

**REGULAR MEETING
SEPTEMBER 5, 2023
BOROUGH COUNCIL**

Council President Manginelli called the Regular Meeting to order at 7:30 PM.

The Borough Clerk read the following statement: "Pursuant to Section 5 of the Open Public Meetings Act, adequate notice of this meeting has been provided by posting on the bulletin board at Borough Hall and by notification to the Asbury Park Press, the Newark Star Ledger, and the Coaster at least 48 hours prior to this meeting and filing with the Borough Clerk all on December 20, 2022."

ROLL CALL

PRESENT: Ms. Buckley, Mrs. Clay, Dr. Dobrin, Mr. Manginelli
ABSENT: Mr. Nesci
ALSO PRESENT: Michelle Hutchinson, Borough Clerk
Kevin Starkey, Director of Law
Vito Perillo, Mayor
Charles Terefenko, Business Administrator
Tom Fallon, Director of Finance
Thomas Neff, Borough Engineer

All present stood for a salute to the Flag.

APPROVAL OF MINUTES

Dr. Dobrin offered a motion to approve the August 8, 2023, Regular Session Minutes seconded by Mrs. Clay.

ROLL CALL

AYES: All in Favor
NAYS: None
ABSENT: Mr. Nesci
ABSTAIN: None

REPORT OF MAYOR/COUNCIL/ADMINISTRATION

Borough Engineer – Thomas Neff

Mr. Neff reported the softball field project is moving along and construction is on track to start sometime this fall. He commented on consent agenda resolution R-23-141 for the Wardell Park Restroom Facilities which will be designed this winter with construction to start next year. For awareness, he commented on the introduction of Ordinance 2023-1507 to update regulations for farms and agricultural uses and provided a brief overview of the ordinance. It would add R1 and R2 zones to the list where uses for farming and agriculture are permitted consistent with the Right to Farm Act. The Borough would work with the County Agricultural Board on applications. Mr. Starkey also gave an overview of the ordinance and a specific section of the ordinance regarding obtaining permits and the Borough will have some authority over permitting. Mr. Manginelli thanked everyone for all their work.

Director of Finance – Mr. Fallon

Mr. Fallon reported on resolution R-23-140 Annual Audit 2022 and congratulated the department heads and employees for receiving another excellent audit report. Great job by employees.

Administrator – Mr. Terefenko

Mr. Terefenko commented that the Borough does have stellar department heads and employees who do their own due diligence, which is reflected in the audit report. He commended the Recreation and Police Department's for their summer programs which have concluded successfully. He reported that August 31st Opioid Overdose Day was recognized by the Borough with purple flags and signage. Reminder that Community Day is October 7th with rain date on October 8th. Also, a 9/11 memorial service will be held at 7:00pm at the firehouse with detailed information on the Borough website.

Mayor – Vito Perillo

Mayor Perillo commended Mr. Fallon and Council for the audit report.

Director of Law- Kevin Starkey

Mr. Starkey had no report.

Borough Clerk – Michelle Hutchinson

Ms. Hutchinson had no report.

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Council's Reports

-Ms. Buckley congratulated Mr. Fallon and employees on the audit report. The music festival and Taste of Tinton Falls events were very well attended, and both were excellent events. She thanked everyone who helped organize the events.

-Mrs. Clay reported August 24th was the summation of summer programs and wished students and teachers good luck going back to school on September 7th. The Taste of Tinton Falls was a success and Mrs. Clay thanked everyone who helped with the event. She thanked the Administration for their continued effort in observance of Opioid Awareness Day. She expressed her appreciation of the employee teamwork that goes into organizing Community Day and looking forward to a fun day. Congratulated Mr. Fallon on the audit report. Mrs. Clay thanked Mr. Starkey and Mr. Neff and the professionals for their work on the farm ordinance which does affect many small businesses in town. She hoped to see everyone at the 9/11 recognition ceremony.

-Dr. Dobrin reported the Library's Music Festival on August 19th at the Sycamore Recreation Complex went well and thanked DPW, Recreation Department, volunteers, and musicians. The event ran smoothly, and residents' feedback was very positive. He reiterated the comments made by Ms. Buckley and Mrs. Clay being very proud of the Borough employees.

-Mr. Manginelli had no report.

ORDINANCES FOR INTRODUCTION

Ms. Hutchinson read the title of the Ordinance: **2023-1507 AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE BOROUGH CODE TO UPDATE REGULATIONS FOR FARMS AND AGRICULTURAL USES**

Ms. Hutchinson stated that public hearing would be scheduled for Tuesday, September 19, 2023.

Mrs. Clay offered a motion to introduce Ordinance No. 2023-1507 seconded by Dr. Dobrin.

