

Mayor
ANTHONY TALERICO, JR.

Council
VIRGINIA M. EAST, President
MARK REGAN, JR.
DANIELLE M. JONES
DAVID GINDI
EVERETT D. LUCAS
MEIR ARAMAN



Interim Administrator
WILLIAM P. LUCIA III

Borough Clerk
JULIE MARTIN

Borough Attorney
ANDREW BAYER

Borough Engineer
EDWARD HERRMAN

BOROUGH OF EATONTOWN
47 Broad Street
Eatontown, New Jersey 07724

AGENDA
Mayor and Council
Wednesday, May 24, 2023
STUDENT GOVERNMENT

This meeting has been advertised in accordance with the Open Public Meetings Act: A notice of the meeting has been published in the Asbury Park Press, Star Ledger and the Link News, posted on the bulletin board in the lobby of Borough Hall, and posted to the Borough website. Public Comment is welcome at any time.

WORKSHOP 7:00 pm

1. Roll Call, Flag Salute

Mayor Anthony Talerico, Jr	Isabela S. Delgado
Council President Virginia East	Logan A. Ortiz
Councilmember Mark Regan, Jr.	Cody Krueger
Councilmember Danielle Jones	Ishman Rahman
Councilmember David Gindi	Isabela Rahman
Councilmember Everett Lucas	Madeline Jacobs
Councilmember Meir Araman	Ky Ngo

Administrator Lucia	Lucia E. Buck
Attorney Bayer	Bianca DeMarzo
Clerk Martin	Rithish Pavatham

2. Proclamation, Memorial Day 2023
3. Presentation, Borough Government in Eatontown (C/Jones)
4. Volunteer Fair (C/Jones)
5. NJ Local Government Week, Borough Events Recap (C/Jones)
6. Downtown Redevelopment Planning (Mayor Talerico)
7. Letter Supporting Restoration of Energy Tax Receipts to Municipalities (C/Regan)

REGULAR MEETING 7:30 pm (or as soon thereafter)

1. Roll Call
2. **APPROVAL OF MINUTES** (vv)
 - A. Workshop/Regular Meeting/Closed Session - 5/10/2023
8. **COMMUNICATIONS**
 - A. Notice of Grant Award, Local Recreational Improvement Program, Repairs to Basketball Court, 80 Acres (\$33,000)
4. **MAYOR'S REPORT** - Mayor Talerico

5. REPORTS OF COMMITTEES

- A. PARKS & RECREATION - Council President East
- B. EMERGENCY SERVICES - Councilmember Regan, Jr.
- C. FINANCE & ORDINANCE - Councilmember Jones
- D. PUBLIC WORKS & INSURANCE - Councilmember Gindi
- E. PUBLIC BUILDINGS & TENANTS RIGHTS - Councilmember Lucas
- F. POLICE, PUBLIC LIGHTS & PARKING - Councilmember Araman

6. ADMINISTRATOR'S REPORT - Interim Administrator Lucia

7. OLD BUSINESS

A. ORDINANCE ADOPTION (rc)

- 1) **Ordinance 13-2023** - An Ordinance Vacating Conservation and Drainage Easement of Block 4002, Lot 22.01

Public Hearing/Adoption

- 2) **Ordinance 14-2023** - An Ordinance of the Borough of Eatontown Concerning the Removal of Trees Deleting Chapter 89 Article I Section 3 and Amending Chapter 307 Articles I and II - **Public Hearing/Adoption**

- 3) **Ordinance 15-2023** - An Ordinance Authorizing Donation of Block 401, Lots 10, 11, 129 and 130 to Habitat for Humanity
Public Hearing/Adoption

- 4) **Ordinance 17-2023** - An Ordinance Amending Chapter 55 "Police Department", Article I "Appointments", Section 55-1 to 55-3 Deleting the Local Residency Requirements for Police Officers - **Public Hearing/Adoption**

- 5) **Ordinance 18-2023** - An Ordinance Amending Chapter 154 "Firearms", Section 154.1 "Discharge of Firearms Restricted"
Public Hearing/Adoption

8. PUBLIC COMMENT ON AGENDA ITEMS ONLY

9. BILLS & CLAIMS AND BI-WEEKLY PAYROLL (vv)

10. NEW BUSINESS

A. CONSENT AGENDA RESOLUTIONS (rc)

(All matters listed hereunder are considered to be routine in nature and will be enacted in one motion. Any person may request an item be removed for separate consideration).

