



# Mayor and Common Council Borough of Flemington

August 23, 2021

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Online during COVID-19 Emergency

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## Work Session (7:00 PM)

## Regular Meeting (7:30 PM)

This meeting is being held in conformance with the Open Public Meetings Act.

Flag Salute

Roll Call:

Betsy Driver	Mayor
Caitlin Giles-McCormick	Council President
Jessica Hand	Council Member
Malik Johnston	Council Member
Jeremy Long	Council Vice President
Christopher Runion	Council Member
Kimberly Tilly	Council Member

- I. OEM Report – Cpl. Brian McNally
- II. Mayor's Report
- III. Council Members' Reports
- IV. Public Comments - Session I (up to 3 minutes each, for a maximum of 30 minutes)
- V. Approval of Minutes

Motion To: **Approve Minutes: August 9, 2021 Regular Council Meeting**

## Consent Agenda

1. RESOLUTION 2021-173: CERTIFYING THAT ALL MEMBERS OF THE GOVERNING BODY OF FLEMINGTON BOROUGH, HUNTERDON COUNTY, HAVE REVIEWED, AT A MINIMUM, THE SECTIONS OF THE 2020 ANNUAL AUDIT ENTITLED "GENERAL COMMENTS AND RECOMMENDATIONS"
  2. RESOLUTION 2021-174: REFERRING A REZONING REQUEST TO THE PLANNING BOARD FOR REVIEW
  3. RESOLUTION 2021-175: AUTHORIZING SUBMISSION OF AN APPLICATION TO THE HUNTERDON COUNTY ECONOMIC DEVELOPMENT GRANT PROGRAM
  4. RESOLUTION 2021-176: AUTHORIZING THE MAYOR TO SIGN AN APPLICATION TO THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS FOR A NEIGHBORHOOD PRESERVATION PROGRAM GRANT
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5. RESOLUTION 2021-177: AUTHORIZING THE MAYOR'S AND CLERK'S SIGNATURES ON A MEMORANDUM OF UNDERSTANDING WITH THE FLEMINGTON COMMUNITY PARTNERSHIP REGARDING THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS' NEIGHBORHOOD PRESERVATION PROGRAM

### **Regular Agenda**

1. ORDINANCE 2021-19: SECOND READING, AMENDING SECTION 3-1 OF THE CODE OF THE BOROUGH OF FLEMINGTON TO INCLUDE THE PROHIBITION OF ILLEGAL DUMPING OF SOLID WASTE AND TO INCREASE THE PENALTIES UNDER THIS SECTION
2. ORDINANCE 2021-20: FIRST READING: ORDINANCE CREATING THE POSITION OF MUNICIPAL COURT VIOLATIONS CLERK AND SETTING A SALARY RANGE
3. RESOLUTION 2021-178: AUTHORIZING THE EXECUTION OF A THIRD ADDENDUM FOR THE CONTRACT OF SALE OF BOROUGH-OWNED PROPERTY AT 144 MAIN ST., BLOCK 38, LOT 1.01, TO TIDBITS, LLC
4. RESOLUTION 2021-179: AUTHORIZING THE PAYMENT OF CERTAIN FEES TO COMMUNITY GRANTS, PLANNING, AND HOUSING

VI. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)

VII. Attorney's Report

VIII. Payment of the Bills

Motion To: **Pay the Bills in the Amount of \$218,159.54**

IX. Executive Session for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

X. Adjournment

Motion To: **Adjourn**

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**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/23/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-173**

DOC ID: 3566

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**Certifying that All Members of the Governing Body of  
Flemington Borough, Hunterdon County, Have Reviewed, at a  
Minimum, the Sections of the 2020 Annual Audit Entitled  
"General Comments and Recommendations"**

**BOROUGH OF FLEMINGTON  
HUNTERDON COUNTY**

**WHEREAS**, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

**WHEREAS**, the Annual Report of Audit for the year 2020 has been filed by a Registered Municipal Accountant with the Borough Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

**WHEREAS**, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

**WHEREAS**, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, at a minimum, the sections of the annual audit entitled:

General Comments  
Recommendations

and

**WHEREAS**, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the annual audit entitled:

General Comments  
Recommendations

as evidenced by the group affidavit form of the governing body; and

**WHEREAS**, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

**WHEREAS**, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

**WHEREAS**, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52-27BB-52 - "A local officer or member of a local governing body, who, after a date fixed for compliance, fails or refuses to obey an order of the Director of Local Government Services, under the provision of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

**NOW, THEREFORE, BE IT RESOLVED** on this 23rd day of August 2021, that the Borough Council of the Borough of Flemington hereby states that it has complied with the regulation of the Local Finance Board of the State of New Jersey dated July 30, 1968, and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, RMC, Borough Clerk

CERTIFICATION

I, Sallie Graziano, Municipal Clerk of the Borough of Flemington do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Borough Council on August 23, 2021.

