellings only.
- C. Garage locations and design. A one- or two-car garage facing the street shall be recessed behind the nearest portion of the facade facing the street with an offset of a minimum of eight feet. Any three-car garage shall be located to face the side or rear of the property and not the street. Any garage facing the side or rear of the property shall be recessed behind the nearest portion of the façade facing the street with an offset of a minimum of four feet. For the purposes of this subsection, a covered porch at least four feet in depth, 10 feet in width and located not greater than four feet from the garage shall meet the intent of being a portion of the facade facing the street. The width of the portion of the façade facing the street containing the garage shall not exceed 40% of the overall façade facing the street or 30 feet, whichever is less. In no case shall the garage door(s) be closer to the street than the main entry door. These provisions shall apply to pre-existing dwellings that currently conform to these provisions and new dwellings only.
- D. Repetition of building design. (No changes)
- E. Existing vegetation. (No changes)
- F. Foundation plantings. (No changes)
- G. Front yard tree plantings. (No changes)
- H. Street trees. (No changes)

I. Public sidewalks and private walkways. (No changes).

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

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

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

Ord. 2023-18

ORDINANCE AMENDING CHAPTER 185 OF THE CODE OF THE BOROUGH OF METUCHEN, ENTITLED, "VEHICLES AND TRAFFIC" TO THE PARKING REGULATIONS AND TO UPDATE AND AMEND THE PARKING REGULATIONS IN BOROUGH PARKING LOTS FOR KIOSKS, METERED AND PERMIT PARKING

Council President Delia asked that Ordinance 2023-18 be read by title only.

Ms. Zupan read Ordinance 2023-18 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-18.

Julie Herbert, 251 East Chestnut Avenue, shared her concerns and issues with the new parking meters that take credit cards. She also suggested that any new kiosks allow you to park by space number instead of license plate number.

Seeing no one else wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-18 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Ordinance 2023-18 was adopted, 5-0.

ORDINANCE 2023-18

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

ORDINANCE AMENDING CHAPTER 185 OF THE CODE OF THE BOROUGH OF METUCHEN, ENTITLED, "VEHICLES AND TRAFFIC" TO THE PARKING REGULATIONS AND TO UPDATE AND AMEND THE PARKING REGULATIONS IN BOROUGH PARKING LOTS FOR KIOSKS, METERED AND PERMIT PARKING

WHEREAS, pursuant to the provisions of *N.J.S.A.* 40:11A-1 et seq., and § 32-1 of the Code, the Borough of Metuchen created the Parking Authority of the Borough of Metuchen ("Parking Authority"); and

WHEREAS, the Parking Authority has determined to install kiosks and to implement permit procedures which may be enforced by way of license plate readers in lieu of the placement

of permit decals on parked vehicles in some or all of the parking lots which the Parking Authority operates in order to maximize the efficiency of the Parking Authority's operations; and

WHEREAS, Chapter 185 of the Code of the Borough of Metuchen, entitled "Vehicles and Traffic", specifically § 185-35(A) governs the parking on public and private property; and

WHEREAS, § 185-35 of the Code of the Borough of Metuchen governs, inter alia, the regulations of various municipal parking lots throughout the Borough; and

WHEREAS, § 185-34(C) of the Code of the Borough of Metuchen governs, inter alia, handicapped parking in municipal lots; and

WHEREAS, the Mayor and Council based upon the Parking Authority's request and intentions have determined that it is in the best interest of the Borough to amend certain sections of Chapter 185 entitled, "Vehicles and Traffic", specifically § 185-1, § 185-34(C) and § 185-35(A) to effectively provide for the payment for parking privileges and for the enforcement of parking regulations in lieu of the placement of permit decals on vehicles in some or all of the public parking lots and to revise the regulations for the Center Street and Center Street East Parking Lots to provide for metered parking.

NOW, THEREFORE, BE IT ORDAINED by the Borough of Metuchen, County of Middlesex, New Jersey, that Chapter 185 of the Code of the Borough of Metuchen, specifically §185-1, entitled "Definitions; word usage; official time standard", § 185-34, entitled "Handicapped parking", specifically subsection (C) and §185-35, entitled, "Control for movement and parking of traffic on public and private property", specifically §185-35, subsection (A) are hereby amended and supplemented to state follows:

§ 185-1 Definitions; word usage; official time standard

A. Words and phrases. Whenever any words and phrases are used in this chapter, the meaning respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of the State of New Jersey shall be deemed to apply to such words and phrases used herein.

B. The following words and phrases, which are not defined in Subtitle 1 of Title 39 of the Revised Statutes of the State of New Jersey, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter.

PARKING AUTHORITY The Parking Authority of the Borough of Metuchen

PARKING METER or KIOSK Any mechanical device or meter not inconsistent with this chapter placed or erected for the regulation of parking by authority of this chapter. Each parking meter or kiosk installed shall record a certain number of minutes or hours by the use of a clock mechanism determining the period of time for which parking privileges may be granted upon the payment of the required fee in or by such device. References herein to "parking meter" and/or "kiosk" shall be used interchangeably throughout Chapter 185. Any and all references to "meter" or "parking meter" shall also include "kiosk."

PARKING METER SPACE Any space within a parking meter zone, which is adjacent to a parking meter or in the vicinity of a kiosk and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street or lot adjacent to or adjoining the parking meters or in the vicinity of a kiosk.

PARKING METER ZONE Any restricted on-street parking area or off-street parking lot upon which parking meters or kiosks are installed and in operation.

C. Official time standard. Whenever certain hours are named in this chapter, they shall mean either eastern standard time or eastern daylight savings time as may be in current use.

* * * *

§ 185-3 Definitions; word usage; official time standard

* * * *

C. Handicapped parking in municipal parking lots and board of education property. In accordance with the provisions of N.J.S.A. 39:4-197 the following off-street parking lots and Board of Education property are designated as handicapped parking areas. Such spaces are for use by persons who have been issued special identification cards, plates or placards issued by the Motor Vehicle Commission, or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these areas.

Property	Location	Number of Spaces
Metuchen Public Library	480 Route NJ 27 (Middlesex Avenue)	4
Senior Housing Center	35 Lincoln Avenue	6
Senior Citizens Recreation Center	15 Center Street	8
Center Street East Parking Lot	15 Pearl Street	6
Halsey Street Parking Lot	25 Halsey Street	6
New Street Parking Lot	New Street	5
Metuchen Borough Hall Parking Lot	500 Main Street	2
Pennsylvania Avenue Parking Lot	5 Pennsylvania Avenue	6
Railroad Plaza Parking Lot		3
South Main Street Parking Lot	South Main Street	4
Station Place Parking Lot	24 Station Place	2

* * * *

§ 185-35 Control for movement and parking of traffic on public and private property

A. Regulation for the movement and the parking of traffic on municipal and Board of Education property. In accordance with the provisions N.J.S.A. 39:4-197, the following municipal and Board of Education Property shall have the movement of traffic controlled by the type of regulation indicated. No person shall operate or park a vehicle in violation of the regulations indicated.

- (1) Properties.

I. Center Street East Lot (15 Pearl Street). Regulations:

(a) No person shall park a vehicle on the property designated by the Parking Authority as “Permit Parking”, unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle, for the aforementioned parking lot, for the specific time frame, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.

(b) No person shall park a vehicle on the property designated by the Parking Authority as "Metered Parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by Resolution of the Parking Authority and posted on the property.

(c) All vehicles must park in designated areas and between the lines provided.

(d) Head-on parking only.

II. Center Street Lot Parking Lot. Regulations:

(a) No person shall park a vehicle on the property designated by the Parking Authority as "Metered Parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by Resolution of the Parking Authority and posted on the property.

(b) No person shall park a vehicle on the property designated by the Parking Authority as "Permit Parking", unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle, for the aforementioned parking lot, for the specific time frame, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.

(c) All vehicles must park in designated areas and between the lines provided.

(d) Head-on parking only.

III. Halsey Street Parking Lot. Regulations:

(a) No person shall park a vehicle on the property designated by the Parking Authority as "Permit Parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specific time frame, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.

(b) No person shall park a vehicle on the property designated by the Parking Authority as "Metered Parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by Resolution of the Parking Authority and posted on the property.

(c) All vehicles must park in designated areas and between the lines provided.

(d) Head-on parking only.

IV. New Street Parking Lot. Regulations:

(a) No person shall park a vehicle on the property designated by the Parking Authority as "Permit Parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specified time frame and, to the extent required by the Parking Authority, is properly displayed on said vehicle.

(b) No person shall park a vehicle on the property designated by the Parking Authority as "Metered Parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days

and times as determined and approved by Resolution of the Parking Authority and posted on the property.

(c) All vehicles must park in designated areas and between the lines provided.

(d) Head-on parking only.

(e) One-way. The described property is hereby designated as one-way in the direction indicated below and posted on the property.

Location	Direction
Aisle A-B	Counter-clockwise

V. Metuchen Borough Hall Parking Lot, 500 Main Street. Regulations:

(a) Metuchen Borough Hall Parking Lot shall be for Borough Hall employees and Metuchen Borough Hall Business during regular business hours and any after hour activities associated with Borough Hall.

(b) The east side of Main Street beginning from a point 81 feet 7 inches north of State Hwy 27 continuing for a distance of 76 feet north will be for Metuchen Borough Hall Business.

(c) All vehicles must park in designated marked spaces and between the lines provided on the property.

(d) Violators shall be fined \$250 and be subject to having their car towed at the expense of the vehicle owner.

VI. Pennsylvania Avenue Parking Lot. Regulations:

(a) No person shall park a vehicle on the property designated by the Parking Authority as "Permit Parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specified time, and to the extent required by the Parking Authority, is properly displayed on said vehicle.

(b) No person shall park a vehicle on the property designated by the Parking Authority as "Metered Parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by Resolution of the Parking Authority and posted on the property

(c) All vehicles must park in designated areas and between the lines provided.