- 1) **Resolution 109-2023** - Release of Escrow Blk 1304, Lots 4-13, Merchants Retail
- 2) **Resolution 110-2023** - Auth. Execution of Agreement with Meghan A. Bennett of Dilworth Paxson, LLP (Bond Counsel)
- 3) **Resolution 111-2023** - Requesting Change in Title, Text or Amount of Appropriation Pursuant to NJSA 40A:4-85
- 4) **Resolution 112-2023** - Approving Chapter 159, Clean Communities Grant
- 5) **Resolution 113-2023** - Approving Objective Selection Criteria for Class 5 Cannabis Retailer License Applications
- 6) **Resolution 114-2023** - Auth. Borough Planner to Prepare Downtown Redevelopment Plan
- 7) **Resolution 115-2023** - Renew Targeted IT Contract **(need correct title)**

11. REMARKS OF COUNCIL AND CITIZENS

12. CLOSED SESSION (vv)

A. Resolution 116-2023

1. Potential Litigation - Affordable Housing

13. ADJOURNMENT (vv)

**The next meeting of the Governing Body is
Wednesday, June 14, 2023 @ 7:00 p.m.**

ORDINANCE 13-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**AN ORDINANCE VACATING CONSERVATION AND DRAINAGE EASEMENT OF BLOCK 4002, LOT
22.01**

WHEREAS, under the Local Land and Buildings Law, N.J.S.A. 40A:12-1 et. seq., the Borough of Eatontown (the "Borough") is required to convey real property or any interest in real property through the adoption of an ordinance; and

WHEREAS, a Drainage/Conservation Easement was created on the property identified as Block 4002, Lot 22.01, f/k/a Block 4002, Lots 22&23 (the "Property") in favor of the Borough of Eatontown as part of a major subdivision application dating back to 1986 and as a condition of Variance and Site Plan approval granted by the Eatontown Planning Board to the property owner, Shaare Tefilah Ben Moshe, Inc. (the "Synagogue") for the initial construction of the synagogue in 2008, a modified Drainage and Conservation Easement (the "Easement") was filed with the County Clerk in favor of the Borough; and

WHEREAS, the Eatontown Planning Board granted Amended Preliminary and Final Major Site Plan Approval to construct an addition to the existing synagogue including associated site improvements on April 4, 2022; and

WHEREAS, the Planning Board requested that the Borough vacate the Easement because both the Synagogue's expert and the NJDEP concurred that the Easement was not serving any real purpose on the Synagogue's property and would remain in place on the neighboring property; and

WHEREAS, the Borough Council finds it to be in the best interests of the Borough and its residents to vacate the Easement as recommended by the Planning Board to allow for the expansion of the Synagogue as approved.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth and State of New Jersey, that it hereby authorizes the vacation of the Drainage and Conservation Easement on Block 4002, Lot 22.1 and the Mayor is authorized to execute the Vacation of Conservation Easement as between the Borough of Eatontown and Congregation Shaare Tefilah Ben Moshe, Inc. in a form approved by the Borough Attorney.

IT IS FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

IT IS FURTHER ORDAINED that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

IT IS FURTHER ORDAINED that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

DATE INTRODUCED: 4/26/2023

DATE ADOPTED:

APPROVED:

Anthony Talerico, Jr. Mayor

Date:

ATTEST:

Julie Martin, Municipal Clerk

Date:

ORDINANCE 14-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**AN ORDINANCE OF THE BOROUGH OF EATONTOWN CONCERNING TREE REMOVAL AND
AMENDING CHAPTER 89 ARTICLE I SECTION 3 AND CHAPTER 307 ARTICLES I AND II**

WHEREAS, the Borough Council seeks to update the Borough Code to ensure that it is consistent with N.J.S.A. 40:64-1 through N.J.S.A. 40:64-14 by deleting Chapter 89 Section 3 (c)(3) and amending Chapter 307 Articles I and II of the Code of the Borough of Eatontown; and

WHEREAS, Chapter 89 Section 3 (c)(3) is duplicative of the Tree Removal sections of Chapter 307.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth and State of New Jersey, hereby amends the Borough Code as follows:

Chapter 89 Section 3 (c)(3) is hereby stricken.