\_\_\_\_\_  
Sallie Graziano, RMC, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/23/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-174**

DOC ID: 3567

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**Referring a Rezoning Request to the Planning Board for Review**

**WHEREAS**, the Borough Clerk received the attached correspondence requesting the Borough Council review the zoning on property designated on the Tax Maps of the Borough of Flemington as Block 28, Lot 8; and

**WHEREAS**, the property owner notes that a portion of the property is zoned for commercial use and a portion of the property is zoned for residential use and requests that the Borough consider zoning the entire property for commercial use; and

**WHEREAS**, the Borough Council desires to refer this matter to the Planning Board for their review with the Borough Planner;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Flemington, County of Hunterdon, State of New Jersey as follows:

1. The Borough Council refers the above-referenced re-zoning request to the Borough Planning Board for their review and recommendation.
2. The Borough of Flemington Planning Board shall consult with the Borough Planner generate a report after this referral containing its recommendation regarding the re-zoning request.
3. This Resolution shall take effect immediately.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/23/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano  
Initiator: Sallie Graziano  
Sponsors:

DOC ID: 3568

**SCHEDULED**

**RESOLUTION 2021-175**

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**Authorizing Submission of an Application to the Hunterdon  
County Economic Development Grant Program**

**WHEREAS**, N.J.A.C. 40:55D-28 outlines the process for preparation and modification of a master plan by the Planning Board; and

**WHEREAS**, Flemington Borough's most recent master plan was adopted in 2010, with a reexamination report issued in 2015; and

**WHEREAS**, the Planning Board desires to update the current master plan to reflect current conditions and new regulations; and

**WHEREAS**, The Hunterdon County Economic Development Grant Program (EDGP) provides funding to Hunterdon municipalities and local non-profit business associations looking to explore, create, or implement programs, policy, or procedure consistent with the goals and objectives of the Hunterdon County Office of Economic Development; and

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Flemington authorize submission of an application for the Hunterdon County Economic Development Grant Program for up to \$20,000; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Borough of Flemington commits to meet the 10% minimum local match of the EDGP.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/23/21 07:30 PM  
Department: Clerk of the Borough  
Category: Financial Approval  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-176**

DOC ID: 3569

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**Authorizing the Mayor to Sign an Application to the New Jersey Department of Community Affairs for a Neighborhood Preservation Program Grant**

WHEREAS, the New Jersey Department of Community Affairs Neighborhood Preservation Program directly serves targeted neighborhoods throughout the state and provides money to revitalize areas in decline; and

WHEREAS, the Borough of Flemington is eligible to participate in the Neighborhood Preservation Program; and

WHEREAS, the Borough wishes to apply for a grant of \$750,000 over five years through the Neighborhood Preservation Program; and

WHEREAS, the grant requires a \$25,000 annual funding match;

NOW, THEREFORE BE IT RESOLVED, that the Mayor be authorized to sign the application with the New Jersey Department of Community Affairs for a Neighborhood Preservation Program grant.

BE IT FURTHER RESOLVED that the Borough of Flemington commits to supplying a \$25,000 annual funding match for this grant.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/23/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-177**

DOC ID: 3570

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**Authorizing the Mayor's and Clerk's Signatures on a  
Memorandum of Understanding with the Flemington  
Community Partnership Regarding the New Jersey  
Department of Community Affairs' Neighborhood  
Preservation Program**

WHEREAS, Flemington Borough officials wish to enter into the attached Memorandum of Understanding with the Flemington Community Partnership regarding the NJ Department of Community Affairs' Neighborhood Preservation Program;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the Borough of Flemington authorizes the Mayor and Clerk to sign the aforementioned Memorandum of Understanding.