(d) Head-on parking only.

VII. Railroad Plaza Parking Lot. Regulations:

(a) No person shall park a vehicle on the property designated by the Parking Authority as "Permit Parking" unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specified time, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.

(b) No person shall park a vehicle on the property designated by the Parking Authority as "Metered Parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days

and times as determined and approved by Resolution of the Parking Authority and posted on the property

- (c) All vehicles must park in designated areas and between the lines provided.
- (d) Head-on parking only.
- (e) One-way. The described property is hereby designated as one-way in the direction indicated below and on the property.

Location	Direction
Aisle A-B	Counter-clockwise

VIII. South Main Street Parking Lot. Regulations:

(a) No person shall park a vehicle on the property designated by the Parking Authority as “Permit Parking” unless an appropriate and current parking permit is issued by the Parking Authority for said vehicle for the aforementioned parking lot, for the specified time, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.

(b) No person shall park a vehicle on the property designated by the Parking Authority as “Metered Parking” without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by Resolution of the Parking Authority and posted on the property

- © All vehicles must park in designated areas and between the lines provided.
- (d) Head-on parking only.

IX. Station Place Parking Lot. Regulations:

(a) No person shall park a vehicle on the property designated by the Parking Authority as “Permit Parking” unless an appropriate and current parking permit is issued by the Parking Authority of Borough of Metuchen for said vehicle for the aforementioned parking lot, for the specified time, and, to the extent required by the Parking Authority, is properly displayed on said vehicle.

(b) No person shall park a vehicle on the property designated by the Parking Authority as "Metered Parking" without payment of the designated metered amounts, or for longer than the metered time limit for the designated days and times as determined and approved by Resolution of the Parking Authority and posted on the property

- (c) All vehicles must park in designated areas and between the lines provided.
- (d) Head-on parking only.

(2) Issuance of permits; permit fees. The Parking Authority is hereby authorized to issue permits to owners or drivers of motor vehicles on a periodic basis, as it deems appropriate, including but not limited to, yearly, semiannually, quarterly, monthly, weekly, daily and hourly, for a fee collected in advance of parking privileges, which fee shall be set at a reasonable rate in accordance with the provisions of N.J.S.A. 40:11A-6(4)(f).

(3) Effect of the permit. The permit provided for by Subsection (2) will authorize the legal parking of a vehicle in the aforesaid designated lot in reserved sections designated therefor and the dates thereof.

(4) Metered parking; time intervals; and rates. The Parking Authority is hereby authorized, as it deems appropriate, to determine and designate metered parking on its property, the specific times and rates to be collected in advance of parking privileges, which rates and fees shall be set at a reasonable rate in accordance with the provisions of N.J.S.A. 40:11A-6(4)(f) and approved by Resolution and posted accordingly.

(5) Authority of Parking Authority. The Parking Authority is hereby authorized to make reasonable regulations for the issuance of the permits provided for by this section, and to erect signs giving notice in each designated parking area of the section reserved for either permit parking or metered parking. The Parking Authority is hereby authorized to determine from time to time the number of spaces in each of such area to be reserved for metered parking and/or for permit parking. The Parking Authority is hereby authorized in its discretion, in consultation with the Borough to determine and designate such spaces in the aforesaid areas as "Permit Parking" and/or "Metered Parking" and shall post appropriate signs giving notice thereof.

(6) Parking by permit parkers in unreserved areas or spaces. It shall be unlawful for permit parkers to park in any area or parking space other than those designated for permit parking pursuant to the provisions of Subsection A without depositing, or otherwise making payment in the meter or kiosk the payments or electronically making the payment of the required fee as determined by the Parking Authority.

(7) For a vehicle to be parked lawfully in a permit parking area the following provisions must be met:

(a) Each vehicle parked must have a permit issued by the Parking Authority of the Borough of Metuchen in accordance with the provisions of this section.

(b) Such permit shall set forth the designated off-street parking lot, the dates for legal parking thereof and shall be displayed in the lower right-hand portion of the rear window or right rear side window of each vehicle in such a manner as to be clearly visible from the rear window when parked or as otherwise directed and if required by the Parking Authority.

(c) Vehicle shall be parked head in.

(d) Each permit shall be valid only when used for a vehicle designated on the application form.

(e) It shall be unlawful and a violation of the provisions of this section to allow for any person to cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked in a permit parking reserved area in any designated off-street parking lot without displaying the proper permit as provided herein or as otherwise directed and if required by the Parking Authority or otherwise complying with this section.

(7) Enforcement. It shall be the duty of the Police Department, Parking Enforcement Officer and/or Parking Authority of the Borough of Metuchen to enforce the permit and meter time limit parking provisions of this section.

(8) Parking or standing a vehicle in a parking meter space in the off-street parking meter zones designated and approved by Resolution of the Parking Authority and posted on the property shall be lawful only when the designated required fee is deposited in a parking meter or kiosk or otherwise payment is made and is not in excess of the maximum parking time for the amount deposited or paid or is not in excess of the maximum parking time designated for such space.

BE IT FURTHER ORDAINED by the Mayor and Council that all remaining sections of Chapter 185 not specifically amended herein, including but not limited to §185-34(A), (B) (D) (E) (F) (G) (H), and §185-35(B), (C), (D), (E) and (F), shall not be affected by the within amendments and shall remain in full force and effect.

BE IT FURTHER ORDAINED that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable; and

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only; and

BE IT FURTHER ORDAINED that this ordinance shall be in full force and take effect after final passage and publication, as required by law.

BE IT FURTHER ORDAINED by the Mayor and Borough Council of the Borough of Metuchen that all Borough officials shall take all necessary actions to in order to effectuate the within Ordinance, including but not limited to the installation of sign/s in the above designated area.

Ord. 2023-19

ORDINANCE AMENDING THE CODE OF THE BOROUGH OF METUCHEN CHANGING CHAPTER 75, ENTITLED, "CIRCUS AND CARNIVALS" TO "SPECIAL EVENTS" AND ADOPTING APPROVAL PROCEDURES AND FEES FOR CONDUCTING SPECIAL EVENTS AND BLOCK PARTIES WITHIN THE BOROUGH OF METUCHEN

Council President Delia asked that Ordinance 2023-19 be read by title only.

Ms. Zupan read Ordinance 2023-19 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-19.

Seeing no one wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-19 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Ordinance 2023-19 was adopted, 5-0.

ORDINANCE 2023-19

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

ORDINANCE AMENDING THE CODE OF THE BOROUGH OF METUCHEN CHANGING CHAPTER 75, ENTITLED, "CIRCUS AND CARNIVALS" TO "SPECIAL EVENTS" AND ADOPTING APPROVAL PROCEDURES AND FEES FOR CONDUCTING SPECIAL EVENTS AND BLOCK PARTIES WITHIN THE BOROUGH OF METUCHEN

WHEREAS, the Chapter 75 of the Code of the Borough of Metuchen, entitled, “Circus and Carnival” currently regulates and requires a permit and application procedure for any person or entity to conduct a “carnival, fair, circus, or other exhibits, or special event” within the Borough of Metuchen; and

WHEREAS, upon the recommendation of the Chief of Police, the Council of the Borough of Metuchen has determined that it is in the best interests of the community to rename and clarify Chapter 75 and to establish Special Event approval procedures and fees to secure the public safety, health and general welfare incidental to the congregation of persons at Special Events, to remediate the impact of such events, and to require anyone intending to hold a Special Events and/or Block Party hereinafter described to obtain a permit for any such event.

NOW THEREFORE, BE IT ORDAINED that the Council of the Borough of Metuchen, County of Middlesex, State of New Jersey, hereby amends and supplements the Code of the Borough or Metuchen and renames the title of Chapter 75 from “Circus and Carnivals” to “Special Events” to state as follows:

CHAPTER 75

ARTICLE I

SPECIAL EVENTS

§ 75-1 Purpose and Intent

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

§ 75-2 Definitions

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

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

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

CIRCUS - Includes a transient show or exhibition typically conducted in a temporary structure, composed wholly or partly of canvas, vinyl or similar material, in which are displayed or exhibited for the amusement or recreation of the general public feats of horsemanship, tumbling, acrobatics and feats of human skill and daring, together with feats of highly trained or unusually skilled animals, either alone or in concert with their tamers, trainers or keepers, as permitted by law, and the performances of those persons garbed or dressed and made up in the costumes and makeup commonly or generally

associated with circus clowns. Circuses shall not be permitted within the Borough of Metuchen.

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

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

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

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

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

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

PARADE - Shall mean organized public procession on a festive or ceremonial occasion; to march or walk in a procession.

RALLY - Shall mean a demonstration and/or First Amendment Activity as that term is defined above.

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

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

SPECIAL EVENT - Shall mean a preplanned event or series of events, sponsored by a public or private person or entity, which is:

- a. Located wholly or partially on property owned or maintained by the Borough; or
- b. Permissibly located on any other property and requires for its successful execution the provision and coordination of municipal services to a degree significantly over and above that which the Borough routinely provides; or

- c. Any parade or other event, such as a carnival, fair, , concert, exhibition, race, rally, run, walk or walkathon, bicycle race, celebration, sporting event, farmers market, flea market, bonfire, show, or wedding, traveling show, or any other type of large event generating a parking or traffic situation that may interfere with the movement of normal traffic and/or emergency vehicles, taking place in or upon any street, park, or other public place, or private property, in the Borough of Metuchen.
- d. First Amendment Activity meeting the above definition of Demonstration shall not be considered a Special Event requiring a permit.

§ 75-3 Application of Provisions.