Chapter 307-1 through Chapter 307-22 is hereby stricken and amended to read as follows:

- A. Purpose. The Borough Council of the Borough of Eatontown does herein decide and find that the indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees upon lots and tracts of land within the Borough has resulted in increased municipal drainage costs, drainage control costs, and has further caused increased soil erosion, decreased fertility of soil and increased dust, which has deteriorated property values and has further rendered land unfit and unsuitable for the most appropriate use, with the result that there has been and will result in the future a deterioration of conditions affecting the health, safety and general well-being of the inhabitants of the Borough and has caused the passage of this article to regulate and control the indiscriminate and excessive cutting of trees in the Borough.
- B. Definitions. As used in this subsection, the following terms shall have the meanings indicated:

DO NOT PLANT LIST a promulgation of the Shade Tree Commission that identifies trees which are not permissible to be planted as a replacement tree or part of a Planning Board or Zoning Board application. The DO NOT PLANT LIST shall be posted on the Borough webpage, filed with the Zoning Officer and may be amended from time to time. Deviations from this list are subject

to the approval of the Shade Tree Commission or Planning or Zoning Board depending upon the issue being addressed and their respective jurisdiction.

ENVIRONMENTALLY CRITICAL AREAS. An area or feature which is of significant environmental value, including but not limited to wetlands, floodplains, important farm lands, agricultural development areas, steep slopes, endangered or threatened species and their designated habitats, important aquifer recharge areas, coastal areas, stream corridors, parks and preserves.

PLANTING GUIDE a promulgation of the Shade Tree Commission that identifies trees which are permissible to be planted as a replacement tree. The Planting Guide shall be posted on the Borough webpage, filed with the Zoning Officer and may be amended from time to time. Other trees may be planted which are not included on the list subject to the approval of the Shade Tree Commission or Planning or Zoning Board depending upon the issue being addressed and their respective jurisdiction.

PUBLIC RIGHT-OF-WAY. Any street or road shown upon a map or plan filed in the Monmouth County Clerk's office or on the Official Map of the Borough of Eatontown.

SHRUB. Native or volunteered laurel and wild azaleas having a root crown (the diameter of the trunk just prior to its spreading into roots) of three inches or greater at the soil or surface level.

SITE. Any lot, tract, parcel, or parcels of land within the Borough.

SITE PLAN. A development plan of one or more lots on which is shown:(1) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways;(2) The location of all existing and proposed building, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, and screening devices;(3) The location of all existing and proposed soil erosion and sedimentation control measures;(4) The location of existing and proposed surface water runoff control measures; and (5) Any other information that may be reasonably required in order to make an informed determination with regard to application for approval of site plans.

SUBDIVISION. 1. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this chapter, if no new streets are created: (a) Divisions of land found by the Planning Board or Subdivision Committee thereof appointed by the Chairman to be for agricultural purposes where all resulting parcels are five acres or larger in size; (b) Divisions of property by testamentary or intestate provisions; (c) Divisions of property upon

court order including but not limited to judgements of foreclosure;**(d)** Consolidation of existing lots by deed or other recorded instrument; and **(e)** The conveyance of one or more adjoining lots, tracts, or parcels of land owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the Borough Municipal Land Use Ordinance and are shown and designated as separate lots, tracts or parcels on the Tax Map of the Borough of Eatontown. (2) The term "subdivision" shall also include the term "resubdivision."

TREE. Any of the following living trees having a trunk of a diameter greater than as set forth below, measured at one foot above ground level:**(a)** Deciduous tree: six inches (or circumf. 19 inches).**(b)** Coniferous tree: six inches (or circumf. 19 inches). **(c)** American holly tree (Ilex opaca), dogwood (Cornus florida), and broadleaf evergreens: one inch.

TREE REMOVAL AND SITE CLEARING PERMIT. A certificate issued by the Zoning Officer of the Borough to remove or destroy trees or shrubs as defined in this subsection.

UNDISTURBED AREA. An area in which trees, shrubs and undercover will not be disturbed by filling, cutting, or by any other means.

- C. Permit requirements. For purposes of this ordinance, all properties will be divided as residential or commercial. Commercial properties shall mean all properties other than residential properties.
- a. Commercial Properties:
- i. Tree removal as part of a Site Plan or Subdivision will be referred to the Shade Tree Commission. The Shade Tree Commission may prepare a memorandum to make recommendations to the Planning Board and/or Zoning Board. The Shade Tree Commission shall serve as advisory body to the Planning and Zoning Boards pursuant to N.J.S.A. 40:64-1. The Planning and Zoning Board secretary shall advise the Shade Tree Commission, Environmental Commission, and Fire Prevention Commission of all Site Plan or Subdivision applications.
 - ii. Tree removal which is not part of a Site Plan and where the property owner wishes to clear cut vacant land of trees shall be applied for with the Zoning Officer and referred to the Borough Engineer who, after consultation with the Shade Tree Commission, shall determine what may be clear cut. In rendering such a determination, the Borough Engineer may require the applicant to make payment into the tree fund and replant elsewhere on the property. The applicant shall pay monies into

escrow in an amount to be determined by the Land Use Administrator for the Borough Engineer to review such an application. The Site Clearing Permit shall be issued by the Zoning Officer. Failure to apply for a Site Clearing Permit is a violations and subject to penalties enforced by the Code Enforcement Officer

b. Residential Properties:

i. Where residential properties are less than one acre and the resident seeks to remove trees on their property:

1. If the tree(s) are on a public easement or right-of-way, referral to the Shade Tree Commission whose process shall be defined below.
2. If the tree(s) are not on a public easement or right-of-way, no municipal approval shall be required.

ii. Where residential properties are equal or greater to one acre:

1. If the tree(s) are on a public easement or right-of-way, referral to the Shade Tree Commission whose process will be defined below.
2. If the tree(s) are not on a public easement or right-of-way, referral to the Borough Engineer with the property owner being required to place money into escrow to pay for the Borough Engineer's review, who in consultation with the Shade Tree Commission shall determine what Trees may be cut down, or whether the property owners shall make payment into a tree fund and/or replant elsewhere on the property. In rendering this review, the Shade Tree Commission shall make a clear explanation to address the harm, if any, of clear cutting Trees and drainage issues.

iii. Stipulations for all residential properties:

1. If the tree is on a public easement or right-of-way, the Department of Public Works alone has the authority to determine whether the tree is a hazard and in need of pruning or removal. The Department of Public Works shall have the authority to make the decision without consultation with the Shade Tree Commission.

D. Application Process. Any person seeking to cut or remove trees shall follow the within process:

a. Commercial Properties:

- i. For those applying for Site Plan or Subdivision approval to the Planning Board or Zoning Board, such applications shall be part of the application process.

- ii. For those seeking a site clearing permit, application shall be made to the Zoning Officer and Land Use Administrator, who must receive an escrow fund payment and survey from the applicant, and who shall work in consultation with the Borough Engineer and the Shade Tree Commission to consider a site clearing plan.

b. Residential Properties:

- i. All residential applications shall be made to the Zoning Officer and Land Use Administrator. The Zoning Officer and Land Use Administrator shall refer the application to the Department of Public Works if the tree is on a public easement or right-of-way. If the tree is on a public easement or right-of-way, the Department of Public Works shall determine if there is an emergent need to remove or cut the tree.
- ii. If the Department of Public Works determines that there is no emergent need to remove or cut the tree, the resident shall be referred to the Shade Tree Commission for a public hearing.
- iii. If there is an emergency, and the tree is located on a public easement or right-of-way, the Department of Public Works may act without regard to the Shade Tree Commission. The Department of Public Works may notify the Shade Tree Commission of any requirements to replant the tree, or, if the land cannot sustain a replacement tree, the resident may pay into the tree fund.
- iv. If there is an emergency, the decision to remove a tree on a public easement or right-of-way shall be delegated to the Department of Public Works.

E. Shade Tree Commission. The powers, duties, and authorizations of the Shade Tree Commission are set forth in Section 7-12 through 25 of the Code of the Borough of Eatontown.

F. Fines and Penalties.

- a. Commercial Properties: All allegations of code violations shall be referred to the Zoning Officer. The Zoning Officer shall determine site plan conformity.
 - i. In consultation with the Borough Engineer, the Zoning Officer shall have the authority to determine if the property is in violation of Site Plan approval.
 - ii. If the property is in violation of Site Plan approval, the property shall be returned to the Planning Board or Zoning Board for resolution.
 - iii. If a violation is found to exist which does not require appearance at the Planning Board or Zoning Board, the matter shall be referred to the Shade Tree Commission, who in conjunction with the Borough Engineer shall recommend replacement trees or payment to the tree fund.

Commercial Properties who disagree with this decision may appeal to the Planning or Zoning Board, as appropriate for final resolution.

- b. Residential Properties: All residential properties whose owners cut a non-hazardous tree without permission shall be subject to the following penalties.
- i. Trees on a public easement or right-of-way: The owner shall meet with the Shade Tree Commission to determine whether a replacement tree must be planted. If a replacement tree is not plausible due to issues with topography and roots, the owner shall be required to make a payment to the tree fund. Failure to do so will result in a violation of the ordinance and the issuance of a summons to Court by the Code Enforcement Officer.
 - ii. Trees outside a public easement or right-of-way:
 1. On properties an acre or larger, the matter shall be referred to the Borough Engineer who, in consultation with the Shade Tree Commission, shall determine the penalty including but not limited to replanting; if replanting is not plausible, a payment to the tree fund shall be made. Failure to do so will result in a violation of the ordinance and the issuance of a summons to Court by the Code Enforcement Officer.
 2. On properties measuring less than one acre are not subject to this code section.