Adopted: August 23, 2021

Attest: \_\_\_\_\_

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk



**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/09/21 07:30 PM  
Department: Clerk of the Borough  
Category: Council Ordinance  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**INTRODUCED**

**ORDINANCE 2021-19**

DOC ID: 3554

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**Second Reading, Amending Section 3-1 of the Code of the  
Borough of Flemington to Include the Prohibition of Illegal  
Dumping of Solid Waste and to Increase the Penalties Under  
This Section**

**Borough of Flemington, Hunterdon County**

**WHEREAS**, in its continuing efforts to reduce and alleviate littering and dumping in the Borough of Flemington, the Borough wishes to amend the Ordinances of the Borough to include prohibiting the dumping of solid waste and to increase the penalties for illegal dumping; and

**WHEREAS**, the activity of dumping and littering is a nuisance and creates a risk to the safety, health and well-being of residents and businesses of the Borough; and

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Flemington, the County of Hunterdon, that the Section of the Code of the Borough of Flemington (the "Code"), entitled "Litter," is hereby amended and supplemented as follows:

**SECTION 1.** Section 3-1 is hereby renamed, "Littering; Illegal Dumping."

**SECTION 2.** Section 3-1 is amended and supplemented as follows (additions are shown as *thus*; deletions are shown as ~~thus~~);

§ 3-1.1. Definitions. As used in this section

**AIRCRAFT**

Shall mean any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

**AUTHORIZED PRIVATE RECEPTACLE**

Shall mean a litter storage and collection receptacle.

**BULKY WASTE**

*Shall include, but not be limited to large items of solid waste which because of their size or weight require handling other than normally used for municipal waste. Bulky waste includes, but is not limited to, such auto bodies, demolition or construction materials, appliances, furniture and drums.*

**COMMERCIAL HANDBILL**

Shall mean any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:

- a. Which advertises for sale any merchandise, product commodity or thing.
- b. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales.
- c. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit: but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this Borough.
- d. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

#### **CONSTRUCTION/DEMOLITION WASTE**

***Shall mean waste building material and rubble resulting from construction, remodeling, repair, and demolition operations on residential, commercial and/or industrial structures and/or buildings, pavement and other structures. The following materials may be found in construction and demolition waste: treated and untreated wood scrap; tree parts; tree stumps and brush; concrete; asphalt; bricks, blocks and other masonry; plaster and wallboard; roofing materials; corrugated cardboard and miscellaneous paper; dirt; carpets and padding; glass (window and door); and other miscellaneous materials.***

#### **GARBAGE**

Shall mean putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

#### **ILLEGAL DUMPING**

***Shall mean any collection of solid waste exceeding fifteen (15) pounds in weight or twenty-seven (27) cubic feet in volume which is either dumped or caused to be dumped or placed on any property either public or private, whether or not regularly used, which tends to create a hazard to the public health, safety and welfare. This definition shall not include the careless, scattered littering of smaller individual items.***

#### LITTER

Shall mean "garbage," "refuse" and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

#### NEWSPAPER

Shall mean any newspaper of general circulation as defined by general law, any newspaper entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition, shall include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

#### NONCOMMERCIAL HANDBILL

Shall mean any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

#### PARK

Shall mean a park, reservation, playground, recreation center or any other public area in the Borough, owned or used by the Borough and devoted to active or passive recreation.

#### PERSON

Shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

#### PRIVATE PREMISES

Shall mean any dwelling house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether uninhabited or temporarily or continuously inhabited or vacant, and shall include, but not be limited to, any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

**PUBLIC PLACE**

Shall mean any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

**REFUSE**

Shall mean all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

**RUBBISH**

Shall mean nonputrescible solid waste consisting of both combustible and noncombustible wastes, such as paper wrappings, cigarettes, yard clippings, cardboard, tin cans, wood, glass, bedding, crockery and similar materials. For the purposes of § 3-1.4, the word rubbish shall also include leaves.