This Chapter imposes regulatory requirements on certain activities which are held on municipal streets, public or private property defined herein as Special Events. The requirements imposed by this Chapter do not alter, supersede or nullify any requirements contained in other statutes, ordinances or regulations which may also regulate these same activities. These requirements shall be applied in a content-neutral manner and without discrimination as to race, religion, sex, national origin, political affiliation or other unlawful discriminatory classification. This section shall not apply to the following events:

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

§ 75-4 Permit Required

Any person or organization desiring to hold any Special Event as defined herein, must first apply for and obtain a Special Event Permit in accordance with the requirements of this section. Any application for a Special Event sought to occur at the Metuchen Town Plaza must also fully comply with and meet all of the conditions and requirements of Chapter Article 3 of Chapter 124 of the Code of the Borough of Metuchen. Permits for Block Party Street Closure Permits shall be governed by Article II below, § 75-16 through § 75-19.

§ 75-5 Application

a. Any person or organization seeking issuance of a permit hereunder shall file an application with the Borough Clerk, on a form to be provided for that purpose, on which form the applicant shall furnish pertinent information to include but not limited to the following:

1. The name, address, e-mail address and telephone number of the applicant.
2. The name, address, e-mail address and telephone number of the person or persons, corporation, organization or association sponsoring and/or conducting the activities at Special Event.

3. The name, address and telephone number of the person or persons who will chair the Special Event and be responsible for the conduct thereof. If this individual is a participant in the event, then the name, address and telephone number of a non-participant who can be reached during the event.

4. The address of all property upon which the Special Event is to be held, together with the name and address of the record owners of such property. Proof of ownership of all property upon which the Special Event is to be held or a statement under oath by the record owner or owners of all such property for an outdoor special event of fifty (50) people or more for the purpose set forth on the application.

5. The specific nature and purpose of the Special Event, together with a schedule of all events, activities or acts and examples of the proposed advertising of the event, if any, together with the names of the performers who will be performing at the Special Event.

6. A detailed description of the proposed event and a sketch that shows location of the event, the area or route to be used, along with proposed structures, tents, fences, barricades, signs, banners and restroom facilities, more commonly referred to as a "footprint." The sketch or plan of the proposed site, should include the area where the Special Event will be situated, the location and routes of ingress and egress, all proposed parking areas, driveways and roads as they relate to traffic flow, traffic control and safety measures, fire access lanes and lanes for other emergency vehicles should be shown on the sketch or plan.

7. The date(s) and hours for which the permit is desired, and proposed rain date if requested.

8. Complete details as to how the applicant intends to provide for security, traffic control, adequate toilet and other sanitary facilities, site cleanup, separation of recyclables and disposal of trash and debris and parking (and in particular, whether any temporary parking areas will be required). Applicant shall also include the number of staff. Including security personnel.

9. The number of attendees, participants, spectators, contestants, admission tickets to be sold, and/or other people that are reasonably anticipated to attend the event, as well as the number of the proposed vehicles.

10. The plans for sound control and sound amplification, if any, including the number, location and power of the amplifiers and speakers, together with the applicant's proposal to confine the sound to the area of the Special Event. In addition, provide whether any music will be either live or recorded or whether any other unusual noise will accompany the event.

11. A detailed description of the Borough's resources or services that are anticipated to be required to be provided in connection with the event, police, fire, and/or emergency.

12. All required licenses where appropriate, i.e., for alcoholic beverage consumption or service, use of tents, conducting of raffles, or other licenses, approvals or permits required to conduct the event.

13. The name of the company or firm, address and telephone number which will provide insurance for indemnification.

14. The name, address and telephone number of person(s) responsible for clean up at the conclusion of the Special Event.

15. Such other information as the Borough Administrator, Chief of Police, Fire Department and/or Board of Health may deem necessary in order to

properly provide for traffic control, street and property maintenance and the protection of the public health, safety and welfare.

16. Any applicant claiming status as a nonprofit organization shall be required to provide the necessary documentation to that effect.

17. A non-refundable application fee in the amount of \$100.

b. Upon verification that the application is complete, the Borough Clerk shall refer the application to the Borough Administrator and Chief of Police for preliminary review in accordance with this section. The Borough Administrator and/or Chief of Police may require the applicant to supplement its application with any pertinent documentation that may be of assistance in their review of the application. The Borough Administrator and/or Chief of Police may also require the applicant to meet to discuss the proposed Special Event during the consideration of whether to issue a permit and/or after the issuance of the permit.

c. All completed applications must be submitted to the Borough Clerk or his or her designee at least sixty (60) days prior to the desired event, unless the applicant receives a waiver of this requirement from the Mayor and/or Borough Council, or unless the application is for a Special Event of the type covered by (d) below. The Borough reserves the right to reject an application if fees for a prior year's event have not been paid in full or if the applicant is delinquent in payment of any Borough taxes, fines or fees.

d. Demonstrations and/or First Amendment activities. Applications for a First Amendment activity not encompassed within the definition of a "demonstration" shall be processed by the Borough no later than five (5) business days prior to the date and time the event is proposed to occur. In order to preserve the health, safety and welfare of the Borough residents and guests and the general public, the Borough still requires the receipt of a completed application. If the Borough does not have the opportunity to complete its review prior to the Borough's approval under these expedited circumstances, the Borough reserves the right to modify the authorized duration, route and/or location of the event based on content neutral public health, safety and welfare concerns, including, but not limited to, accommodations for pedestrians, vehicular traffic, staffing availability, and emergency vehicle access. Notwithstanding anything to the contrary herein, the Borough Administrator, shall have the discretion to waive these time periods, in the interest of accommodating the free expression of opinion. Such waiver shall not be unreasonably withheld but can be denied upon a finding that the Borough would be unable to provide for legitimate health, safety and traffic concerns. If a waiver is denied, all efforts shall be made to find alternative avenues for the applicant to reach his or her intended audience.

e. Any person or organization seeking issuance of multiple permits throughout the course of a calendar year are strongly encouraged to and may request an appointment with the Borough Administrator and Borough Clerk, prior to and for the submission of an applications to the Borough for more than one Special Event Permit hereunder. In such a case, the Borough Administrator shall consider a reduction in the \$100.00 application fee for each of the Special Events Permits. Otherwise, to the extent that multiple Special Event Permits are required by said person and/or organization a separate application fee and all of the requirements of this Ordinance shall be met.

f. Applicants shall not advertise or promote, either in printed, digital or electronic format on the internet and/or social media platforms prior to obtaining a Special Events Permit. Premature advertising and/or promotion may be sole grounds for denial of the permit.

§ 75-6 Standards

a. The standards for the issuance of a permit pursuant to this section by the Borough Administrator shall include but shall not necessarily be limited to, the following findings:

1. That the proposed event will not unreasonably interfere with or detract from the general public's enjoyment of public parks, facilities, roadways, or facilities to be utilized.
2. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation.
3. That the proposed activity and uses that are reasonably anticipated will not be likely to include violence, crime or disorderly conduct.
4. That the facilities desired have not been reserved for other use at the date and hour requested in the application.
5. That the applicant will maintain premises in the same condition which existed prior to the event.

b. The Borough Administrator and/or Chief of Police may consider the following factors when considering if a Special Event requires cost recovery charges and the employment of above base municipal services beyond the regularly scheduled shift or the employment of a private contractor:

1. The number of anticipated attendees.
2. The size of the geographical area for which this Special Event requires municipal services.
3. Whether the event historically has, or is likely to, produce an excessive amount of traffic garbage, trash and litter.
4. The proximity of the Special Event to residential areas or the likelihood that garbage from a Special Event will affect residential areas.
5. The proximity of the Special Event to bodies of water or any natural resource that should be protected from garbage and pollution.
6. The likelihood that garbage from the event could constitute a fire hazard.
7. The number of Special Events, the person and/or organization has conducted throughout the course of the calendar year.

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

a. Hours of operation. All Special Events shall be conducted between the following hours only;

1. Monday through Friday: 9:00 a.m. to 10:00 p.m.
2. Saturday: 9:00 a.m. to 10:00 p.m.
3. Sunday: 11:00 a.m. to 10:00 p.m.

§ 75-8 Conditions of Approval; temporary closing of streets

The Borough Administrator and/or Chief of Police may impose any such conditions reasonably calculated to reduce or minimize dangers and hazards to vehicle or pedestrian traffic and the public health, safety, and welfare, including but not limited to changes in the date, time, duration or number of participants as requested by the applicant.

Prior to the approval of a permit by the Borough Administrator, the Chief of Police shall determine whether in his or her judgment the presence of off-duty Metuchen Police Officer(s) shall be required at said special event. If the presence of off-duty police officer(s) is deemed necessary by the Chief of Police, the applicant shall agree to pay for such off-duty police officer(s) at the rate of pay established by the Mayor and Council for off-duty police officers.

For the purpose of public safety and welfare, the Chief of Police is authorized, with prior notice to the Mayor and Borough Council, to temporarily close Borough roads or streets for a period of 24 hours and/or temporarily prohibit parking along the same during the event. The sponsor(s) of the event shall be responsible for direct notification located to each residence on the street or roadway to be temporarily closed or where specific parking prohibitions have been approved by way of a mailing approved by the Chief of Police.

Where the event will take place and/or will impact the normal flow of traffic on any street or road, public notice in the form designated by the Chief of Police shall be developed and approved by the Chief of Police prior to conducting said event.

§ 75-9 Fees

All applicants for Special Event permits shall be required to pay a nonrefundable application fee, and a \$100.00 permit fee, as well as all other fees that are determined to be necessary by the Borough Administrator, in consultation with the Chief of Police and other appropriate Borough officials and employees depending upon the nature and extent of the proposed activity. The application fee shall be due and payable at the time that an application is submitted.

Other fees that may be required include, but are not necessarily limited to above base service costs, including costs associated with the provision of police and/or fire supervision, emergency and sanitation services, staffing, use of Borough owned property and/or use of Borough owned vehicles or equipment and the creation and/or use of temporary parking areas.