ROLL CALL

AYES: Ms. Buckley, Mrs. Clay, Dr. Dobrin, Mr. Manginelli

NAYS: None

ABSENT: Mr. Nesci

ABSTAIN: None

BOROUGH OF TINTON FALLS MONMOUTH COUNTY NEW JERSEY ORDINANCE NO. 23-1507

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE BOROUGH CODE TO UPDATE REGULATIONS FOR FARMS AND AGRICULTURAL USES

BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls as follows:

SECTION 1. Chapter 8, Section 7 of the Borough Code, entitled "Animal Control – Backyard Chickens in Tinton Falls," is hereby amended to read as follows (underlined language to be added):

§ 8-7 BACKYARD CHICKENS IN TINTON FALLS. § 8-7.2

Eligibility; Restrictions.

c. There shall be a limit of four chickens per license during the Pilot Program, unless the property and use is in accordance with Chapter 40-37.B.1 of this Ordinance. Roosters are prohibited.

§ 8-7.4 Requirements for Coops and Runs.

j. There shall be no selling of eggs, unless the property and use is in accordance with Chapter 40-37.B.1 of this Ordinance.

SECTION 2. Chapter 40, Section 3 of the Borough Code, entitled "Land Use Ordinance – Definitions and Word Usages," is hereby amended to read as follows (underlined language to be added):

§ 40-3 DEFINITIONS AND WORD USAGES.

AGRICULTURAL USE

Land which is devoted to the growing and harvesting of crops and/or the raising and breeding of poultry and livestock, including dairies, nurseries, greenhouses and accessory buildings incidental to agricultural uses including but not

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limited to: forages and sod crops; grain and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and raising of any or all such animals; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal government. Agricultural Use shall also include horticultural uses for land which is devoted to the production of fruits of all kinds, including grapes, nuts and berries; vegetables; and nursery, floral, ornamental and greenhouse products.

FARM

A parcel or parcels of land, whether contiguous or noncontiguous, together with buildings, structures and facilities, which are actively devoted to agricultural or horticultural use, including, but not limited to, cropland, pasture, idle or fallow land, woodland, wetlands, farm ponds, roads, and enclosures related to agricultural pursuits, and which:

- a. Contains five or more acres of land and produces agricultural or horticultural products worth \$2,500 or more annually; or
- b. Contains less than five acres of land and produces agricultural or horticultural products worth \$50,000 or more annually; or
- c. Contains a beekeeping operation that produces honey or apiary-related products, or provides crop pollination services, worth \$10,000 or more annually.

SECTION 3. Chapter 40, Section 37 of the Borough Code, entitled “Land Use Ordinance – Conditional Uses,” is hereby amended to read as follows (underlined language to be added; strikethroughs to be deleted):

§ 40-37 CONDITIONAL USES.

A. General. The Planning Board shall not approve a conditional use unless it finds that the use meets all the requirements of this Chapter, does not substantially impair the use and enjoyment of surrounding properties, does not substantially impair the character of the surrounding area and does not have any adverse effect on surrounding properties.

B. Requirements for Specific Uses.

1. Agricultural Uses and Farms. The intent of this section is to allow for the continued use of agricultural and farm properties at a scale that is consistent with the minimum standards required for inclusion in New Jersey Department of Agriculture SADC preservation requirements. Agricultural and farm uses, buildings and structures, as defined in this Chapter, may be located, when approved as conditional uses, in the zone as specified in Schedule A subject to the following:

- a. The property on which agricultural activities are to take place must contain a minimum of five acres if the property does not include a residence and is solely used for agricultural activities.
- b. The property on which agricultural activities are to take place must contain a minimum of six acres if the property includes a residence and is solely used for agricultural activities.
- d. The property must contain five or more acres of land and produce agricultural or horticultural products worth \$2,500 or more annually; or The property contains less than five acres of land and produces agricultural or horticultural products worth \$50,000 or more annually; or
- e. The property contains a beekeeping operation that produces honey or apiary-related products, or provides crop pollination services, worth \$10,000 or more annually.

f. The following shall be exempt from the requirements of this § 40-37: the keeping of backyard chickens in compliance with § 8-7 of this Code.

g. The following nonexclusive list of farming activities shall be considered permitted farm uses when in accordance with this Chapter:

- h. Production of agricultural and horticultural crops, trees, apiary and forest products, livestock, poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping.
- ii. The housing and grazing of animals and use of range for fowl. The raising of cattle and horses shall be permitted on any farm, provided that there shall be an open area of at least 10,000 square feet for each head of livestock. The raising of chickens shall be permitted on any farm, provided that the area utilized