**SOLID WASTE**

***Shall include, but not be limited to, municipal wastes (household, commercial or industrial), bulky waste (appliances, furniture, vehicles, vehicles parts, rubber tires), demolition waste (residential, commercial and/or industrial), and/or vegetative waste (plant stalks, hulls, leaves, tree wastes processed through a wood chipper, tree parts, grass clippings, shrubbery and/or garden wastes).***

**VEHICLE**

Shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

**§ 3-1.2. *Prohibited Acts and Regulated Activities* Litter in Public Places.**

a. ***No person shall throw, drop, discard, put or place, or cause or permit to be thrown, dropped, discarded, put or placed, any solid waste, rubbish, refuse, garbage, ashes, paper, dirt, cinders, substance, matter or thing upon any street, sidewalk, or public property other than in a litter receptacle, or having done so, to allow such litter to remain. No person shall throw or deposit litter in or upon any street, sidewalk or other place within the Borough except in public receptacles for collection.***

b. ***Whenever any litter and/or solid waste is thrown or discarded or allowed to fall from a vehicle in violation of this Chapter, the operator or owner, or both, of the motor vehicle shall also be deemed to have violated this Chapter. No person shall throw or deposit litter in or upon any street, sidewalk, curb or other place within the Borough even though the same may be in authorized private receptacles for collection.***

c. ***Illegal Dumping of Solid Waste Prohibited. It shall be unlawful for any person to discard or dump any household or commercial solid waste, rubbish, refuse, junk vehicle or vehicle parts, rubber tires, appliances, or furniture in any place not specifically designated for the purpose of solid waste storage or disposal.***

§ 3-1.3. Placement of Litter in Receptacles so as To Prevent Scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 3-1.4. Sweeping Litter into ***Streets*** Gutters Prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the Borough the accumulation of litter, ***solid waste, refuse, or rubbish*** from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. Notwithstanding anything in this subsection to the contrary, it shall be permissible to rake leaves into the gutter on any street or road in the Borough for purposes of collection and disposal by the street department during the fall of each year but not after December 1. Raking or depositing leaves in any gutter except during the aforesaid period of time shall be a violation of the provisions of this section.

§ 3-1.5. Merchant's Duty To Keep Sidewalks Free of Litter.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the Borough the accumulation of litter, ***solid waste, refuse, or rubbish*** from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the Borough shall keep the sidewalk in front of their business premises free of litter, ***solid waste, refuse, or rubbish***. ***Nothing herein shall prevent the sweeping of leaves into the street during the periods officially designated or announced by the Borough Administrator as periods for the collection of such leaves.***

§ 3-1.6. Litter Thrown by Persons in Vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Borough, or upon private property.

§ 3-1.7. Truckloads Causing Litter.

No person shall drive or move any truck or other vehicle within the Borough unless the vehicle is so constructed or loaded as to prevent any load, contents or litter ***and/or solid waste*** from being blown or deposited upon any street, alley or other public place; nor shall any person drive or move any vehicle or truck within the Borough, the wheels

or tires of which carry onto or deposit on any street alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

§ 3-1.8. Litter in Parks.

No person shall throw or deposit litter, ***solid waste, refuse, or rubbish*** in any park within the Borough except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the persons responsible for its presence and properly disposed of elsewhere.

§ 3-1.9. Litter in Fountains and Streams.

No person shall throw or deposit litter in any fountain, pond, stream or any other body of water within the Borough.

§ 3-1.10. Throwing or Distributing Commercial Handbills in Public Places.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the Borough. Nor shall any person hand out or distribute or sell any commercial handbill in any public place, provided that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver, any noncommercial handbill to any person willing to accept it.

§ 3-1.11. Placing Commercial and Noncommercial Handbills on Vehicles.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle, provided that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

§ 3-1.12. Depositing Commercial and Noncommercial Handbills on Uninhabited or Vacant Premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

§ 3-1.13. Prohibiting Distribution of Handbills where Property Posted.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon the premises.

§ 3-1.14. Distributing Commercial and Noncommercial Handbills at Inhabited Private Premises.

No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting the handbill directly to the owner, occupant or other person then present in or upon the private premises, provided that in cases of inhabited private premises which are not posted, the person, unless requested by anyone upon the premises not to do so, may place or deposit any handbill in or upon the inhabited private premises, if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets, or other public places, except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

§ 3-1.15. Exemption for Mail and Newspapers.

The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place, or upon private property.

§ 3-1.16. Dropping Litter from Aircraft.

No person in an aircraft shall throw out, drop or deposit within the Borough any litter, handbill or other object.