Applicants shall be provided with an estimate of required fees by the Borough Administrator after review of the contents of the application. All required fees shall be due and payable at least five (5) days prior to the event. In addition to the fees payable prior to each event, the applicant shall be required to pay for any and all additional or unanticipated expenses which were occasioned or become necessary during or after the Special Event, as a result of the Special Event.

§ 75-10 Waiver of Fees

The Borough Administrator may waive, some or a portion of the fees provided for in this Chapter upon the written request of any civic association, charitable association or nonprofit corporation.

The Borough Administrator may consider the following factors when considering a civic association, charitable organization, and/or nonprofit corporation's request for waiver of any fee or portions thereof:

- a. Benefit to the residents of Borough of Metuchen from the civic association, charitable organization, and/or nonprofit corporation's activities.
- b. Benefit to residents of the area from the civic association, charitable organization, and/or nonprofit corporation's activities.
- c. Amount of money expected to be raised by the civic association, charitable organization, and/or nonprofit corporation by the activity for which the waiver is requested.

d. Percentage of amount raised by the civic association, charitable organization, and/or nonprofit corporation through the activity for which the waiver is requested, which is expended on costs and administrative expenses.

e. Dollar amount of fees to be waived.

f. Above-base services of the Borough attributable to the activity for which the waiver is requested become necessary during or after the event, as a direct result of the event.

g. The number events that such civic association, charitable organization, and/or nonprofit corporation's has conducted over the course of the calendar year. In the event that more than two (2) Special Events have been conducted in a single month, the Borough will not waive any such fees.

§ 75-11 Responsibility, Liability, Performance Guarantee/Security Deposit, Insurance Coverage and Indemnification

a. Responsibility.

1. It shall be the permit applicant's responsibility to secure all necessary other permits, licenses and/or approvals which may be required (i.e., by State, local or other outside agencies), in conjunction with the proposed event.

2. All permit applicants shall assume all risks associated with premature advertisement of any event prior to the time of issuance of a permit by the Borough Administrator, as well as any and all other costs which may have been expended prior to the time of official approval of the application by the Borough Administrator.

3. All permit holders shall be required to abide by all requirements set forth in the permit, as well as all Borough Ordinances, State Statutes (including but not limited to the New Jersey Riot Act, *N.J.S.A.* 2C:33-1 et seq. and New Jersey's Nosey's Law, *N.J.S.A.* 23:2A-16, prohibiting the use of wild and exotic animals in traveling animal acts), and all other rules and regulations which may be applicable to the Special Event.

4. All permit holders shall be responsible for any and all additional costs that are incurred as a result of the event, including costs which may not have been foreseen at the time that the permit was issued but which becomes necessary, such as costs associated with additional resources provided by the Borough, including but not limited to, manpower and/or equipment costs, police and/or fire supervision, emergency services, cleanup activities, etc.

5. Any personnel provided by the Borough (i.e., police, fire, emergency, public works or other Borough employees) in connection with any special event sponsored by an outside party shall not be considered employees or agents of the outside party.

b. Liability; Performance Guarantees/Security Deposit.

1. All permit holders shall be liable for all losses, damages and/or injuries sustained by any person whatsoever by reason of the Special Event or activities associated with the Special Event.

2. The terms of this section shall not be construed as imposing upon the Borough or its officers or employees any liability or responsibility for any injury or damage to any person in any way connected to the use for which the permit was issued. The Borough and its officials and employees should not be deemed to have assumed any liability or responsibility by reason of any inspections performed, the issuance of any permits, or the approval for use of any Borough property or private property in connection with a permit issued hereunder.

3. All permit holders shall assume full responsibility for the acts and conduct of all attendees, persons admitted to the event by or with the consent of the permit holder, or of any person acting for or on behalf of the permit holder.

4. If any portion of Borough property or other premises where the event is held is damaged by the act or omission of the permit holder, or by the permit holder's agents, employees, patrons, customers, guests, invitees, attendees, or any other person admitted to the premises by the permit holder, the permit holder shall be responsible for all costs associated with restoration of the property or premises to the condition that existed prior to the occurrence of such damage. The amount of such damage shall be considered an additional fee

5. A refundable security deposit in the amount of five hundred (\$500.00), which shall be posted in the form of cash or by check, or a refundable security deposit in another amount (also to be posted in the form of cash or by check) as determined in the sole discretion of the Borough to be sufficient to cover any damages which may be occasioned as a result of the Special Event or to ensure compliance with all terms and conditions imposed by the Borough Administrator and/or Chief of Police in connection with issuance of the permit. The refundable security deposit shall be required to be posted at least ten (10) days prior to the event.

c. Insurance Coverage.

All permit holders must submit minimum liability insurance coverage in an amount to be determined by the Borough Administrator, depending upon the size and nature of the event planned. The Borough of Metuchen, its officers, employees, agents and representatives must be named as additional insured parties on the policy. Proof of said insurance coverage shall be provided to the Borough at least five (5) days prior to the event.

The applicant shall be required to submit to the Borough Clerk, a certificate of insurance from an insurance company licensed to do business in New Jersey, in the amount of \$2,000,000 of liability per occurrence, or \$1,000,000 of liability per occurrence plus \$1,000,000 of umbrella liability per occurrence, naming the Borough of Metuchen as additional insured for the date of the event.

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

§ 75-12 No Rights Conveyed; Revocation of Permit.

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

§ 75-13 Permit Non-Transferable.

Permits issued for Special Events shall not be transferrable

§ 75-14 Denial of Permit.

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

- a. That the proposed event will disrupt traffic within the Borough beyond practical solutions.
- b. That the location of the Special Event will cause undue hardship to adjacent property owners.
- c. That the proposed event will require the diversion of so many public employees that allowing the event would unreasonably deny service to, or jeopardize the safety of, the remainder of the Borough's residents.
- d. That the application contains incomplete or inaccurate information, or that the applicant has failed or refused to provide necessary information upon request from the Borough.
- e. That the proposed event is not permitted by law, statute, regulation, code and/or Borough Ordinance, or the Applicant has failed to demonstrate that all necessary permits, licenses, permissions have been or may be secured for the Special Event and/or activities proposed thereat.
- f. That the application fails to comply with all terms of this Chapter, including the failure to remit all fees or deposits, or the failure to provide proof of proper liability insurance coverage, or the failure to execute an indemnification and hold harmless agreement, or the failure to provide a performance bond or cash security deposit when required by the Borough Administrator, or for any other violation of the terms and conditions of this Chapter.

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

§ 75-15 Appeal.

a. Within five (5) days after the receipt of the denial for a permit, any aggrieved person, entity or group shall have the right to appeal to the Mayor and Council President by submitting a formal written request. The Mayor and Council President shall consider the request for an appeal and shall provide the applicant with a decision in writing no later than fourteen (14) days in advance of the proposed date for the Special Event.

b. In considering the request for appeal, the Borough officials may request further information from the applicant or from any other person or entity.

c. In addition to the criteria set forth in § 75-13, the following will be considered in the review of the request to appeal:

1. A report of the Borough Administrator or other Borough official providing for the reasons for the denial and any information provided by the applicant;
2. Whether the application form and/or the information provided by the applicant was complete and accurate;
3. Whether the applicant is able to provide the Borough with the adequate protection for the public health, safety, welfare and protection of property.

d. The decision of the Mayor and Council President shall be final. In the event that the Mayor and Borough Council President are unable to agree upon the determination of

the Appeal, the Appeal shall be submitted to the entire Borough Council for a determination of the Appeal, with the Mayor being able to vote in the case of a tie.

ARTICLE II

BLOCK PARTIES

§ 75-16 Definitions

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

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

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

§ 75-17 Permit Required; Limitation

No person, association, or group except for the Borough shall cause or permit a municipal street to be closed for the purpose of conducting a block party, without first having obtained a permit therefor issued by the Borough Clerk after approval; of such temporary street closing by the Council of the Borough of Metuchen. (“Block Party Street Closure Permit”). Block Part Street Closure Permits shall be limited to two (2) per calendar year per block/area or portion of street.

§ 75-18 Permit Applications

a. Applications for Block Party Steet Closure Permits shall be made to the Borough Clerk at least forty-five (45) days before the date selected for holding of the Block Party and shall be made on the official forms furnished by the Borough for that purpose.

b. The Block Party Street Closure Permit application shall contain:

1. A designated contact person, including their name, address, telephone and email address.

2. The date and period of time for such temporary street closings.

3. Explanation of the extent and nature of the proposed temporary street closing, including the estimated amount of people to attend the event.

4. Sketch of the location of any and all barriers to be provided by the Borough to be used in restricting the flow of vehicular traffic through the closed street. The sketch shall also include the proposed location and description of any temporary items to be placed in the roadway, i.e., tables and/or chairs. All items and/or equipment placed upon the street must be temporary and readily available to be removed in able to permit emergency vehicle access. Temporary rides, Bounce houses and other amusements are not permitted to be located in the roadway during the Block Party.

7. Signed acknowledgement of at least seventy-five percent (75%) of the property owners affected by the street closing acknowledging that no motor traffic will be permitted during the block party except for vehicles used in connection with the block party, municipal vehicles and emergency vehicles.

8. Copy of letter sent to all residents of the street providing notification of the proposed Block Party with a representation of service of the letter upon the residents.

c. Application fee. There shall be a non-refundable application fee of twenty-five dollars (\$25.00) for a Block Party Street Closure Permit.

d. Referral to the Chief of Police. Upon receipt of a completed application the Borough Clerk Shall refer the application to the Chief of Police or their designees for evaluation based upon the following objective criteria:

1. The conduct and location of the Block Party will not substantially interrupt or impede the safe and orderly movement of traffic.
2. The conduct of the Block Party will not be likely to result in damage to persons or property nor likely to cause serious harm to the public.
3. The conduct of the Block Party will not interfere with the movement of first aid or firefighting equipment to such an extent that adequate fire protection cannot be provided to the Borough.
4. The conduct of the Block Party will not require an increased amount of public resources to ensure the safety of the Block Party participants and/or the drivers on municipal roadways
5. Such other concerns deemed necessary in order to properly provide for traffic control, street and property maintenance and the protection of public health, safety and welfare.

d. Municipal Council Permit Issuance and Denial Standards.

