

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.

Introduction: June 12, 2023
 Date of Publication: June 16, 2023

| COUNCILMEMBER | YES | NO | NV | AB | COUNCILMEMBER | YES | NO | NV | AB |
|--------------------|-------|----|------------|--------|---------------|----------------|----|----|----|
| BRANCH | X | | | | HYMAN | X | | | |
| DELIA | X | | | | KANDEL | 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 June 12, 2023.

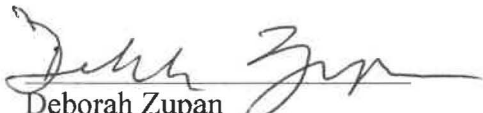

 Deborah Zupan
 Borough Clerk



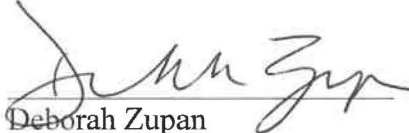
Adopted: June 26, 2023
 Date of Publication: June 30, 2023

| COUNCILMEMBER | YES | NO | NV | AB | COUNCILMEMBER | YES | NO | NV | AB |
|---------------|-------|----|----|----|---------------|-----------|----|----|----|
| BRANCH | X | | | | HYMAN | X | | | |
| DELIA | X | | | | KANDEL | | | | X |
| HIRSCH | X | | | | RASMUSSEN | X | | | |
| MOTION | DELIA | | | | SECOND | RASMUSSEN | | | |

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 June 26, 2023.

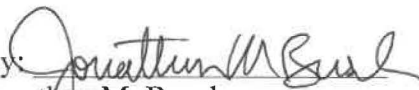

 Deborah Zupan
 Borough Clerk

ATTEST:


 Deborah Zupan
 Borough Clerk



BOROUGH OF METUCHEN

By: 
 Jonathan M. Busch
 Mayor