§ 3-1.17. Posting Notices Prohibited.

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamp post, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

§ 3-1.18. Litter on Occupied Private Property.

No person shall throw or deposit litter, **solid waste, refuse, or rubbish** on any occupied private property within the Borough, whether owned by that person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

§ 3-1.19. Owner to Maintain Premises Free of Litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter, **solid waste, refuse, or rubbish** provided that this subsection shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 3-1.20. Litter on Vacant Lots.

No person shall throw or deposit litter, **solid waste, refuse, or rubbish** on any open or vacant private property within the Borough whether owned by that person or not.

§ 3-1.21. **Enforcement; Violations and Penalties** ~~Clearing of Litter from Lands by Borough.~~

a. **Enforcement.** *This Chapter shall be enforced by Borough Police Officers or Borough Health Officer.*

b. **Notice To Remove.** The health officer or the police chief is authorized and empowered to notify the owner or tenant of any lands within the Borough or the agent of such owner or tenant, to properly dispose of litter, **solid waste, refuse, or rubbish** located on the owner or tenant's lands which is dangerous to public health, safety or welfare. The notice shall be given by personal service, or by certified mail addressed to the owner, at his last known address.

cb. **Action upon Noncompliance.** Upon the failure, neglect or refusal of any owner or tenant or any agent of the owner or tenant so notified to properly dispose of litter, **solid waste, refuse, or rubbish** dangerous to public health, safety or welfare within ten days after receipt of written notice, or within 15 days after the date of such notice in the event the notice is returned to the Flemington Post Office because of its inability to make delivery, provided it was properly addressed to the last known address of the owner, tenant, or agent, the litter, **solid waste, refuse, or rubbish** shall be removed from the lands in question under the direction of the health officer or police chief.

dc. **Charges Included in Tax Bill.** In all cases where the Borough has affected the removal of litter, **solid waste, refuse, or rubbish** or has paid for its removal under the direction of the health officer or the police chief, the health officer or police chief, whichever the case may be, shall certify the cost to the Borough Council. The Council shall examine the certificate, and if found correct shall charge the cost shown against the lands involved. The amount charged shall forthwith become a lien upon the lands and shall be added to and become part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

e. **Penalties for Littering.** *Any person who violates this Chapter shall be subject to the fines and penalties set forth in Chapter 2, Attachment 1, Schedule A of this Code, in the discretion of the Judge imposing the same as follows:*

i. *Any person who shall violate any subsection of Section 3-1 of the Code as it relates to littering, shall be subject to a fine of not less than \$56.00 upon conviction.*

ii. *Any person who shall violate Section 3-1.2(a) of the Code with regard to littering in public places shall be subject to a fine of not less than \$50.00 upon*



**conviction of a first offense and a fine of not less than \$100 upon the conviction of subsequent offenses.**

**f. Penalties for Illegal Dumping. In addition to the cost of removal of the solid waste, refuse, or rubbish, any person who shall violate any of the provisions of this Chapter or any other order promulgated hereunder shall, as it relates to illegal dumping of solid waste, upon conviction, be subject to a fine of not less than \$2,500.00 and not exceeding \$10,000.00. Each day that a violation continues shall constitute a separate violation.**

**SECTION 3.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 5.** The Borough Clerk is hereby directed, upon adoption of this ordinance after public hearing, to publish notice of the passage thereof.

**SECTION 6.** This Ordinance shall take effect upon final passage and publication in accordance with the law.

Introduced: August 9, 2021

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/23/21 07:30 PM  
Department: Clerk of the Borough  
Category: Council Ordinance  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**ORDINANCE 2021-20**

DOC ID: 3562

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**First Reading: Ordinance Creating the Position of Municipal Court Violations Clerk and Setting a Salary Range**

**WHEREAS**, the Deputy Clerk of the Borough of Flemington Municipal Court has given notice of her planned retirement; and

**WHEREAS**, the Municipal Court Judge and Municipal Court Clerk have recommended to the Council that a full-time violations Clerk be appointed in lieu of appointing a new deputy clerk; and

**WHEREAS**, a review of salaries for violations clerks in the area reveals that the salary range set forth below is reasonable.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Flemington, the County of Hunterdon, that the Borough of Flemington (the "Code") is hereby amended and supplemented as follows:

**SECTION 1.** Section 2-8 of the Code, entitled "Municipal Court" shall be amended as follows (additions are shown as *thus*; deletions are shown as ~~thus~~):

- a. There is hereby established a municipal court for the Borough of Flemington pursuant to N.J.S.A. 2A:8-1 et seq., which shall be known as the "Municipal Court of the Borough of Flemington."
- b. The municipal court of the Borough of Flemington shall have an official seal which shall bear the impress of the name of the court.
- c. The court created hereby shall be presided over by a judge, who shall be known as the judge of the municipal court of the Borough of Flemington, and who shall be appointed pursuant to the provisions of N.J.S.A. 2A:8-5. The judge of the municipal court of the Borough shall serve for a term of three years from the date of his appointment to fill a vacancy caused other than by expiration of term shall be made for the unexpired term only.
- d. The judge of the municipal court of the Borough shall possess the qualifications set forth in N.J.S.A. 2A:8-7.
- e. The judge of the municipal court of the Borough shall be compensated by an annual salary to be paid by the Borough, which salary shall be fixed by ordinance adopted by the Mayor and Common Council of the Borough of Flemington. The compensation so paid shall be in lieu of any and all other fees.
- f. ***Municipal Court Staff***
  - i. There shall be a clerk of the municipal court of the Borough who shall be appointed by the Mayor with the advice and consent of the Common Council of the Borough.

Said clerk shall serve a term of one year from date of his or her appointment and until his or her successor is appointed and qualified. The clerk of the municipal court of the Borough shall receive an annual salary as fixed by ordinance.

*ii.* The Mayor and Common Council of the Borough may, by ordinance or resolution, provide for other necessary clerical and other assistance for the municipal court and provide for their compensation. The Mayor and Common Council of the Borough may, by ordinance or resolution, designate any officer or employee of the Borough to serve as clerk of the municipal court with or without additional compensation.

*iii.* ***There may be a violations clerk of the municipal court of the Borough appointed by the Mayor with the advice and consent of the Common Council of the Borough. Said violations clerk, if one is appointed, shall serve a term of one year from date of his or her appointment and until his or her successor is appointed and qualified. The violations clerk of the municipal court of the Borough shall receive an annual salary as fixed by ordinance.***

*g.* The municipal court of the Borough and the municipal judge thereof shall have, possess and exercise, all of the functions, powers, duties and jurisdiction conferred by law upon said court and judge.

*h.* The office of prosecutor of the municipal court of the Borough is hereby established. The prosecutor shall be appointed by the Mayor with the advice and consent of the Common Council of the Borough and shall serve for a term of one year from his or her appointment, or until his successor is appointed and qualified. The prosecutor of the municipal court of the Borough shall receive an annual salary as fixed by ordinance.

*i.* The prosecutor of the municipal court of the Borough shall appear and participate in all contested cases in the municipal court wherein a police officer of the Borough is the complaining witness.

**SECTION 2.** The Borough's 2021 Salary Ordinance (Ordinance 2021-18) is amended to add the salary of the Violations Clerk as follows:

Violations Clerk: \$30,000 to \$40,000 annually

**SECTION 3.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 5.** The Borough Clerk is hereby directed, upon adoption of this ordinance after public hearing, to publish notice of the passage thereof and to provide a copy hereof to the

Municipal Court Clerk and Municipal Court Judge

**SECTION 6.** The Municipal Court Clerk is hereby authorized to take all steps necessary to have the municipal court staffing changes approved by the Administrative Office of Courts.

**SECTION 7.** This Ordinance shall take effect upon final passage and publication in accordance with the law.

Introduced:

Adopted:

Attest:

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Betsy Driver, Mayor

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Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/23/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-178**

DOC ID: 3563

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**Authorizing the Execution of a Third Addendum for the  
Contract of Sale of Borough-Owned Property at 144 Main St.,  
Block 38, Lot 1.01, to Tidbits, LLC**

BOROUGH OF FLEMINGTON  
COUNTY OF HUNTERDON

**WHEREAS**, pursuant to Resolution 2020-99 adopted on May 26, 2020, the Borough entered into a Contract of Sale with TidBits, LLC (“Purchaser”) for the sale of the property at 144 Main Street, Block 38, Lot 1.01(the “Property”) on the Tax Map of the Borough of Flemington; and