1. Standards for issuance. The Borough Council may authorize the issuance of a Block Party Street Closure Permit conditioned upon the applicants written agreement to comply with the terms of such permit unless the Borough Council is advised by the Borough Administration or a Department thereof that:

(A) The time, size and location of the Block Party will disrupt to an unreasonable extent the movement and flow of traffic;

(B) The Block Party is of a size or nature that the diversion of so great a number of police officers of the Borough that reasonable police protection would be jeopardized;

(C) The time, size and location of the Block Party will require an increased amount of public resources to ensure the safety of the Block Party participants and/or the drivers on municipal roadways;

(D) Said Block Party will interfere with another Block Party Street Closure Permit or Special Event which has already been issued by the Borough;

2. Standards for denial. The Borough Council may deny an application for a Block Party Street Closure Permit and the Borough Clerk shall notify the applicant of such denial where:

(A) The Borough Council makes any finding contrary to the findings required to be made for the issuance of the permit;

(B) The information contained in the permit application is found to be false, inconsistent or non-existent in any material detail;

(C) The applicant refuses to agree to abide by or comply with all of the conditions of the permit;

(D) The proposed Block Party prevent emergency vehicles to provide timely responses to calls for services;

(E) A Block Party Street Closure permit of a similar portion of the proposed roadway or roadways has been issued on two occasions within twelve (12) months of the requested date.

(F) More than twenty-five percent (25%) of the residences affected by the Block Party Closure Permit Application have not signed the Application form.

3. After the Borough Council's approval or denial of the Application for a Block Party Street Closure Permit, the Borough Clerk shall notify the designated contact representative in the application of the Borough's Council's determination.

e. Term of Permit. The Block Party Street Closure Permit shall be valid for a period not to exceed eight (8) continuous hours. Notwithstanding the forgoing, no Block Party Street Closure Agreement shall extend beyond the earlier of 10:00 p.m.

§ 75-19 Permittee Responsibility; Revocation of Permit

a. Responsibilities of Permittee.

1. If a Block Party Street Closure Permit is granted by the Borough Council, the person association, or group that is granted the permit shall be responsible for conducting the operations so authorized in such a manner that there shall be minimum inconvenience and/or disruption to the general public and, upon the expiration of the permit, such street shall be re-opened free of any debris, refuse, or other material interfering with the safe and free passage of pedestrians, vehicles and traffic.

2. The Applicant shall be solely responsible for the removal of litter, debris, and other material from the street or portion thereof used and is attributable to or caused by the Block Party. The Applicant shall also be solely responsible to take all necessary measures to prevent the underage consumption of alcohol during the term of the Block Party Street Closure Permit.

3. The persons, organizations or associations to whom the Block Party Street Closure Permit agrees to save the Borough, its officers, employees and agents harmless from any and all losses, liabilities, damages or injuries which may accrue or be claimed to accrue by reason of, or during the temporary street closing and/or Block Party. The submission of the signed application under this Article shall constitute such agreement. The Borough Clerk, in consultation with the Borough Administrator, shall have the option to require that prior to the issuance of the Permit or commencement of the temporary street closure, the Applicant submit evidence of liability insurance covering damages to property and injury to members of the general public arising out of the temporary street closure in such an amount as may be determined by the Borough Administrator in consultation with the Borough's Risk Manager.

4. Deposit. A security deposit will not be required unless the applicant has had prior negative experience with a street closure with the Borough. Prior negative experience is defined as the failure to return the closed street and surrounding areas, staging areas and breakdown areas to a condition free of debris, litter, refuse or other materials that interfere with the safe and free passage of pedestrian and vehicles.

b. Revocation of Permit. Any Block Party Street Closure Permits issued pursuant to this section may be summarily revoked by the Chief of Police and/or the Borough Administrator and/or their designee/s at anytime, when by reason of disaster, public calamity, riot or other emergency or any other situation that the Chief of Police and/or the Borough Administrator and/or their designee/s deems that the safety of the public, including the participants at the Block Party, or property requires such revocation or that the Permittee has violated any of the required conditions of the Permit or this Article. Notification of such action revoking a permit shall be delivered by contacting the designated contact person set forth in the application.

§ 75-20 Alcoholic Beverages/Open Container Area

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

§ 75-21 Violations and Penalties

Violations of this Chapter, the failure to comply with any condition, requirement or provision of the permit, or otherwise violations of any ordinance, rule or regulation that is applicable to the event by the permit holder, permit holder's agents, employees, patrons, customers, guests, invitees, attendees, or any other person admitted shall be grounds for revocation of the Special Event Permit or Block Party Street Closing Permit approval. Upon such revocation, all activities associated with the event shall be immediately terminated.

Any person who violates any subsection of this section for sponsoring a Special Event or Block Party determined to be a public health or safety hazard, or for failure to obtain an approval, shall be subject to the penalties set forth in Chapter 1, General Provisions, Article 1. of the Borough Code. Each day's continued violation shall constitute a separate offense.

Nothing provided herein shall be deemed or construed to limit the authority or ability of the Borough to seek civil injunctions to prohibit violations of this section or any other lawful remedy, in addition to the criminal penalties set forth in this subsection.

BE IT FURTHER ORDAINED by the Council of the Borough of Metuchen that should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable; and

BE IT FURTHER ORDAINED by the Council of the Borough of Metuchen that all ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of their inconsistencies only; and

BE IT FURTHER ORDAINED by the Mayor and Council that this ordinance shall become effective immediately upon final passage and publication as provided by law.

Ord. 2023-20

AN ORDINANCE AMENDING CERTAIN PROVISIONS IN CHAPTER 140 (PROPERTY MAINTENANCE) TO ADD AN ENFORCEMENT OFFICER AMONG THE LIST OF MUNICIPAL OFFICERS AUTHORIZED TO ENFORCE THE PROVISIONS OF SAID CHAPTER

Council President Delia asked that Ordinance 2023-20 be read by title only.

Ms. Zupan read Ordinance 2023-20 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-20.

Seeing no one wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-20 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Ordinance 2023-20 was adopted, 5-0.

ORDINANCE 2023-20

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

**AN ORDINANCE AMENDING CERTAIN PROVISIONS IN CHAPTER 140
(PROPERTY MAINTENANCE) TO ADD AN ENFORCEMENT OFFICER AMONG
THE LIST OF MUNICIPAL OFFICERS AUTHORIZED TO ENFORCE THE
PROVISIONS OF SAID CHAPTER.**

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

SECTION 1. Section 140-5 (Inspections) in Article 1 (Commercial and Industrial Maintenance) in Chapter 140 (Property Maintenance) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§140-5 Inspections.

All buildings and premises subject to this code are subject to inspection from time to time by the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, their respective designees, or any other official charged with the duty of enforcing regulations governing any aspect or conduct of the activity on the premises. At the time of such inspection, all portions of the premises subject to this code must be available and accessible for such inspection, and the owner, operator and occupant are required to provide the necessary arrangements to facilitate such inspection. Such inspection shall be made during regular business hours of the business occupying said premises, unless there is sufficient reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the inspecting official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the official is authorized to enter the structure or premises at reasonable times to inspect or enforce the requirements of this chapter, provided that if such structure or premises is occupied the official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, whether occupied or not, the official shall obtain a proper warrant or have other recourse to the remedies provided by law to secure entry.

SECTION 2. Section 140-6 (Correction of violation; abatement by municipal officers) in Article 1 (Commercial and Industrial Maintenance) in Chapter 140 (Property Maintenance) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§ 140-6 Correction of violation; abatement by municipal officers.

- A. Immediate abatement. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb or presents an immediate threat to the health, safety and welfare of the occupants, invitees, adjoining property owners or the general public, unless abated without delay, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, or their respective designees may order the owner, operator or occupant to correct the violation or condition within the period of time consistent with the hazard involved and with the measures necessary to remove the hazard, and, upon the failure of the operator, owner or occupant to correct said condition, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, or their respective designees shall issue a summons forthwith and shall cause said condition to be immediately abated thereafter as prescribed in Subsection I below.
- B. Procedure upon discovery of violations. Except as otherwise provided in Subsection A above, where violations of this code or the regulations hereunder are found to exist, a written notice from the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall be served on the person or persons responsible for the correction thereof.
- C. Notice. Notice shall be served personally or by certified mail, addressed to the last-known address of the person to be served. In the case of an occupant, notice may be posted upon the main entrance door of the building, and in the case of an owner, the last-known address shall be the address of the owner as shown in the records of the office of the Tax Collector.
- D. Contents of notice. The notice shall specify the violation or violations committed, what must be done to correct the same, a reasonable period of time, not to exceed 30 days, to abate the violation, the right of the person served to request a hearing and that the notice shall become an order of the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees in 10 days after service unless a hearing is requested pursuant to these provisions.
- E. Request for hearing. Within 10 days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon by serving a written request within the 10-day period in person or by certified mail on the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees. Such request for a hearing shall set forth briefly the reasons for which the request for a hearing is made and the factual matters contained in the notice of violation for which the hearing is requested. The Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees upon receipt of the request for hearing, shall, within 30 days therefrom and upon five days notice to the parties so requesting, conduct a hearing.
- F. Hearings and orders. At the hearing provided hereunder, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall hear all parties and his or her final determination shall be made within 10 days from the completion of the hearing. He or she shall then issue an order incorporating the determinations and directions contained in the notice, modifying said notice if he or she so deems necessary. The Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees may extend the time for correction of the violations when deemed by him or her to be necessary.