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- for such chickens is no closer than 100 feet to any property line. Roosters are not permitted on any property in the Borough.
- iii. The operation of public and private stables, riding academies, horse breeding, training, and boarding facilities.
- iv. Erection of essential agricultural buildings, including those dedicated to the processing and packaging of the output of commercial farms and ancillary to agricultural and horticultural production.
- v. Construction of fences.
- vi. Control of pests, including but not limited to insects and weeds, predators and diseases of plants and animals.
- vii. Conduction of agriculture-related educational and farm-based recreational activities, provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm and permission of the farm owner and lessee is obtained.
- viii. Use of any and all equipment, including but not limited to irrigation pumps and equipment, aerial and ground seeding and spraying, tractors, harvest aides, traps, and animal and bird control devices.
- ix. Storing, processing and packaging of the agricultural output of the farm.
- x. The wholesale and retail marketing, including pick your own marketing, and sales of agricultural output of farms or commercial farms, including related products that contribute to farm income, including the construction buildings and parking areas in accordance with the applicable standards set forth in the Right to Farm Act for On-Farm Direct Marketing Facilities and this Chapter 40.
- xi. Replenishment of soil nutrients and improvement of soil tilth.
- xii. On-site disposal of organic agricultural waste.
- xiii. The application of manure and chemical fertilizers, insecticides, pesticides, and herbicides in accordance with labeled instructions as approved by the New Jersey Agricultural Experiment Station and the United States Environmental Protection Agency.
- xiv. Installation of wells, ponds and other water resources for agricultural purposes such as irrigation, sanitation and marketing preparation.
- xv. The foregoing practices and activities may occur on holidays, weekdays and weekends by day or night and shall include the attendant or incidental noise, odors, dust, fumes, and lighting associated with these practices.
- xvi. Any other agricultural activity determined by the State Agriculture Development Committee to be a generally accepted agricultural management practice within the meaning of N.J.S.A. 4:1C-1, et seq.
- i. The farm operation (practices, activities, and structures) must conform to generally accepted agricultural management practices, comply with all relevant Federal and State statutes and regulations, and not pose a direct threat to public health and safety.
- j. Slaughterhouses are not permitted.
- k. Commercial poultry farms shall not be permitted unless the poultry house walls and brooder house walls are at least 500 feet from any lot line. A “commercial poultry farm” shall be deemed to be any farm on which there are more than 50 fowl.
- l. Any property used as a farm that abuts a residential zone or use must contain a buffer along all side and rear property lines. The buffer shall be a minimum width of 15 feet, or 10% of the lot width, whichever is greater and shall be planted with dense evergreen trees a minimum of six feet high at the time of planting.
- m. § 40-33.B (Accessory Structures and Uses) shall not apply to agricultural and farm uses operated in accordance with this Chapter. Accessory structures shall be constructed in accordance with the following standards:
- i. The maximum permitted building and lot coverage for the zone shall govern the maximum permitted size of the principal structure and any associated accessory structures.
- ii. With the exception of farm stands in accordance with § 40-37.B.1.m, no accessory building or structure shall be located closer to a right-of-way line than the principal building. On corner lots, accessory buildings or structures shall not be located closer to a street than the minimum required front yard setback requirement for the zone and shall be screened by evergreen landscaping.
- iii. Accessory buildings used solely for the storage of goods or equipment that are no larger than 400 square feet and no greater than 10 feet high shall be setback no less than 5 feet from any side or rear lot line. Accessory buildings used solely for the storage of goods or equipment that are greater than 400 square feet or 10 feet high shall be setback no less than 25 feet from any side or rear lot line.
- iv. Accessory buildings or barns used for the housing of animals shall be located at least 100 feet from any lot line and at least 100 feet from any dwelling.

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- v. The height of any accessory structure shall not exceed 25 feet or the height of the principal building, whichever is less, with the exception of silos, which have no height limitation.
 - vi. No accessory building or structure shall be used for human habitation.
- n. Temporary farms stands may be constructed in accordance with the following standards:
- i. Farm stands must be located on a qualified owner's or operator's commercial farm which is under active, continuous farming operation and upon which 51% or more of the marketed products are raised, and the farm must meet the requirements of the Farmland Assessment Act.
 - ii. Farm stands shall not exceed a maximum area of 500 square feet and shall be setback a minimum of 15 feet from any street right-of-way line and 30 feet from any side lot line.
 - iii. A maximum height of 15 feet is permitted for any structure, tent or canopy.
 - iv. Farm stands shall be accompanied by a paved, gravel and/or grassed area for customer parking that can accommodate not less than three vehicles, which parking area shall be located in such a location as to facilitate the safe flow of traffic. There shall be adequate and safe access, ingress and egress from any adjacent public road or street, including provisions for an adequate turnaround area to prevent vehicles from backing out onto any public street.
 - v. Farm stands shall be operated during daytime hours only, from 8:00am to dusk.
 - vi. Operators must apply for and obtain a Zoning Permit for any proposed farm stand.
- o. Seasonal farm advertising signs may be constructed in accordance with the following standards:
- i. No more than one such sign shall be located on any one property or properties used as a single farm.
 - ii. No such sign shall exceed 20 square feet in area, 6 feet in height or be located within 10 feet of a street right-of-way line.
 - iii. No such sign shall be internally or externally illuminated.
 - iv. All seasonal farm advertising signs shall be temporary in nature, and nonpermanent structures.
 - v. All seasonal farm advertising signs shall be properly maintained and shall not be allowed to fall into disrepair.
 - vi. No such sign shall be an obstruction to any neighbor exiting their driveway.

