ORDINANCE 2022-01

Borough of Metuchen
County of Middlesex
State of New Jersey

ORDINANCE AMENDING THE CODE OF THE BOROUGH OF METUCHEN EXPANDING CHAPTER 2, ENTITLED, "ETHICS CODE OF CONDUCT" TO ALL MEMBERS AND APPOINTEES OF BOROUGH BOARDS, COMMISSIONS, COUNCILS AND COMMITTEES

WHEREAS, the Chapter 2 of the Code of the Borough of Metuchen establishes an Ethics Code of Conduct for "Local Finance Board Officers and Employees" as defined by the New Jersey Local Government Ethics Law; and

WHEREAS, the Mayor and Council wish to expand the Ethics Code of Conduct to include all members and appointees of Boards, Committees and Commissions and Councils established by the Borough of Metuchen.

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 specifically Chapter 2, entitled "Ethics Code of Conduct" to state as follows:

CHAPTER 2

ETHICS CODE OF CONDUCT

§ 2-1 Restrictions for Local Finance Board Officers and Employees

Local government officers or employees under the jurisdiction of the Local Finance Board shall comply with the following provisions:

A. No local government officer or employee or member of their immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of their duties in the public interest;

B. Conflict with former employment.

(1) No independent local authority shall, for a period of one year next subsequent to the termination of office of a member of that authority:

(a) Award any contract which is not publicly bid to a former member of that authority;

(b) Allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or

(c) Employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.

(2) The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.

C. No local government officer or employee shall use or attempt to use their official position to secure unwarranted privileges or advantages for themself or others;

D. No local government officer or employee shall act in their official capacity in any matter where they, a member of their immediate family, or a business organization in which they have an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair their objectivity or independence of judgment;

E. No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice their independence of judgment in the exercise of their official duties;

F. No local government officer or employee, member of their immediate family, or business organization in which they have an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing them, directly or indirectly, in the discharge of their official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of their official duties;

G. No local government officer or employee shall use, or allow to be used, their public office or employment, or any information, not generally available to the members of the public, which they receive or acquire in the course of and by reason of their office or employment, for the purpose of securing financial gain for themself, any member of their immediate family, or any business organization with which they are associated;

H. No local government officer or employee or business organization in which they have an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which they serve. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities;

I. No local government officer shall be deemed in conflict with these provisions if, by reason of their participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to them as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group;

J. No elected local government officer shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of their immediate family, whether directly or indirectly, in return therefor; and

K. Nothing shall prohibit any local government officer or employee, or members of their immediate family from representing themself, or themselves, in negotiations or proceedings concerning their own interests.

§ 2-2 Enforcement

Enforcement of **§ 2-1** shall be in accordance with the state statute, and not under the Metuchen Borough Code.

§ 2-4 Restrictions for Members of a Board, Commission, Council and/or Committee Established by the Borough of Metuchen

Members of Boards, Commissions, Councils and Committees established by the Borough of Metuchen, not included in those set forth in § 2-2 above, and which are advisory in nature, shall comply with the following provisions:

A. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen, or member of their immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of their duties in the public interest;

B. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen, shall use or attempt to use their official position to secure unwarranted privileges or advantages for themself or others;

C. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen, shall act in their official capacity in any matter where they, a member of their immediate family, or a business organization in which they have an interest, have a direct or indirect financial or personal involvement that might reasonably be expected to impair their objectivity or independence of judgment;

D. No member of a Board, Commission and/or Committee established by the Borough of Metuchen shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice their independence of judgment in the exercise of their official duties;

E. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen, member of their immediate family, or business organization in which they have an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing them, directly or indirectly, in the discharge of their official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of their official duties;

F. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen shall use, or allow to be used, their public office or appointment, or any information, not generally available to the members of the public, which they receive or acquire in the course of and by reason of their office or appointment, for the purpose of securing financial gain for themself, any member of their immediate family, or any business organization with which they are associated;

G. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen or business organization in which they have an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which they serve. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities;

H. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen shall be deemed in conflict with these provisions if, by reason of their participation in a matter required to be voted upon, recommended or which is subject to executive or council approval or veto, no material or monetary gain accrues to them as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group;

I. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of their immediate family, whether directly or indirectly, in return therefor; and

J. Nothing shall prohibit any member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen, or members of their immediate family from representing themself, or themselves, in negotiations or proceedings concerning their own interests.