- G. Summons for unabated violation. In the event the violation is not abated, removed, cured or otherwise fully remedied within the time period prescribed in the initial notice or extended time period as permitted by the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees, a summons shall then be issued against such person or persons charged with the violation. A summons may also be issued without initial written notice in the circumstances described in § 140-6A.
- H. In addition to the issuance of summons for an unabated violation, and where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, and upon the certification of the Health Officer, Fire Official and/or the Borough Engineer and after the approval of the Borough Administrator, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees may provide for the removal of or destruction of overgrown brush, weeds, including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth, garbage, trash, debris as permitted by N.J.S.A. 40:48-2.13 and N.J.S.A. 40:48-2.13a.
- I. In the event that the immediate abatement is necessary pursuant to Subsection A hereof, or that brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious growth, filth garbage trash, debris are sought to be removed or destroyed pursuant to Subsection H herein, the officer of the municipality or their respective designee seeking such removal and the Borough Administrator shall obtain and certify the costs thereof to the Mayor and Borough Council, who shall examine the certificate, and if found to be correct and appropriate shall authorize and direct by way of resolution the removal and/or destruction and to direct the costs as shown thereon to be charged against said dwelling or lands and the amounts so charged shall forthwith become a lien upon such property or lands and shall be added to and become part of the taxes next to be assessed and levied upon such property or lands, the same to bear interest at the same rate as taxes. A copy of the resolution authorizing and directing the removal and the costs and expenses to be charged shall be certified by the Borough Clerk and filed with the Tax Collector of the Borough, who shall be responsible for the collection thereof, with a copy of the report and resolution sent by certified mail to the owner, operator and/or occupant of the premises. If the amount of the lien is not paid, the Tax Collector may sell the unpaid municipal lien at the next tax sale. Notwithstanding anything to the contrary contained herein, nothing shall prevent the Borough from simultaneously proceeding to collect these costs and expenses, as well as to impose fines and penalties upon the owner, operator and occupant by commencing and continuing a proceeding in the Municipal Court of the Borough against those responsible for noncompliance with this code.

SECTION 3. Subsection B.(4) in Section 140-11 (Regulation of premises) in Article 2 (Residential Property Maintenance) in Chapter 140 (Property Maintenance) of the Code of the Borough of Metuchen is hereby amended to read as follows:

- (4) Construction sites. It shall be unlawful for any owner, agent or contractor in charge of a construction or demolition site to permit the accumulation of litter before, during or after completion of any construction or demolition project. It shall be the duty of the owner, agent or contractor in charge of a construction site to furnish containers adequate to accommodate friable or non-friable debris or trash at areas convenient to construction areas and to maintain and empty the receptacles in such a manner and with such a frequency as to prevent spillage of refuse.

SECTION 4. Section 140-12 (Inspections) in Article 2 (Residential Property Maintenance) in Chapter 140 (Property Maintenance) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§ 140-12 Inspections.

All buildings and premises subject to this code are subject to inspection from time to time by the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, their respective designees or any other official charged with the duty of enforcing regulations governing the premises. At the time of such inspection, all portions of the premises subject to this code must be available and accessible for such inspection, and the owner and occupant are required to provide the necessary arrangements to facilitate such inspection. Such inspection shall be made during regular business hours, unless there is sufficient reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the inspecting official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the official is authorized to enter the structure or premises at reasonable times to inspect or enforce the requirements of this chapter, provided that if such structure or premises is occupied the official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, whether occupied or not, the official shall obtain a proper warrant or have other recourse to the remedies provided by law to secure entry.

SECTION 5. Section 140-13 (Correction of violation; abatement by municipal officers) in Article 2 (Residential Property Maintenance) in Chapter 140 (Property Maintenance) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§ 140-13 Correction of violation; abatement by municipal officers.

- A. Immediate abatement. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb or presents an immediate threat to the health, safety and welfare of the occupants, adjoining property owners and/or the general public unless abated without delay, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, Police Department, or their respective designees may order the owner, operator or occupant to correct the violation or condition within the period of time consistent with the hazard involved and with the measures necessary to remove the hazard, and, upon the failure of the owner or occupant to correct said condition, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall issue a summons forthwith and shall cause said condition to be immediately abated thereafter as prescribed in subsection I below.
- B. Procedure upon discovery of violations. Except as otherwise provided in Subsection A above, where violations of this code or the regulations hereunder are found to exist, a written notice from the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall be served on the person or persons responsible for the correction thereof.
- C. Notice. Notice shall be served personally or by certified mail, addressed to the last-known address of the person to be served. In the case of an occupant, notice may be posted upon the entrance door of the dwelling, and in the case of an owner, the last-known address shall be the address of the owner as shown in the records of the office of the Tax Collector.
- D. Contents of notice. The notice shall specify the violation or violations committed, what must be done to correct the same, a reasonable period of time, not to exceed

30 days, to abate the violation, the right of the person served to request a hearing and that the notice shall become an order of the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees in 10 days after service unless a hearing is requested pursuant to these provisions.

- E. Request for hearing. Within 10 days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon by serving a written request within the 10-day period in person or by certified mail on the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees. Such request for a hearing shall set forth briefly the reasons for which the request for a hearing is made and the factual matters contained in the notice of violation for which the hearing is requested. The Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees, upon receipt of the request for hearing, shall, within 30 days therefrom and upon five-days' notice to the parties so requesting, conduct a hearing.
- F. Hearings and orders. At the hearing provided hereunder, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees shall hear all parties and his or her final determination shall be made within 10 days from the completion of the hearing. He or she shall then issue an order incorporating the determinations and directions contained in the notice, modifying said notice if he or she so deems necessary. The Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees may extend the time for correction of the violations when deemed by him or her to be necessary.
- G. Summons for unabated violation. In the event the violation is not abated, removed, cured or otherwise fully remedied within the time period prescribed in the initial notice or extended time period as permitted by the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees, a summons shall then be issued against such person or persons charged with the violation. A summons may also be issued without initial written notice in the circumstances described in § 140-13A.
- H. In addition to the issuance of summons for an unabated violation, and where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, and upon the certification of the Health Officer, Fire Official, Director of Public Works and/or the Borough Engineer and after the approval of the Borough Administrator, the Construction Code Official, Zoning Officer, Enforcement Officer, Director of Public Works, Health Officer, or their respective designees may provide for the removal of or destruction of overgrown brush, weeds, including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth, garbage, trash, debris as permitted in N.J.S.A. 40:48-2.13 and N.J.S.A. 40:48-2.13a.
- I. In the event that the immediate abatement is necessary pursuant to Subsection A hereof, or that overgrown brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious growth, filth garbage trash, debris are sought to be removed or destroyed pursuant to Subsection H herein, the officer of the municipality or their respective designee seeking such removal and the Borough Administrator shall obtain and certify the proposed costs thereof to the Mayor and Borough Council, who shall examine the certificate, and if found to be correct and appropriate shall authorize and direct by way of resolution the costs as shown thereon to be charged against said dwelling or lands and the amounts so charged shall forthwith become a lien upon such a dwelling or lands and shall be added to and become part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes. A copy of the resolution

authorizing and directing the removal and the costs and expenses to be charged shall be certified by the Borough Clerk and filed with the Tax Collector of the Borough, who shall be responsible for the collection thereof, with a copy of the report and resolution sent by certified mail to the owner and/or occupant of the premises. If the amount of the lien is not paid, the Tax Collector may sell the unpaid municipal lien at the next tax sale. Notwithstanding anything to the contrary contained herein, nothing shall prevent the Borough from simultaneously proceeding to collect these costs and expenses, as well as to impose fines and penalties upon the owner and occupant by commencing and continuing a proceeding in the Municipal Court of the Borough against those responsible for noncompliance with this code.

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 ordinance shall take effect upon final passage and publication in accordance with law.

Ordinances – Introduction

Ord. 2023-21

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

Council President Delia made a motion that Ordinance 2023-21 be introduced and be taken up on first reading, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

Council President Delia asked that Ordinance 2023-21 be read by title only.

Ms. Zupan read Ordinance 2023-21 by title only.

Council President Delia moved that Ordinance 2023-21 be passed on first reading, be published according to law, and a public hearing be set down for Monday, July 10, 2023, second by Councilmember Giamboi.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Ordinance 2023-21 was passed on first reading, 5-0, and will be published according to law.

Ord. 2023-22

ORDINANCE AUTHORIZING THE GRANT OF
AN EASEMENT AND MAINTENANCE
AGREEMENT TO 212 DURHAM URBAN
RENEWAL, LLC ON THE PROPERTY
COMMONLY KNOWN AS GULTON STREET

Council President Delia made a motion that Ordinance 2023-22 be introduced and be taken up on first reading, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

Council President Delia asked that Ordinance 2023-22 be read by title only.

Ms. Zupan read Ordinance 2023-22 by title only.

Council President Delia moved that Ordinance 2023-22 be passed on first reading, be published

according to law, and a public hearing be set down for Monday, July 10, 2023, second by Councilmember Giamboi.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Ordinance 2023-22 was passed on first reading, 5-0, and will be published according to law.

Chris Cosenza, of the Borough's Planning firm LRK, gave a presentation on the redevelopment plan for the Southwest Gateway Redevelopment area.

Ord. 2023-23

ORDINANCE OF THE BOROUGH OF
METUCHEN ADOPTING A REDEVELOPMENT
PLAN FOR THE SOUTHWEST GATEWAY
REHABILITATION AREA WITHIN THE
BOROUGH OF METUCHEN, COUNTY OF
MIDDLESEX, STATE OF NEW JERSEY

Council President Delia made a motion that Ordinance 2023-23 be introduced and be taken up on first reading, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

Council President Delia asked that Ordinance 2023-23 be read by title only.

Ms. Zupan read Ordinance 2023-23 by title only.