SECTION 4. Chapter 40, Section 39 of the Borough Code, entitled “Land Use Ordinance – Off-Street Parking and Loading,” is hereby amended to read as follows (underlined language to be added; strikethroughs to be deleted):

§ 40-39 OFF-STREET PARKING AND LOADING.

B. Minimum Required Off-Street Parking Schedule for Nonresidential Uses. The number of off-street parking spaces required for any nonresidential use shall be determined by reference to Parking Schedule 1 below. "GFA" shall mean "gross floor area."

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Parking Schedule 1	
Parking Requirements for Nonresidential Uses	
Use	Minimum Number of Off-Street Parking Spaces
Automobile Car Wash	10 spaces/washing lane and 2 spaces/vacuum or similar machine
Automobile Fueling Stations	1 space/fueling pump
Any Associated Retail	4 spaces/1,000 square feet GFA
Automobile Oil Change and Lubrication Shop	8 spaces/service lane and 2 spaces/vacuum or similar machine
Automobile Repair Shop	4 spaces/service bay
Assisted Living Residence	0.5 space/unit
Banks and Fiduciary Institutions	1 space/250 square feet GFA
Bowling Alley	2 spaces/lane or alley
Car and Truck Dealers	1 space/300 square feet showroom area, sales area and office area
Child Care Center	As specified in § 40-35A
Church	1 space/5 seats
Community Center	1 space/800 square feet GFA
Communication/Radio Tower	2 spaces minimum
Continuing Care Retirement Community	0.9 space per independent living unit to be distributed to meet the particular needs of individual buildings on site
Contractors/Landscaping Yards	1 space/300 square feet display area, sales area and office area
Delicatessens/Specialty Food	1 space/1,000 square feet GFA
Family Day Care Home	2 for the dwelling unit + 2 for clients
Farm Stand	6 3 spaces minimum
Fitness Centers, Weight Rooms, Gyms	1 space/200 square feet GFA
Flex Space Buildings	1 space/800 square feet GFA
Golf Course	
Full-size	3 spaces/green
Par-3	3 spaces/green
Miniature golf	2.2 spaces/hole
Pitch and putt	2.2 spaces/hole
Driving range	1.4 spaces/tee

Parking Schedule 1	
Parking Requirements for Nonresidential Uses	
Use	Minimum Number of Off-Street Parking Spaces
Home Occupation	3 spaces minimum
Hospital	1.5 spaces/bed
Hotel	
Guest Room	1 space/guest room
Employee	1 space/employee on largest shift
Restaurant/Lounge/Banquet/Conference	1 space/3 seats in restaurant, lounge and conference/banquet space
Library	1 space/300 square feet GFA
Light Industrial/Fabrication/Assembly	1 space/800 square feet GFA
Lumber and Contractor's Yard	1 space/5,000 square feet storage area and square feet retail GFA 1 space/250
Manufacturing	1 space/800 square feet GFA
Mortuary	10 spaces/viewing room and/or chapel
Office (Non-Medical)	1 space/250 square feet GFA
Office Park	1 space/300 square feet GFA
Office (Medical and Dental)	
Less than 5,500 square feet GFA	6 spaces/1,000 square feet GFA
5,500 square feet to 10,000 square feet GFA	5.5 spaces/1,000 square feet GFA
More than 10,000 square feet GFA	5 spaces/1,000 square feet GFA
Pharmacy	3 spaces/1,000 square feet GFA
Pro Shop	1 space/300 square feet GFA
Research/Testing/Experimentation	1 space/800 square feet GFA
Restaurant	
Sit-down	1 space/3 seats
Take-out	1 space/40 square feet GFA
Mixed	1 space/3 seats plus 1 space per 40 square feet of floor area
Retail Sales and Services	
Less than 400,000 square feet GFA	4.0 spaces/1,000 square feet GFA
400,001 to 600,000 square feet GFA	
600,001 + square feet GFA	5.0 spaces/1,000 square feet GFA

Parking Schedule 1 Parking Requirements for Nonresidential Uses	
Use	Minimum Number of Off-Street Parking Spaces
Retail Warehouse	5.5 spaces/1,000 square feet GFA
Schools	
Elementary (Pre-K through 8)	1.2 spaces/classroom; min. 1/staff
Middle (5-8)	1.2 spaces/classroom; min. 1/staff
High School (9-12)	2.0 spaces/classroom; min. 2/staff
Scrap Metal	1 space/employee
Shipping/Receiving	1 space/5,000 square feet GFA
Shopping Centers	Same as Retail Sales and Services
Swim Club	1 space/30 square feet water surface
Tavern	1 space/2.5 seats
Tennis Club	2 spaces/court
Theater	1 space/4 seats
Training and Instructional Classes, Dance and Rehearsal Studios	1 space/250 square feet GFA
Veterinary Clinic/Hospital	6 spaces/doctor
Warehousing	1 space/5,000 square feet GFA
Wireless Telecommunications Equipment	1 space minimum