- G. Tree Fund. The Borough of Eatontown Tree Fund shall hold funds with which to replace trees on residential and commercial properties throughout the Borough.
- a. The Shade Tree Commission shall have the authority to cause trees to be planted using funds held in the Tree Fund.
 - b. The Fund shall set aside the following funds for the following tree sizes:
 - i. Small trees, whose height at maturity is under 25 feet: \$150.
 - ii. Medium trees, whose height at maturity is between 25 feet and 40 feet: \$250.
 - iii. Large trees, whose height at maturity is over 40 feet: \$350.

Date Introduced: 4/26/2023

Date Adopted:

ORDINANCE 15-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH**

**ORDINANCE AUTHORIZING DONATION OF BLOCK 401, LOTS 10, 11, 129, AND
130 TO HABITAT FOR HUMANITY**

WHEREAS, the Borough filed a declaratory judgment action captioned In the Matter of the Application of the Borough of Eatontown, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. MON-L-2522-15 (the "Mt. Laurel Litigation") in July 2015 following the New Jersey Supreme Court's decision in the matter of In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, wherein the Supreme Court directed that municipalities which were before the Council on Affordable Housing, such as the Borough of Eatontown were required to file declaratory judgment actions in the Superior Court to evaluate compliance with their *Mount Laurel* obligations in order to maintain immunity from builder's remedy litigation; and

WHEREAS, the Borough entered into a Settlement Agreement with the Fair Share Housing Center on December 17, 2018 to resolve the Superior Court Litigation, and the Court thereafter entered a Final Third Round Judgment of Repose and Compliance on January 17, 2020 approving the Settlement Agreement with Fair Share Housing Center and immunizing the Borough from builder's remedy litigation through July 1, 2025.

WHEREAS, the Borough is seeking to plan for its Fourth Round affordable housing obligation by donating land to Habitat for Humanity to construct a single family home on Block 401, Lots 10, 11, 129 and 130 (the "Subject Properties") which will be deed restricted as an affordable housing unit available to either a low or moderate income household in conformance with COAH and UHAC regulations.

WHEREAS, the Local Land and Buildings Law, N.J.S.A. 40A:12-21 and the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. authorizes a municipality to sell real property for nominal consideration to a nonprofit organization for the purpose of building residential property for resale for affordable housing purposes; and

WHEREAS, the Borough Council of the Borough of Eatontown believes it is in the best interest of the Borough to donate the Subject Properties for the laudable public purpose of having Habitat for Humanity construct a single family home which will be deed restricted for occupancy by a low or moderate income household in accordance with COAH and UHAC regulations.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Eatontown, County of Monmouth, State of New Jersey that it hereby approves the conveyance of Block 401, Lots 10, 11, 129 and 130 for nominal consideration to Habitat for Humanity.

BE IT FURTHER RESOLVED that the Borough Attorney is hereby directed to negotiate and finalize a Developer's Agreement with Habitat for Humanity for the conveyance of the Subject Properties in accordance with all requirements of law.

BE IT FURTHER ORDAINED, that:

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

DATE INTRODUCED: May 10, 2023
PUBLIC HEARING: May 24, 2023

ORDINANCE 17-2023

BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY

AN ORDINANCE AMENDING CHAPTER 55 "POLICE DEPARTMENT", ARTICLE I "APPOINTMENTS", SECTION 55-1 TO 55-3 DELETING THE LOCAL RESIDENCY REQUIREMENTS FOR POLICE OFFICERS

WHEREAS, New Jersey state law, N.J.S.A. 40A:14-118, allows municipalities to create, establish and regulate a police force as an executive and enforcement function of municipal government; and

WHEREAS, the Borough Council of the Borough of Eatontown adopted Chapter 55 of the Borough Code establishing the Eatontown Police Department and the Police Chief has recommended that the Borough Council amend Chapter 55 which has limiting and outdated residency requirements thereby limiting the pool of available personnel to be qualified and serve as Police Officers.