Council President Delia moved that Ordinance 2023-23 be passed on first reading, be published according to law, and a public hearing be set down for Monday, July 10, 2023, second by Councilmember Giamboi.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Ordinance 2023-23 was passed on first reading, 5-0, and will be published according to law.

2023 Municipal Budget – Public Hearing and Adoption

Council President Delia made a motion to approve Resolutions 2023-186 to 2023-187, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

RESOLUTION 2023-186

**RESOLUTION TO READ THE BUDGET BY
TITLE ONLY AT THE PUBLIC HEARING**

WHEREAS, N.J.S.40A:4-8 provides that the budget be read by title only, at the time of the public hearing, if a resolution is passed by not less than a majority of the full Governing Body, providing that at least one week prior to the date of hearing, a complete copy of the approved budget as advertised has been posted in the Borough Hall, a copy has been posted on the official website and copies have been made available by the Clerk to persons requiring them; and

WHEREAS, these conditions have been met.

NOW THEREFORE BE IT RESOLVED, that the budget shall be read by title only.

RESOLUTION 2023-187

RESOLUTION OF GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S "ENFORCEMENT GUIDANCE ON THE CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964"

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Metuchen hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

MUNICIPAL BUDGET FOR THE BOROUGH OF METUCHEN, COUNTY OF MIDDLESEX, FOR THE CALENDAR YEAR 2023

Council President Delia asked Ms. Zupan to read the 2023 Municipal Budget by title only.

Ms. Zupan read the 2023 Municipal Budget by title only.

Mayor Busch opened the public hearing on 2023 Municipal Budget to any members of the public wishing to speak.

Seeing no one wishing to speak, Mayor Busch closed the public hearing.

Council President Delia asked Ms. Zupan to read Resolution 2023-188, Resolution to Amend the Approved Budget, in full.

Ms. Zupan read Resolution 2023-188 in full.

Council President Delia made a motion to approve Resolution 2023-188, second by Councilmember Giamboi.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

Resolution 2023-188 was approved, 5-0.

Council President Delia made a motion to adopt the 2023 Municipal Budget for the Borough of Metuchen on second reading, second by Councilmember Giamboi.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Delia
Nays: None

The 2023 Municipal Budget was adopted, 5-0.

RESOLUTION 2023-188

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

RESOLUTION TO AMEND THE APPROVED BUDGET

WHEREAS, the local municipal budget for the year 2023 was approved on the 22nd day of May, 2023; and

WHEREAS, the public hearing on said budget has been held as advertised; and

WHEREAS, it is desired to amend said approved budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Metuchen, in the County of Jersey, State of New Jersey, that the following amendments to the approved budget of 2023 be made:

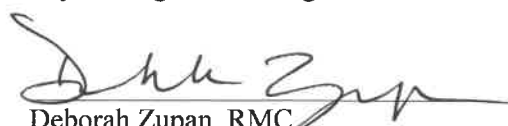
	<u>FROM</u>	<u>TO</u>
Anticipated Revenues		
Miscellaneous Revenues		
Energy Taxes	\$1,448,955.00	\$1,458,971.00
Total Miscellaneous Revenues	\$4,029,317.56	\$4,039,633.56
Subtotal General Revenues (Items 1,2,3&4)	\$6,879,317.56	\$6,889,633.56
Amount to be Raised by Taxes:		
a) Local Tax for Municipal Purposes Including Reserve for Uncollected Taxes	16,836,904.84	16,826,378.31
TOTAL GENERAL REVENUE	24,713,791.61	24,713,580.63
General Appropriations		
(M) Reserve for Uncollected Taxes	1,470,775.19	1,470,564.66
TOTAL GENERAL APPROPRIATIONS	24,713,791.16	24,713,580.63

BE IT FURTHER RESOLVED, that two certified copies of this resolution be filed forthwith with the Director of the Division of Local Government Services for approval.

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

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on June 26, 2023.




 Deborah Zupan, RMC
 Borough Clerk

Report of Borough Administrator

No report.

Reports of Councilmembers

Council President Delia

- The MDA had an amazing month in June. Thank you to the DPW, Police, Fire, Borough Administrator, and everyone who has been involved in making the MDA events happen.
- Long time concerns of residents of East Walnut Street were addressed by Council President Delia and the Chief of Police this past weekend.
- On behalf on Councilmember Kandel: the pool is now open seven days a week, through Labor Day, please register online. Follow the pool's Facebook page for events and other updates.

Councilmember Giamboi

- The Shade Tree Commission will not meet in July.
- The Environmental Commission was at the Farmers Market last Saturday and shared information about various projects and events, including the Weed Warrior Project, and handed out solar energy pamphlets. The Commission has also been exploring composting possibilities.
- The Senior Art Exhibit is still on display at the Library. Please consider joining the Senior Center for the various programs and events they offer.

Councilmember Hyman

- The Metuchen CARES committee distributed bags for the Project Graduation party, which was a huge success. The Committee will have a table at the Farmers Market in July and will be participating in the National Night Out in August. Planning is underway for our overdose awareness vigil, which will take place on August 31 outside Borough Hall.
- Thank you again to the Parade Commission for all the work that went into the Memorial Day parade; there has been a lot of positive feedback, though many have commented that the new route is too short. The Commission is considering going back to a longer route. The Commission also may need a new Santa sleigh for the Winter Holiday parade.

Councilmember Hirsch

- The upgrades of the Library elevator are complete. Kids can sign up for the Summer Reading 2023 "All Together Now"! It will run for 8 weeks and there are programs and activities for all ages. Upcoming programs include a Songwriters Series, Korean Cooking program, Read to a Therapy Dog, and the Smarty Pants Book Club. The Library will be closed on July 4.

Councilmember Branch

- There are various summer camp programs offered through the Recreation Department, including basketball, soccer, tennis, STEM and STEAM, and others.
- Thanks to the Human Relations Commission and the MDA there were two fantastic Juneteenth events this month where Councilmember Branch got to show off his karaoke and double-dutch skills.

Report of the Mayor

We have an exciting announcement; we're going to be doing some renovations to Center Street Park. The park's iconic metal slide has been removed and will be replaced. The Borough's concert series, with the help of the Arts Council and MDA is kicking off soon, starting with Tiffany on July 12. There will also be a Taylor Swift cover band and a Best of Broadway show. We are also looking forward to some art coming to town tomorrow, three sculptures from the Grounds for Sculpture.

New Business Consent Agenda – Resolutions 2023-189 to 2023-199

Council President Delia made a motion to approve New Business Consent Agenda Resolutions 2023-189 to 2023-199, second by Councilmember Giamboi, all in favor, motion carried, 5-0.

RESOLUTION 2023-189

RESOLUTION AUTHORIZING BID AWARD FOR EDGAR PARK TURF FIELD IMPROVEMENTS

WHEREAS, four (4) bids were received by the Borough Clerk, Borough Engineer, and Borough Administrator on or before June 20, 2023, for Edgar Park Turf Field Improvements for the Borough of Metuchen; and

WHEREAS, the Borough Council has reviewed the letter of recommendation made by the Borough Engineer on said bid, dated June 21, 2023; and

WHEREAS, the maximum amount of award for Edgar Park Turf Field Improvements is \$2,819,804. Funds are available in the 2023 Capital Bond Ordinance 2023-06 and from a New Jersey DOE grant as certified by the Chief Finance Officer. Sufficient funds are designated from Capital Bond Ordinance 2023-06, Account C-04-55-942-002 in the amount of \$1,586,250.00, and C-04-55-942-001 in the amount of \$1,233.554.00.

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 Edgar Park Turf Field Improvements be and the same is hereby awarded to lowest responsible bidder, The LandTek Group, Inc., 105 Sweeneydale Avenue, Bay Shore, NJ 11706.

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

BE IT FURTHER RESOLVED that the certified check or bid bond of the successful bidder and the next lowest bidders be returned upon the receipt of a fully executed contract and other required documents to:

1. Applied Landscape Technologies., 145 River Road, Montvale, NJ 07045
2. CMS Construction, 521 North Avenue, Plainfield, NJ 07060
3. Senco Metals LLC, 318 McLean Boulevard, Unit 4, Paterson, NJ 07504

RESOLUTION 2023-190

RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT TO COLLIERS ENGINEERING & DESIGN, TO PERFORM ENGINEERING SERVICES FOR 2023 ROAD PROGRAM AND SANITARY SEWER UPGRADES

WHEREAS, the Borough of Metuchen has identified the need for Professional Engineering services of a Borough Engineer; and

WHEREAS, by way of Resolution No. 2023-21, the Borough of Metuchen awarded a required disclosure contract pursuant to the provisions of *N.J.S.A. 19:44A-20.5* for Borough Engineering services to Colliers Engineering & Design for the calendar year 2023 at a cost not to exceed thirty-five thousand dollars (\$35,000.00); and

WHEREAS, the Borough of Metuchen has identified the need for engineering design, construction documents, bidding services and construction administrative services for 2023 Road Program and Sanitary Sewer Improvements pursuant to the provisions of *N.J.S.A. 19:44A-20.5*; and

WHEREAS Colliers Engineering & Design, submitted a proposal dated May 31, 2023, to the Borough to render engineering services for 2023 Road Program and Sanitary Sewer Improvements for a cost not to exceed three hundred twelve thousand dollars and no cents (\$312,000.00); and

WHEREAS, the proposal was reviewed and evaluated, and it is the recommendation of the Borough Administrator that a contract for engineering services for 2023 Road Program and Sanitary Sewer Improvements be awarded to Colliers Engineering & Design of Red Bank, New Jersey consistent with the proposal submitted; and

WHEREAS, the Council of the Borough of Metuchen have reviewed the proposal and have determined it is in the best interest of Metuchen to award a contract to Colliers Engineering & Design, of Red Bank, New Jersey to render engineering services for 2023 Road Program and Sanitary Sewer Improvements; and

WHEREAS the cost for the proposed services shall not exceed three hundred twelve thousand dollars and no cents (\$312,000.00) without further approval by the Mayor and Borough Council; and

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

WHEREAS, the Chief Financial Officer's Certification of Funds has certified that there are sufficient funds for such contract and is available and is designated from Capital Bond Ordinance 2023-07, C-04-55-939-016.