K. Whenever the performance of their official duties shall require any member of a Board, Commission, Council and/or Committee to take action on any matter involving their financial or personal interest, they shall publicly disclose the nature and extent of such interest and disqualify themself from participating in the deliberation as well as in the voting, unless otherwise permitted by law so to act.

L. All Boards, Commissions, Councils and/or Committees established by the Borough of Metuchen shall act as a whole by way of a vote of a majority pursuant to their bylaws. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen shall act in any manner whatsoever on behalf of the Boards, Commissions, Councils and/or Committees without the express authorization of the Boards, Commissions, Councils and/or Committees to do so.

M. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen, shall, on behalf of the Board, Commission, Council and/or Committee, grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.

N. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen shall take any action on behalf of the Borough of Metuchen without the authorization of the Mayor and Council to do so.

O. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen, shall request or direct a Borough employee, official, agent or consultant to take or refrain from any such action. All Board, Commission, Council and/or Committee communications with Borough employees, officials, agents or consultants shall be through the Borough Administrator or their designee.

P. No member of a Board, Commission, Council and/or Committee established by the Borough of Metuchen shall take any action that may bind or be implied to bind the Borough of Metuchen without the express written authorization of the Mayor and Council to do so.

Q. All members of Boards, Commissions, Councils and/or Committees established by the Borough of Metuchen shall be required to review and abide by the Borough of Metuchen Volunteer Handbook adopted by the Mayor and Council of the Borough of Metuchen.

R. All members of Boards, Commissions, Councils and/or Committees established by the Borough of Metuchen shall be required to attend ethics and local government training annually.

S. All meetings of Boards, Commissions, Councils and/or Committees established by the Borough of Metuchen shall be open to the public and conducted in a civil manner.

T. All members of Boards, Commissions, Councils and/or Committees established by the Borough of Metuchen are expected to attend the public meetings of the Boards, Commissions, Councils and/or Committees for which they have been appointed. Whenever any member of a Board, Commission, Council and/or Committee fails to attend and participate in any meetings of the Board, Commission, Council and/or Committee for a period of 8 consecutive weeks without

being excused from attendance by a majority of the members of the Board, Commission, Council and/or Committee, at the conclusion of such period, the membership to the Board, Commission, Council and/or Committee shall be deemed vacant; provided, however, that the Board, Commission, Council and/or Committee may refuse to excuse only with respect to those failure to attend and participate which are not due to legitimate illness. The Presiding member of the Board, Commission, Council and/or Committee shall notify the Mayor and Council of any such vacancies.

§ 2-5 Violations and Enforcement

Violations of § 2-4, by members of a Board, Commission, Council and/or Committee, established by the Borough of Metuchen, which are advisory in nature may result in up to the removal from the Board, Commission, Council and/or Committee by the Mayor and Council after notice and opportunity to be heard.

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 Mayor and Council that this ordinance shall become effective immediately upon final passage and publication as provided by law.

Introduction: January 24, 2022
Date of Publication: January 27, 2022

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
BRANCH	X				KANDEL	X			
DELIA	X				KOSKOSKI	X			
HIRSCH	X				RASMUSSEN	X			
MOTION	**DELIA**				**SECOND**	**RASMUSSEN**			
X – INDICATES VOTE			AB- ABSENT		NV- NOT VOTING				

I hereby certify the foregoing to be a true copy of an ordinance introduced by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on January 24, 2022.

Deborah Zupan
Acting Borough Clerk

Adopted: February 7, 2022
Date of Publication: February 10, 2022

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
BRANCH	X				KANDEL	X			
DELIA	X				KOSKOSKI	X			
HIRSCH	X				RASMUSSEN	X			
MOTION	**DELIA**				**SECOND**	**RASMUSSEN**			
X – INDICATES VOTE			AB- ABSENT		NV- NOT VOTING				

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on February 7, 2022.

Deborah Zupan
Acting Borough Clerk

ATTEST:

Deborah Zupan
Acting Borough Clerk

BOROUGH OF METUCHEN

By: Jonathan M. Busch
Mayor