SECTION 5. The Appendix for Chapter 40 of the Borough Code, entitled “Schedule A – District Use Regulations – Residential Uses,” is hereby amended and supplemented as indicated in the revised Schedule below (underlined language to be added):

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District	Permitted	Permitted Accessory Uses	Permitted
RA RESIDENTIAL	1. Single Family 2. Public Library, playgrounds 4. Borough uses, aid stations 4. Utility services	1. Fences and walls 2. Patios and decks 3. Barns for keeping of sheep, cattle, pigs and other livestock. 4. One (1) accessory building for household goods and equipment such as a barn, tool shed, storage shed, or garden shed, accessory to a detached single-family dwelling 5. Gazebos, pergolas, greenhouses, atriums, orangeries and other such roofed structures 6. One (1) detached garage and associated driveway provided there is no attached garage. 7. One (1) swimming pool and hot tub with related decking and coping 8. One (1) amateur radio and television transmitting and receiving tower	1. Agricultural 2. Cemetery, with 3. mausoleum or crematory. worship. 4. Schools

SCHEDULE A - DISTRICT USE REGULATIONS – RESIDENTIAL USES

R-1 SINGLE FAMILY RESIDENTIAL	1. Single family detached dwellings 2. Public Library, parks and playgrounds 3. Borough uses, firehouses and first aid stations 4. Utility Services	1. Fences and walls 2. Patios and decks 3. One (1) detached garage and associated driveway provided there is no attached garage. 4. One (1) swimming pool and hot tub with related decking and coping. 5. One (1) accessory building for household goods and equipment such as a barn, tool shed, storage shed, or garden shed, accessory to a detached single-family dwelling 6. One (1) amateur radio and television transmitting and receiving tower	1. Cemetery, with or without mausoleum or crematory. 2. Churches and places of worship. 3. Schools 4. Agricultural uses and farms
R-2 SINGLE FAMILY RESIDENTIAL	Any principal use permitted in the R-1 Single Family Residential District	Any accessory use permitted in the R-1 Single Family Residential District	Any conditional use permitted in the R-1 Single Family Residential District

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R-3 Residential	<ol style="list-style-type: none"> 1. Single Family detached dwellings 2. Public Library, parks and playgrounds 3. Borough uses, firehouses, and first aid stations 4. Utility services 	Any accessory use permitted in the R-1 Single Family Residential District	<ol style="list-style-type: none"> 1. Townhouses 2. Garden Apartments 3. Churches and places of religious worship 4. Schools
R-4 Residential	Any principal Use permitted in the R-3 Residential District	Any accessory use permitted in the R- 1 Single Family Residential District	Any conditional use permitted in the R-3 District
AR Age Restricted Housing	<ol style="list-style-type: none"> 1. Active adult community of single family detached dwelling units with at least one resident with a minimum age of fifty-five (55) 	<ol style="list-style-type: none"> 1. Fences and walls 2. Patio and decks 3. Club house with meeting rooms, social rooms, indoor and outdoor recreation area. 	<ol style="list-style-type: none"> 1. Townhouses
CCRC Continuing Community	<ol style="list-style-type: none"> 1. Continuing Care Retirement Community (CCRC) with a age of fifty-five (55). 2. Townhouses 3. Garden Apartments 4. Apartment Buildings 5. Assisted Living/Skilled Facilities. 	<ol style="list-style-type: none"> 1. Fences and walls 2. Health Center 3. Club house with meeting rooms, social rooms, recreation areas 4. Cafeterias and eating 5. Lecture halls, libraries, worship, post office, banks, news and entertainment centers, 6. Operation and maintenance facilities related to the principal use such as, administrative office, food and record storage areas, property maintenance facility, radio and satellite dish antennas, non-age restricted day care center for relatives of employees, security operations and off-street parking as surface parking or garages 	

R-3-I, R4A Residential	<ol style="list-style-type: none"> 1. Single family detached dwellings 2. Townhouses 	<ol style="list-style-type: none"> 1. Fences and walls 2. Patio and decks 	<ol style="list-style-type: none"> 1. Any conditional use permitted in the R-3 Residential District
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	<ul style="list-style-type: none"> 3. Public Libraries, parks and playgrounds 4. Borough uses, firehouses and first aid stations 5. Utility Services 	<ul style="list-style-type: none"> 3. Community Clubhouse 4. One (1) detached garage and associated driveway provided there is no attached garage 5. One (1) swimming pool and hot tub with related decking and coping 6. Outdoor recreation facilities such as a putting green, bocce courts, tennis courts, etc. 	
AH Affordable Housing	<ul style="list-style-type: none"> 1. Single family detached dwellings 2. Townhouses 3. Garden Apartments 4. Apartment Buildings 	<ul style="list-style-type: none"> 1. Fences and walls 2. Patio and decks 3. Community Clubhouse 4. One (1) detached garage and associated driveway provided there is no attached garage 5. One (1) swimming pool and hot tub with related decking and coping 6. Outdoor recreation facilities such as a putting green, bocce courts, tennis courts, etc. 	<ul style="list-style-type: none"> 1. Churches and places of worship 2. Schools
CECOM Redevelopment Area	Pursuant to the district use standards of the CECOM Redevelopment Plan		