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Metuchen that it hereby awards a contract to Colliers Engineering & Design, 331 Newman Springs Road, Suite 203, Red Bank, NJ 07701 on the basis of the proposal dated May 31, 2023 to provide professional engineering services to the Borough of Metuchen for Pearl Street and New Street Improvements for a cost not to exceed three hundred twelve thousand dollars and no cents (\$312,000.00).

BE IT FURTHER RESOLVED, that the Mayor and Borough officials and employees are hereby authorized to take all necessary actions in order to effectuate the terms and provisions of this Resolution, including but not limited to the execution of an Agreement in the form acceptable in contents by the Mayor and Council President.

RESOLUTION 2023-191

RESOLUTION AUTHORIZING ESCNJ CONTRACT FOR PLAYGROUND EQUIPMENT, SITE FURNISHINGS AND PLAYGROUND SURFACING MATERIALS, INSTALLATION AND MAINTENANCE

WHEREAS, there exists a need to purchase playground equipment, site furnishings and playground surfacing materials, including installation and inspections for the Borough of Metuchen, County of Middlesex, State of New Jersey; and

WHEREAS, playground equipment is available through ESCNJ 20/21-22 Playground Equipment, Site Furnishings & Outdoor Circuit Training Equipment & Related Products; and

WHEREAS, the term of contract ESCNJ 20/21-22 is from June 3, 2020 to June 29, 2022, Extended to June 29, 2023, Extended to June 29, 2024; and

WHEREAS, playground surfacing materials, installation and inspections is available through ESCNJ 20/21-02 Playground Surfacing Materials, Installation and Inspections; and

WHEREAS, the term of contract ESCNJ 20/21-02 is from July 1, 2020 to June 30, 2022, Extended to June 30, 2023, Extended to June 29, 2024; and

WHEREAS, the Chief Financial Officer’s certification of funds is made authorizing the award to purchase playground equipment, site furnishings, playground surfacing materials, installation and inspections from the Capital Bond Ordinance 2023-07, C-04-55-939-003 in the amount not to exceed \$60,731.96, Trust Other -Donation T-16-56-876-899 in the amount not to exceed \$35,888.00 and Trust Other- Donation T-16-56-876-896 in the amount not to exceed \$7,094.88, for a grand total not to exceed \$103,714.84; and

WHEREAS, ESCNJ 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:

The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a purchase order to Ben Shaffer Recreation, Inc. LLC, PO Box 844, Lake Hopatcong, NJ 07489.

RESOLUTION 2023-192

RESOLUTION OF APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE HILLSIDE AVENUE BIKEWAYS PROJECT

WHEREAS, the Borough of Metuchen wishes to apply for and obtain funding through the New Jersey Department of Transportation's Bikeways Grant Program for the completion of the Hillside Avenue Bikeways Project.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Metuchen are hereby authorized to submit an electronic grant application identified as BIKE-2024-Hillside Avenue Bikeways Project-00018 to the New Jersey Department of Transportation on behalf of the Borough of Metuchen.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Metuchen and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement.

RESOLUTION 2023-193

RESOLUTION OF APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE GROVE AVENUE WALKWAY REHABILITATION PROJECT

WHEREAS, the Borough of Metuchen wishes to apply for and obtain funding through the New Jersey Department of Transportation's Transit Village Grant Program for the completion of the Grove Avenue Walkway Rehabilitation Project.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Metuchen are hereby authorized to submit an electronic grant application identified as TV-2024-Grove Avenue Walkway Rehabilitation-00009 to the New Jersey Department of Transportation on behalf of the Borough of Metuchen.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Metuchen and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement.

RESOLUTION 2023-194

RESOLUTION OF APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE GROVE AVENUE WALKWAY REHABILITATION PROJECT

WHEREAS, the Borough of Metuchen wishes to apply for and obtain funding through the New Jersey Department of Transportation's Safe Streets to Transit Grant Program for the completion of the Grove Avenue Walkway Rehabilitation Project.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council and Clerk are hereby authorized to submit an electronic grant application identified as SST-2024-Grove Avenue Walkway Rehabilitation-00007 to the New Jersey Department of Transportation on behalf of the Borough of Metuchen.

BE IT FURTHER RESOLVED, that the Borough Council and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Metuchen and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

RESOLUTION 2023-195

RESOLUTION OF APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE GROVE AVE, ROSE ST AND NEWMAN ST IMPROVEMENTS PROJECT

NOW, THEREFORE, BE IT RESOLVED that Council of the Borough of Metuchen formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk and Colliers Engineering & Design are hereby authorized to submit an electronic grant application identified as MA-2024-Grove Ave, Rose St and Newman St Imp-00348 to the New Jersey Department of Transportation on behalf of the Borough of Metuchen

BE IT FURTHER RESOLVED that Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Metuchen and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

RESOLUTION 2023-196

RESOLUTION AUTHORIZING THE BOROUGH OF METUCHEN PLANNING BOARD TO REVIEW A PROPOSED REDEVELOPMENT PLAN FOR BLOCK 130.01, LOTS 47.01, 47.02, 48 & 60.01 WITHIN THE BOROUGH OF METUCHEN, MIDDLESEX COUNTY, NEW JERSEY

WHEREAS, pursuant to N.J.S.A. 40A:12A-14 et seq., Resolution 2020-50 of the Borough of Metuchen Council (the "Borough Council") formally designated the entirety of the Borough an "Area in Need of Rehabilitation," including Block 130.01, Lots 47.01, 47.02, 48 & 60.01 (the "Southwest Gateway Rehabilitation Area"); and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, a governing body may adopt, revise or amend a redevelopment plan; and

WHEREAS, in order to facilitate the overall development, redevelopment, and rehabilitation of the Borough of Metuchen (the "Borough"), the Borough Council has determined it is in the Borough's best interest to adopt the "Southwest Gateway Redevelopment Plan" ("Redevelopment Plan") for the Southwest Gateway Rehabilitation Area within the Borough which will support and promote the overall development, redevelopment, and rehabilitation of the Southwest Gateway Rehabilitation Area; and

WHEREAS, the Redevelopment Plan provides a more specific plan for the planning, development, redevelopment, and rehabilitation of the Southwest Gateway Rehabilitation Area within the Borough for purposes of improving conditions within the Southwest Gateway Rehabilitation Area; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, the Borough Council hereby refers the "Southwest Gateway Redevelopment Plan" to the Borough of Metuchen Planning Board for

review and a determination of the Redevelopment Plan's consistency with the Borough's Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen, County of Middlesex, State of New Jersey:

1. That, pursuant to N.J.S.A. 40A:12A-7, the Borough Council does hereby authorize the Planning Board to review the "Southwest Gateway Redevelopment Plan" and to report its findings to the Governing Body within forty-five (45) days hereof.
2. This Resolution shall take effect immediately.

RESOLUTION 2023-197

**RESOLUTION APPOINTING CLASS II MEMBER OF METUCHEN BOROUGH
PLANNING BOARD – LINDA KOSKOSKI**

BE IT RESOLVED, by the Borough Council of the Borough of Metuchen that Linda Koskoski, Project Manager, be appointed as a Class II member of the Planning Board, term to expire December 31, 2023.

RESOLUTION 2023-198

**RESOLUTION AUTHORIZING TRAFFIC DETOUR PROPOSED BY
ELIZABETHTOWN GAS**

WHEREAS, Elizabethtown Gas submitted plans to install a proposed 12" ST (steel) natural gas main along the route of Liberty Street, Forrest Street, Central Avenue (CR-669), and Plainfield Road (CR531/CR661). This proposed installation is to provide increased natural gas supply and system stability for the western portion of the Elizabethtown Gas territory; and

WHEREAS, at the request of the Middlesex County Engineering Department, Elizabethtown Gas is requesting written approval from the Borough of Metuchen for the proposed traffic detours along Central Avenue (CR-669) and Plainfield Road (CR531/661). All detours will be done only during working hours of 7:00 a.m. to 4:00 p.m. Elizabethtown Gas anticipates ten (10) weeks of construction that will require detours. Additionally, the expectation will be to complete all work within the county roadways while school is not in session so as to avoid unnecessary traffic delays; and

WHEREAS, the Metuchen Police Department has met with Elizabethtown Gas Company regarding the proposed detour plan for the gas main replacement project that will affect, Liberty Street, Forrest Street, Central Avenue (CR-669), and Plainfield Road (CR531/CR661), and have found these plans to be satisfactory; and

WHEREAS, as per Metuchen Borough ordinance, all roads disturbed within the Borough must be paved curb to curb after the completion of the project by Elizabethtown Gas.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Metuchen that it hereby authorizes the above referenced traffic detours proposed by Elizabethtown Gas.

RESOLUTION 2023-199

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

RESOLUTION FOR LIEN REDEMPTION

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>
21-00002	113/43	581 Middlesex Ave	PROCAP 8 FBO FIRSTRUST BANK

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

Other New Business

R2023-200	RESOLUTION AUTHORIZING THE PAYMENT OF THE BILL LIST IN THE AMOUNT OF \$279,561.30
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Council President Delia made a motion to approve Resolution 2023-200, second by Councilmember Giamboi, with all in favor, motion carried, 5-0.

RESOLUTION 2023-200

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 \$ \$279,561.30.

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.

Adjournment

Council President Delia made a motion to adjourn the meeting, second by Councilmember Giamboi, with all in favor, 5-0, the meeting was adjourned at 9:15 p.m.

Respectfully Submitted,

Deborah Zupan, RMC, Borough Clerk