**WHEREAS**, pursuant to Resolution No. 2021-156 the closing date was extended to August 31, 2021; and

**WHEREAS**, NJDEP requires that Purchaser complete a Preliminary Assessment of the Property prior to NJDEP granting consent to release the liens it holds against the Property; and

**WHEREAS**, Purchaser has agreed to move forward with the purchase of the Property, but requires until October 4, 2021 to complete the required Preliminary Assessment and NJDEP consent;

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Clerk are authorized to execute a Third Addendum to the Contract in a form substantially consistent with the attached.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**THIRD ADDENDUM TO CONTRACT FOR SALE  
BY AND BETWEEN**

TIDBITS NJ, LLC ("BUYER")  
AND  
THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON  
("SELLER")  
FOR  
LOT 1.01, BLOCK 38, BOROUGH OF FLEMINGTON, HUNTERDON COUNTY  
(144 MAIN STREET)

The undersigned parties agree to amend the Contract of Sale of Real Estate dated October 5, 2020, for the above referenced property as follows:

1. Paragraph 1—*Time and Place of Closing*. The time of the closing is extended to a date on or before October 4, 2021.
  
2. Paragraph 22 – *Due Diligence Period*. The period of time for the Buyer to complete their due diligence is extended to October 4, 2021 to afford the parties the opportunity to complete Preliminary Assessment to the satisfaction of NJDEP. The Seller shall grant Buyer and its agents access to the Property for such purposes upon twenty-four hours written notice, which can be transmitted via email.

DATED: \_\_\_\_\_

\_\_\_\_\_  
TIDBITS NJ, LLC, Buyer

DATED: \_\_\_\_\_

\_\_\_\_\_  
THE BOROUGH OF FLEMINGTON, Seller

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 08/23/21 07:30 PM  
Department: Clerk of the Borough  
Category: Financial Approval  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-179**

DOC ID: 3571

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**Authorizing the Payment of Certain Fees to Community Grants, Planning, and Housing**

**WHEREAS**, the property designated on the Tax Maps of the Borough of Flemington as Block 29, Lot 6 and Block 38, Lot 1 is developed with eleven (11) residential apartments; and

**WHEREAS**, pursuant to Planning Board Resolution No. 2006-8 granting preliminary and final site plan approval for the construction of said apartments required one of these apartments to be deed-restricted and available to moderate- and low-income families; and

**WHEREAS**, said affordable unit is included the Borough's Housing Element and Fair Share Plan; and

**WHEREAS**, the property owner, Flemington Electric Supply Co., contacted the Borough's affordable housing administrative agent, Community Grants, Planning, and Housing ("CGP&H") regarding marketing the affordable unit after a tenant vacated; and

**WHEREAS**, CGP&H informed the property owner that he was responsible for payment of various fees associated with marketing the unit and income-qualifying potential tenants, including an \$800 charge to review applications to ensure that potential tenants met the income qualifications pursuant to the Borough's Contract with CGP&H dated April 1, 2021; and

**WHEREAS**, the property owner contacted the Borough and states that he was never required to pay this \$800 fee before and that such fee is burdensome as the rent on the unit is only about \$800 per month; and

**WHEREAS**, Planning Board Resolution No. 2006-8 did not outline payment of this fee as a condition of approval; and

**WHEREAS**, the Borough's Contract with CGP&H states that the Borough "may pay this fee if Developer will not contract with CGP&H;" and

**WHEREAS**, the Borough Council has determined that it is in the best interests of the Borough to pay such fee;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Flemington, County of Hunterdon, State of New Jersey as follows:

1. The Borough Council authorizes the payment of \$800 to CGP&H on behalf of Flemington Electric Supply Co., for "rental certification" fees as set forth in Schedule A of the Borough's Contract with CGP&H dated April 1, 2021. The property owner shall be responsible for payment of all other fees to CGP&H, including fees for waiting list management and lease

renewal. Moreover, the Borough will only pay one \$800 rental certification fee on behalf of the property owner. If property owner rejects the first qualified applicant, any additional rental certification fees will be paid by the property owner.

2. This Resolution shall take effect immediately.

Adopted: August 23, 2021

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

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Sallie Graziano, Borough Clerk