WHEREAS, the Borough Council of the Borough of Eatontown believes it is in the best interest of the Borough to adopt the recommendation of the Police Chief by expanding the available pool of applicants to serve as Police Officers.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth, and State of New Jersey that it hereby amends Chapter 55 Police Department, Article I Appointments, Sections 55-1 to 3 as follows:

(additions are underlined and deletions are ~~stricken~~)

~~Sections 55-1, Waiver of Residence Requirement. From and after the effective date of this article, the residence requirements of N.J.S.A. 40:47-1 et seq. governing the appointment and retention of police officers in the Police Department of the Borough of Eatontown be and the same are hereby waived.~~

~~Section 55-2. Limitations on Appointments of Nonresidents. No person shall be appointed pursuant to this article unless at the time of his appointment there shall be a vacancy in the Police Department which cannot be filled by a qualified resident.~~

Section 55-3 Requirements for Non-Resident Applicants Residency Requirements

~~A. No person shall be appointed pursuant to this article unless he/she has is been a resident of the State of New Jersey, and County of Monmouth for a period of at least one year next preceding his appointment and resides within a five-mile radius of the headquarters for the said Police Department.~~

~~B. If an applicant for appointment hereunder is otherwise qualified pursuant to Subsection A above, but does not reside within a five-mile radius of the headquarters for the said Police Department at the time of his appointment, said applicant may be appointed pursuant to this article, provided that he agrees to reside within said five-mile radius within one year from the date of his appointment hereunder.~~

~~C. In the event that said applicant fails to become a resident within said five-mile radius within one year from the date of his appointment, he shall cease to be a member of said Police Department.~~

[Section 55-3 shall be relabeled Section 55-1\.]

BE IT FURTHER ORDAINED, that:

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

DATE INTRODUCED: May 10, 2023
PUBLIC HEARING: May 24, 2023

ORDINANCE 18-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

AN ORDINANCE AMENDING CHAPTER 154 "FIREARMS", SECTION 154.1 "DISCHARGE OF FIREARMS RESTRICTED"

WHEREAS, the Borough Code currently contains outdated provisions regarding the use and discharge of firearms; and

WHEREAS, the Police Chief recommends that the Borough Council update the firearms provision of the Borough Code; and

WHEREAS, the Borough Council of the Borough of Eatontown believes it is in the best interest of the Borough to adopt the recommendation of the Police Chief by updating the Borough Code regarding its firearm provisions.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth, and State of New Jersey that it hereby amends Chapter 154 Firearms, Section 154-1 Discharge of Firearms Restricted as follows:

(additions are underlined and deletions are ~~stricken~~)

Section 154-1 Discharge of Firearms Restricted. It shall be unlawful to discharge any rifle, gun, pistol or firearm of any sort, or any air gun, sling shot, bow or cross bow or any other missile projecting device or contrivance within the Borough of Eatontown except as duly authorized by applicable law and the Borough Code.

BE IT FURTHER ORDAINED, that:

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

DATE INTRODUCED: May 10, 2023

PUBLIC HEARING: May 24, 2023

RESOLUTION 109-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

AUTHORIZING THE RELEASE OF ESCROW FUNDS

WHEREAS, the Zoning Officer has requested release of escrow funds held for Merchants Retail Partners Management LLC (Block 1304, Lots 4-13) for work completed at 97 Highway 35; and

WHEREAS, the Borough Engineer and the Planning and Zoning Department have recommended the release funds held in escrow for Merchants Retail Partners Management LLC in emails of May 17, 2023 and May 4, 2023; and

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Eatontown do hereby authorize the release and return of the Escrow funds as follows:

- Acct No. 1445**
\$2,063.31 (plus any additional interest accrued)
- Acct No. 1477**
\$0.01 (plus any additional interest)
- Acct No. 1423**
\$482.82 (plus any additional interest accrued)

Merchants Retail Partner Management LLC at
Block 1304, Lots 4-13, 32-37
97 Highway 35, Eatontown, New Jersey 07724; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to Planning/Zoning and the Finance Department.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT	CERTIFICATION I, Julie Martin, Borough Clerk of the Borough of Eatontown do hereby certify this to be a true and exact copy of a resolution adopted by the Governing Body of the Borough of Eatontown, County of Monmouth, State of New Jersey at a regular meeting held on May 24, 2023. <hr/> Julie Martin, RMC, Borough Clerk
Council President East							
Councilmember Regan							
Councilmember Jones							
Councilmember Gindi							
Councilmember Lucas							
Councilmember Araman							
Mayor Talerico							

RESOLUTION 110-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

**AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH MEGHAN ANN BENNETT OF DILWORTH PAXSON LLP,
AS BOND COUNSEL FOR THE BOROUGH OF EATONTOWN**

WHEREAS on January 1, 2023, Meghan Ann Bennett of GluckWalrath LLP was appointed as Bond Counsel; and