SECTION 6. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

SECTION 7. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

ORDINANCES FOR FINAL CONSIDERATION

Ms. Hutchinson read the title of the Ordinance: **2023-1506 AN ORDINANCE AMENDING CHAPTER 16, SECTION 9 OF THE BOROUGH CODE TO ADD A NEW SUBSECTION 9.3 TO BE ENTITLED “PRIVATELY-OWNED SALT STORAGE”**

Dr. Dobrin offered a motion to open the Public Hearing on Ordinance No. 2023-1506, seconded by Mrs. Clay.

ROLL CALL

AYES: All in Favor
NAYS: None
ABSENT: Mr. Nesci
ABSTAIN: None

PUBLIC HEARING OPEN

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There being no comments, Mrs. Clay offered a motion to close the Public Hearing on Ordinance No. 2023-1506, seconded by Dr. Dobrin.

ROLL CALL

AYES: All in Favor
NAYS: None
ABSENT: Mr. Nesci
ABSTAIN: None

PUBLIC HEARING CLOSED

Dr. Dobrin offered a motion to adopt Ordinance No. 2023-1506, seconded by Mrs. Clay.

ROLL CALL

AYES: Ms. Buckley, Mrs. Clay, Dr. Dobrin, Mr. Manginelli
NAYS: None
ABSENT: Mr. Nesci
ABSTAIN: None

PUBLIC DISCUSSION

Mrs. Clay offered a motion to open the Public Discussion, seconded by Dr. Dobrin.

ROLL CALL

AYES: All in Favor
NAYS: None
ABSENT: Mr. Nesci
ABSTAIN: None

Mr. Manginelli asked the Clerk if there were any public comments submitted and there were none.

Frank Matula, 43 Lennox Drive – Mr. Matula stated the gas company is working on replacing pipes on his block and the surrounding blocks in his neighborhood and wanted to know will the roads be paved when they are finished with the project. Mr. Neff explained they are replacing the gas mains and the road will be paved and after three months of settling, they may only repave a portion of the road.

Jerry Spumberg, 11 Alpine Trail – Mr. Spumberg wanted to alert seniors in town about a scam he received in the mail from a group called the Senior Alliance asking to provide information by way of a survey and send money. He notified the Borough Police. He believes crime is picking up and wanted to know if the Chief has enough police officers. Mr. Terefenko explained the recent new officer hires and how crime trends and patterns in the area are tracked and analyzed and working with the Police Chief assessments are made regarding officer staffing and technology needs.

Denise Catalano, 11 Alpine Trail – Ms. Catalano asked if there are any published statistical reports on crime in the Borough. Mr. Terefenko stated that the FBI publishes an annual report and the Police post crime activity on the Borough website.

Steven Minkoff, 9 South Pointe Circle – Mr. Minkoff wanted to thank everyone for their patience with his emails and to meet everyone.

Ellen Goldberg, 90 Glenwood Drive – Ms. Goldberg thanked everyone involved with the success of the Library Music Festival. She also attended the Taste of Tinton Falls event which was a great community event. Stated Monmouth Regional High School competition to collect plastic wrap items won them second place in the entire country. She suggested the plastic collected by DPW go to the high school to support their competition. The Environmental Commission is installing a Trek bench at the Crawford House honoring longtime volunteer Bob Sandberg. Dedication date to be determined. Ms. Goldberg asked for an update on cannabis licenses. Mr. Manginelli provided an update on the licenses and what remains available.

There being no further comments, Dr. Dobrin offered a motion to close the Public Discussion, seconded by Ms. Buckley.

ROLL CALL

AYES: All in Favor
NAYS: None
ABSENT: Mr. Nesci
ABSTAIN: None

PUBLIC DISCUSSION CLOSED

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MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER

Mrs. Clay reminded everyone the new traffic light by the high school and municipal building is operational and proceed with caution.

RESOLUTIONS

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-149

RESOLUTION – APPROVAL OF BILLS – SEPTEMBER 5, 2023

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending September 5, 2023; and

WHEREAS, the Borough Council has reviewed said claims.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls, County of Monmouth, that the following claims be certified by the Chief Financial Officer for approval and payment.

SUMMARY

GENERAL	3,578,534.40
SEWER UTILITY	342,181.98
GRANT FUND	5,366.31
GENERAL CAPITAL	112,636.49
TRUST FUNDS	109,922.09
DOG TRUST FUND	12.60
ESCROW	41,492.93
ADDITIONS	1,346,719.49
TOTAL	5,536,866.29

CERTIFICATION OF FUNDS:

Ms. Buckley offered a motion to adopt Resolution R23-149, seconded by Dr. Dobrin.

ROLL CALL

AYES: Ms. Buckley, Dr. Dobrin, Mr. Manginelli

NAYS: None

ABSENT: Mr. Nesci

ABSTAIN: Mrs. Clay

CONSENT AGENDA

Mrs. Clay offered a motion to approve the Consent Agenda, seconded by Ms. Buckley.

ROLL CALL

AYES: Ms. Buckley, Mrs. Clay, Dr. Dobrin, Mr. Manginelli

NAYS: None

ABSENT: Mr. Nesci

ABSTAIN: None

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-140

RESOLUTION - CERTIFICATION TO LOCAL FINANCE BOARD OF REVIEW OF 2022 ANNUAL AUDIT

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 2022 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A: 5-6, and a copy has been received by each member of the governing body; and

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BOROUGH COUNCIL**

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

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, 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, as a minimum, the sections of the annual audit entitled "Comments and 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 "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; 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, pursuant to N.J.A.C. 5:30-6.5; 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 (Director of Local Government Services), under the provisions 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, That the Committee of the Borough of Tinton Falls, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-141

**RESOLUTION AUTHORIZING CONTRACT FOR
PROFESSIONAL ENGINEERING SERVICES – T & M ASSOCIATES
WARDELL PARK RESTROOM FACILITIES**

WHEREAS, the Borough of Tinton Falls has a need for professional engineering service for the Wardell Park Restroom Facilities; and

WHEREAS, T & M Associates is the Borough Engineer as approved by Resolution R-23-011 adopted on January 3, 2023; and

WHEREAS, these services will be described in the proposal attached dated August 25, 2023; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$80,000; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that T & M Associates, 11 Tindall Road, Middletown, NJ 07748-2792, is hereby authorized to provide professional engineering services as described in the proposal dated August 25, 2023, for an amount not to exceed \$80,000; and

BE IT FURTHER RESOLVED that the Borough Clerk is hereby directed to publish a public notice of this Resolution as required by law.

I hereby certify funds are available from: Ordinance #23-1503

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-142

**RESOLUTION – RELEASING MAINTENANCE GUARANTEES
FOR BELLA LEGACY FUND 57, LLC
BLOCK 14.03 LOTS 35, 37 & 39**

WHEREAS, a request has been made for the release of Maintenance Guarantees for Bella Legacy Fund, LLC, Block 14.03 Lots, 35, 37 & 39; and

WHEREAS, by letter dated August 9, 2023 (said letter attached and hereby made part of this Resolution), the Borough Engineer (T&M Associates) has certified that the bonded improvements have been satisfactorily completed in accordance with the approved site plan and remain in good condition and recommends the release of the guarantees for Bella Legacy Fund, LLC, Block 14.03 Lots, 35, 37 & 39.

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NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Maintenance Guarantees and remaining engineering escrow fees associated with this project be released subject to the payment of any and all outstanding engineering and inspection fees.

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-143

**RESOLUTION – RELEASING MAINTENANCE GUARANTEES
FOR 2020 ROAD IMPROVEMENT PROJECT – FERNANDEZ CONSTRUCTION CO.**

WHEREAS, a request has been made for the release of Maintenance Guarantees for the 2020 Road Improvement Project – Fernandez Construction Co.; and

WHEREAS, by letter dated August 22, 2023 (said letter attached and hereby made part of this Resolution), the Borough Engineer (T&M Associates) has certified that the bonded improvements have been satisfactorily completed in accordance with the approved site plan and remain in good condition and recommends the release of the guarantees for the 2020 Road Improvement Project – Fernandez Construction Co.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Maintenance Guarantees and remaining engineering escrow fees associated with this project be released subject to the payment of any and all outstanding engineering and inspection fees.

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-144

**RESOLUTION APPROVING AMENDED AFFORDABILITY ASSISTANCE PROGRAM POLICIES
AND PROCEDURES MANUAL**

WHEREAS, the Borough of Tinton Falls (“Borough”) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Borough of Application of the Borough of Tinton Falls, Docket No. MON-L-2475-15 following the New Jersey Supreme Court’s decision in Mt. Laurel IV; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center on or about April 20, 2018 establishing the Borough’s Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Borough will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, as a condition of Court approval of the Borough’s Settlement Agreement with Fair Share Housing Center, the Borough adopted Resolution 019-057 approving a Spending Plan for the Borough’s Affordable Housing Trust Fund, which includes monies set aside for affordability assistance as required by COAH regulations; and

WHEREAS, the Court entered a Final Third Round Judgment of Compliance and Repose on July 17, 2019 providing the Borough with immunity from builder’s remedy litigation through July 1, 2025 and approving the Borough’s Spending Plan; and

WHEREAS, the Borough wants to set the standards and procedures by which it will make available affordability assistance available to low-and-moderate income households from the Borough’s affordable housing trust fund monies; and

WHEREAS, the Borough Municipal Housing Liaison and the Borough’s professional planning consultant has recommended that the Borough amend its Affordability Assistance Program Policies and Procedures to amongst other changes, clarify the program applies to owner-occupied and rental qualified low and moderate income households within the Borough and to ensure that if affordability assistance is provided, the applicant will be able to pay all outstanding liens to ensure that the applicant will regain a position of financial stability for the foreseeable future.