WHEREAS on June 1, 2023, Meghan Ann Bennett, Esq. of GluckWalrath LLP will become affiliated with the firm of Dilworth Paxson LLP; and

WHEREAS the governing body desires to amend the appointment of Bond Counsel and to enter into an agreement to reflect the affiliation of Meghan Ann Bennett with Dilworth Paxson LLP.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Counsel of the Borough of Eatontown, County of Monmouth, State of New Jersey, as follows:

1. Effective June 1, 2023, Meghan Ann Bennett of the law firm Dilworth Paxson LLP is hereby retained for the provision of bond counsel services for the balance of the one-year term ending December 31, 2023, pursuant to an agreement that shall include the same terms, fees and conditions of the agreement previously authorized on January 1st, 2023 for the calendar year 2023.
2. The Mayor is hereby authorized to execute and the Borough Clerk to attest to, respectively, the execution of said agreement with Meghan Ann Bennett of the law firm of Dilworth Paxson LLP.
3. This resolution shall take effect June 1, 2023.
4. That a certified copy of this resolution shall be forwarded by the Borough Clerk to the Chief Financial Officer and to Meghan Ann Bennett.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT	CERTIFICATION I, Julie Martin, RMC, Borough Clerk of the Borough of Eatontown do hereby certify this to be a true and exact copy of a resolution adopted by the Governing Body of the Borough of Eatontown, County of Monmouth, State of New Jersey at the regular meeting held on May 24, 2023. <div style="text-align: right;"> <hr/> Julie Martin, RMC, Borough Clerk </div>
Council President East							
Councilmember Regan, Jr.							
Councilmember Jones							
Councilmember Gindi							
Councilmember Lucas							
Councilmember Araman							
Mayor Talerico							

RESOLUTION 111-2023

**BOROUGH OF EATONTOWN,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**REQUESTING CHANGE IN TITLE, TEXT, OR AMOUNT OF APPROPRIATION PURSUANT TO
NJS 40A:4-85**

WHEREAS, NJS 40A: 4-85 provides that the Director of the Division of Local Government Services may, at the request of, or with the consent of, the governing body of any county or municipality, make such correction of the title, text, or amount of any appropriation appearing in the budget as may be necessary to make said item of appropriation available for the purpose or purposes required for the needs of any county or municipality,

NOW, THEREFORE, BE IT RESOLVED, that in accordance with the provisions of NJS 40A:4-85, the Borough of Eatontown hereby requests the Director of the Division of Local Government Services to make the following correction in the 2023 budget:

That the appropriation provided for in the approved budget entitled:

Operations Excluded from CAPS:

Public and Private Programs offset by Revenues, Matching Funds for Grants
be reduced by \$4,000

And the appropriation in the like amount of \$4,000 be added to the budget entitled:

Operations Excluded from CAPS:

Public and Private Programs offset by Revenue, DCA/Rec Individuals with Disabilities - Match

BE IT FURTHER RESOLVED that the foregoing correction is, in the opinion of the Governing Body, warranted and authorized by the statute referred to above, and is necessary for the orderly operation of the Borough of Eatontown for the reasons set forth:

The Borough provided for the possibility of receiving added grant match after adoption of the 2023 budget by providing a line item "Matching Funds for Grants" The amount of the related match requirement now becoming known after passage of the budget. To accept the DCA/Rec Individuals with Disabilities Grant, legal provision for the required match must be made. The above correction will provide for the said legal provisions.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT	CERTIFICATION I, Julie Martin, RMC, Borough Clerk of the Borough of Eatontown do hereby certify this to be a true and exact copy of a resolution adopted by the Governing Body of the Borough of Eatontown, County of Monmouth, State of New Jersey at the regular meeting held on May 24, 2023.
Council President East							
Councilmember Regan, Jr.							
Councilmember Jones							
Councilmember Gindi							
Councilmember Lucas							
Councilmember Araman							
Mayor Talerico							

Julie Martin, RMC, Borough Clerk

RESOLUTION 112-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**APPROVING CHAPTER 159 FOR STATE OF NEW JERSEY
CLEAN COMMUNITIES GRANT**

WHEREAS, NJSA 40A 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of any item of appropriation for an equal amount, and

WHEREAS, the Borough of Eatontown has received notice of an award of \$32,211.25 from the State of New Jersey and wishes to amend its 2023 Budget to include this amount as revenue.

NOW THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Eatontown hereby requests the Director of the Division of Local Government Services to approve the amendment of an additional item of revenue in the budget of the year 2023 in the sum of \$32,211.25 to be received from grants as revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with
Prior Written Consent of the Director of Local
Government Services:

Public and Private Revenues off-set with Appropriations:
Clean Communities \$32,211.25

BE IT FURTHER RESOLVED that a like sum of \$32,211.25 be and the same is hereby appropriated under the caption of:

General Appropriations:

Operations-Excluded from "CAPS"
Public and Private Programs Offset by Revenues:
Clean Communities Grant

BE IT FURTHER RESOLVED that the Borough Clerk of the Borough of Eatontown forward two copies of this resolution to the Director of Local Government Services.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT	CERTIFICATION I, Julie Martin, RMC, Borough Clerk of the Borough of Eatontown do hereby certify this to be a true and exact copy of a resolution adopted by the Governing Body of the Borough of Eatontown, County of Monmouth, State of New Jersey at the regular meeting held on May 24, 2023. <div style="text-align: right;"> <u>Julie Martin, RMC, Borough Clerk</u> </div>
Council President East							
Councilmember Regan, Jr.							
Councilmember Jones							
Councilmember Gindi							
Councilmember Lucas							
Councilmember Araman							
Mayor Talerico							

RESOLUTION 113-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH**

APPROVING OBJECTIVE SELECTION CRITERIA FOR CLASS 5 CANNABIS RETAILER LICENSE APPLICATIONS

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called "cannabis" for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" ("the Act") (P.L. 2021, c.16), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, Section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in Section 3 of the Act as "a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer"), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location, manner and times of operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, the Borough Council adopted Ordinance 19-2021 authorizing no more than two of each Class 1-Cannabis Cultivator facilities, Class 2-Cannabis Manufacturer facilities, Class 3-Cannabis Wholesaler facilities, Class 4-Cannabis Distributor facilities; and three Class-5 Retailer establishments inclusive of the existing Alternative Treatment Center which was deemed to concurrently hold a Class 5 Retail License pursuant to the Act (the "Cannabis Ordinance").

WHEREAS, the Borough Council of the Borough of Eatontown received three Class 5 Retailer license applications and it issued Resolutions of Support for two of the three applications with one of the three applicants being disqualified for zoning reasons: and

WHEREAS, there is litigation pending in the Superior Court of New Jersey-Appellate Division challenging a decision of the Superior Court setting aside the Resolutions of Support previously issued by the Borough Council; and

WHEREAS, the Cannabis Ordinance states that the "Borough shall develop an objective selection criteria for the issuance of Class 5 retail licenses should the number of license applications exceed the limit noted in the Cannabis Ordinance; and

WHEREAS, the Borough Council of the Borough of Eatontown believes it is in the best interest to approve an objective selection criteria to evaluate Class 5 Cannabis Retailers in order to facilitate the approval and development of cannabis facilities in Eatontown to bolster its tax revenue.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Eatontown that it hereby approves the Eatontown Class 5 Cannabis Grading Criteria to evaluate Class 5 Cannabis Retailer license applications appended hereto.

IT IS FURTHER RESOLVED that a certified copy of this Resolution shall be provided to the following:

1. Julie Martin, Clerk and Qualified Purchasing Agent
2. William P. Lucia, III, Borough Administrator
3. Andrew Bayer, Borough Attorney

RESOLUTION 116-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**AUTHORIZING EXECUTIVE SESSION UNDER THE OPEN PUBLIC MEETINGS ACT
FOR THE MAYOR AND COUNCIL OF THE BOROUGH OF EATONTOWN**

WHEREAS, pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., a municipality may exclude the public from a meeting of the Municipal Council where the Council intends to discuss certain matters for which privacy is needed in order to protect the public interest or certain enumerated private interests; and

WHEREAS, it is necessary for the Mayor and Council of the Borough of Eatontown to discuss in session not open to the public certain matters that are required by law to be confidential, more specifically:

- 1) Potential Litigation - Affordable Housing

WHEREAS, it is anticipated that the minutes from the deliberations conducted in closed session may be disclosed to the public upon the determination that the public interest will no longer be served by such confidentiality.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Eatontown do hereby authorize the above-referenced executive session to be held closed to the public, on May 24, 2023.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT	CERTIFICATION I, Julie Martin, RMC, Borough Clerk of the Borough of Eatontown do hereby certify this to be a true and exact copy of a resolution adopted by the Governing Body of the Borough of Eatontown, County of Monmouth, State of New Jersey at the regular meeting held on May 24, 2023. <div style="text-align: right;"> <u>Julie Martin, RMC, Borough Clerk</u> </div>
Council President East							
Councilmember Regan, Jr.							
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Mayor Talerico							