WHEREAS, the Borough Council of the Borough of Tinton Falls believes it is in the best interest of its residents to approve the Amended Affordability Assistance Program Policies and Procedures Manual prepared by to effectuate its obligation to provide affordability assistance to qualified households within the Borough of Tinton Falls.

NOW THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Tinton Falls, County of Monmouth, that it hereby approves the Amended Affordability Assistance Program Policies and Procedures Manual prepared by BJJ Planning dated September 2023.

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-145

**RESOLUTION OF THE BOROUGH OF TINTON FALLS ADOPTING AN UPDATED HOME
IMPROVEMENT PROGRAM OPERATING MANUAL FOR THE ADMINISTRATION OF THE BOROUGH’S
REHABILITATION PROGRAM**

**REGULAR MEETING
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BOROUGH COUNCIL**

WHEREAS, the Borough of Tinton Falls (“Borough”) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Borough of Application of the Borough of Tinton Falls, Docket No. MON-L-2475-15 following the New Jersey Supreme Court’s decision in Mt. Laurel IV; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center on or about April 20, 2018 establishing the Borough’s Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Borough will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, as a condition of Court approval of the Borough’s Settlement Agreement with Fair Share Housing Center, the Borough adopted a Reolution approving a Rehabilitation Program Manual to implement its rehabilitation obligation under the Settlemet Agreement with Fair Share Housing Center: and

WHEREAS, the Court entered a Final Third Round Judgment of Compliance and Repose on July 17, 2019 providing the Borough with immunity from builder’s remedy litigation through July 1, 2025 and approving the Borough’s Rehabilitation Program; and

WHEREAS, the Borough Municipal Housing Liaison and the Borough’s professional planning consultant has recommended that the Borough amend and update its Rehabilitation Program Manual (restyled and renamed as the Home Improvement Program) to clarify that it applies to both low and moderate income households that reside either in deed restricted or non-deed restricted housing units and to implement current best practices as recommended by the Borough’s Professional Planning Consultant; and

WHEREAS, the Borough Council of the Borough of Tinton Falls believes it is in the best interest of its residents to approve the Home Improvement Operating Manual dated August 20, 2023 prepared by BJF Planning to continue to meet its rehabilitation obligation under the court approved settlement agreement with Fair Share Housing Center.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, New Jersey, hereby adopts and approves the Tinton Falls Borough Home Improvement Program Operating Manual dated August 20, 2023.

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-146

RESOLUTION - REFUNDING TAX OVERPAYMENT

WHEREAS, an overpayment of 2023 Taxes has been made as a result of a reduction in the assessed value for the year 2023 to property known as:

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Daly, Gregory & D’Amore, Ellen 226 Hope Road Tinton Falls, NJ 07724	56	15	\$229.10

and,

WHEREAS, said reduction has resulted in an overpayment of the 2023 by the property owners in the total amount of \$229.10 as certified by the Borough Tax Collector.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$229.10 is approved for the above property.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls, hereby certify the total amount of overpayment to be \$229.10.

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-147

RESOLUTION - REFUNDING TAX OVERPAYMENT

WHEREAS, an overpayment of 2023 3rd quarter taxes on the following property has been paid in error creating an overpayment by the Homeowner and the Mortgage Company.

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Pedro Lebron 20 Howard Avenue Tinton Falls, NJ 07724	2.02	48	\$1,409.82

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and,

WHEREAS, said error has resulted in an overpayment of the 2023 3rd quarter taxes in the amount of \$1,409.82 as certified by the Borough Tax Collector.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$1,409.82 is hereby approved for the aforementioned property.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls, hereby certify the amount of overpayment to be \$1,409.82.

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

R-23-148

RESOLUTION – REFUNDING ESCROW – BELLA LEGACY FUND 57, LLC

WHEREAS, the following listed applicant has posted consultant escrow fees in conjunction with various Land Use applications in accordance with the Borough of Tinton Falls Land Use Ordinance, and

WHEREAS, the Planning Board Secretary, Trish Zibrin, has certified the applicant’s account is deemed closed and no additional funds for consultants will be required,

WHEREAS, the Director of the Department of Audit, Accounts & Control has certified funds are available for release.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the consultant escrow fees, plus any accrued interest, are hereby authorized to be released for the following applicant:

**Bella Legacy Fund 57, LLC,
BEL6197CO
\$126.29**

EXECUTIVE SESSION

ADJOURNMENT

Ms. Buckley offered a motion to adjourn, seconded by Dr. Dobrin.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: Mr. Nesci

ABSTAIN: None

TIME: 8:05pm

Respectfully Submitted,

Michelle Hutchinson, Borough Clerk

Risa Clay, Deputy Council President

APPROVED AT A MEETING HELD ON: October 3, 2023.